

1 AN ACT

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

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

5 ARTICLE 1. RATE REQUIREMENTS

6 PART A. RATE FILINGS

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

9 SUBCHAPTER Q. RATES FOR CERTAIN LINES

10 Art. 5.142. RATES FOR RESIDENTIAL PROPERTY INSURANCE  
11 COVERAGE

12 Sec. 1. SCOPE. This article governs the regulation of rates  
13 for residential property insurance.

14 Sec. 2. DEFINITIONS. (a) In this article:

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

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

20 (3) "Disallowed expenses" includes:

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

24 (B) lobbying expenses;

1                   (C) advertising expenses, other than for  
2 advertising:

3                   (i) directly related to the services or  
4 products provided by the insurer;

5                   (ii) designed and directed at loss  
6 prevention; or

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

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

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

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

16                  (E) contributions to:

17                  (i) social, religious, political, or  
18 fraternal organizations; or

19                  (ii) organizations engaged in legislative  
20 advocacy;

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

23                  (G) any amount determined by the commissioner to  
24 be excess premiums charged by the insurer; and

25                  (H) any unreasonably incurred expenses, as  
26 determined by the commissioner after notice and hearing.

27                  (4) "Filer" means an insurer that files rates,

1 supplementary rating information, supporting information, rating  
2 manuals, or any other information required to be filed under this  
3 article.

4 (5) "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 residential property  
8 insurance in this state. The term includes an affiliate, as  
9 described by Section 823.003(a) of this code, if that affiliate is  
10 authorized to write and is writing residential property insurance  
11 in this state. The term does not include:

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

14 (B) the FAIR Plan Association under Article  
15 21.49A of this code.

16 (6) "Line" means a type of insurance subject to this  
17 article.

18 (7) "Rate" means the cost of insurance per exposure  
19 unit, whether expressed as a single number or as a prospective loss  
20 cost, with an adjustment to account for the treatment of expenses,  
21 profit, and individual insurer variation in loss experience, and  
22 before any application of individual risk variations based on loss  
23 or expense considerations.

24 (8) "Rating manual" means a publication or schedule  
25 that lists rules, rating factors, classifications, territory codes  
26 and descriptions, rates, premiums, and other similar information  
27 used by an insurer to determine the applicable premium charged an

1 insured for residential property insurance.

2 (9) "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 (10) "Supplementary rating information" means any  
8 manual, rating schedule, plan of rules, rating rules,  
9 classification systems, territory codes and descriptions, rating  
10 plans, discount and surcharge programs, and other similar  
11 information used by the insurer to determine the applicable premium  
12 for an insured. The term includes factors and relativities,  
13 including increased limits factors, classification relativities,  
14 deductible relativities, minimum premiums, and other similar  
15 factors.

16 (11) "Supporting information" means:

17 (A) the experience and judgment of the filer and  
18 the experience or information of advisory organizations or other  
19 insurers relied on by the filer;

20 (B) the interpretation of any other information  
21 relied on by the filer;

22 (C) descriptions of methods used in making the  
23 rates; and

24 (D) any other information required by the  
25 commissioner by rule to be filed.

26 (b) For purposes of this subchapter, a rate is:

27 (1) excessive if the rate is likely to produce a

1 long-term profit that is unreasonably high in relation to the  
2 insurance coverage provided;

3 (2) inadequate if the rate is insufficient to sustain  
4 projected losses and expenses to which the rate applies, and  
5 continued use of the rate:

6 (A) endangers the solvency of an insurer using  
7 the rate; or

8 (B) has the effect of substantially lessening  
9 competition or creating a monopoly within any market; or

10 (3) unfairly discriminatory if the rate:

11 (A) is not based on sound actuarial principles;

12 (B) does not bear a reasonable relationship to  
13 the expected loss and expense experience among risks; or

14 (C) is based in whole or in part on the race,  
15 creed, color, ethnicity, or national origin of the policyholder or  
16 an insured.

17 Sec. 3. RATING CRITERIA. (a) An insurer shall set rates  
18 for 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 insurer shall file with each rate filing a  
10 certificate by an officer of the insurer that all rate  
11 classifications, the rates applicable to those classifications,  
12 and the risk factors to which those classifications apply are based  
13 on reasonably sound and verifiable actuarial principles and that no  
14 classifications are unfairly discriminatory.

15 (c) The commissioner may simplify filing requirements by  
16 rule for small insurers and new insurers, subject to the following:

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

24 (2) a "new insurer" is defined as an insurer that, as  
25 of the effective date of S.B. No. 14, Acts of the 78th Legislature,  
26 Regular Session, 2003, is not authorized to write residential  
27 property insurance in this state and not affiliated with another

1 insurer that is authorized to write and is writing residential  
2 property insurance as of the effective date of S.B. No. 14, Acts of  
3 the 78th Legislature, Regular Session, 2003;

4 (3) the commissioner must specify what information the  
5 small insurer or new insurer must file to constitute a filing  
6 sufficient to comply with the filing requirements adopted under  
7 this article; and

8 (4) the commissioner shall allow for the immediate use  
9 of filed rates provided the rate filing does not constitute a  
10 significant overall rate increase, as determined by rule.

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 residential property  
8 insurance market and the availability or lack of availability of  
9 residential property insurance in determining whether to  
10 disapprove any rates filed under this article.

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

25 (c) If the commissioner withdraws approval of a rate that is  
26 in effect, the commissioner shall notify in writing the insurer  
27 that made the filing and may issue a withdrawal of approval order

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

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

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

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

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

1 insurer to file with the commissioner all rates, supplementary  
2 rating information, and any supporting information prescribed by  
3 the commissioner.

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

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

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

25 (b) The commissioner shall report on a quarterly basis to  
26 the governor, the lieutenant governor, and the speaker of the house  
27 of representatives on the information provided by the insurers'

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

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

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

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

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

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

1 first day of each calendar year that is not a Saturday, Sunday, or  
2 legal holiday.

3 Sec. 15. NOTICE TO POLICYHOLDER. An insurer shall send to  
4 each holder of a policy of insurance subject to this article notice  
5 of any rate increase scheduled to take effect on the renewal of the  
6 policy that exceeds 10 percent of the amount paid by the  
7 policyholder for coverage under the policy immediately before  
8 renewal.

9 Sec. 16. RULES. The commissioner shall adopt rules as  
10 necessary to implement this article.

11 Sec. 17. EXPIRATION. (a) This article expires December 1,  
12 2004.

13 SUBCHAPTER S. REFUND

14 Art. 5.144. REFUND OF EXCESSIVE OR DISCRIMINATORY PREMIUM;  
15 DISCOUNT. (a) In this article:

16 (1) "Insurer" means an insurance company, reciprocal  
17 or interinsurance exchange, mutual insurance company, capital  
18 stock company, county mutual insurance company, Lloyd's plan, or  
19 other legal entity authorized to write residential property  
20 insurance or personal automobile insurance in this state. The term  
21 includes an affiliate, as described by this code, if that affiliate  
22 is authorized to write residential property insurance. The term  
23 does not include:

24 (A) the Texas Windstorm Insurance Association  
25 under Article 21.49 of this code; or

26 (B) the FAIR Plan Association under Article  
27 21.49A of this code.

1           (2) "Personal automobile insurance" means motor  
2 vehicle insurance coverage for the ownership, maintenance, or use  
3 of a private passenger, utility, or miscellaneous type motor  
4 vehicle, including a motor home, trailer, or recreational vehicle,  
5 that is:

6                   (A) owned or leased by an individual or  
7 individuals; and

8                   (B) not primarily used for the delivery of goods,  
9 materials, or services, other than for use in farm or ranch  
10 operations.

11           (3) "Residential property insurance" means insurance  
12 coverage against loss to real or tangible personal property at a  
13 fixed location that is provided through a homeowners policy,  
14 including a tenants policy, a condominium owners policy, or a  
15 residential fire and allied lines policy.

16           (b) Except as provided by Subsection (d) of this article, if  
17 the commissioner determines that an insurer has charged a rate for  
18 personal automobile insurance or residential property insurance  
19 that is excessive or unfairly discriminatory, as described by  
20 Article 5.13-2 or 5.101 of this code, the commissioner may order the  
21 insurer to:

22                   (1) issue a refund of the excessive or unfairly  
23 discriminatory portion of the premium directly to each affected  
24 policyholder if the amount of that portion of the premium is at  
25 least 7.5 percent of the total premium charged for the coverage; or

26                   (2) if the amount of that portion of the premium is  
27 less than 7.5 percent:

1           (A) provide each affected policyholder who  
2 renews the policy a future premium discount in the amount of the  
3 excessive or unfairly discriminatory portion of the premium; and

4           (B) provide each affected policyholder who does  
5 not renew or whose coverage is otherwise terminated a refund in the  
6 amount described by Subdivision (1) of this subsection.

7           (c) On or before the 20th day after the date an order is  
8 issued under this article, an insurer may request a rate hearing to  
9 be conducted by the State Office of Administrative Hearings to  
10 determine whether the rate that is subject to the order is excessive  
11 and discriminatory. The office of public insurance counsel may  
12 participate in a hearing conducted under this subsection and  
13 present evidence at the hearings.

14           (d) After completion of the rate hearing under Subsection  
15 (c) of this section, the administrative law judge shall prepare a  
16 proposal for decision under Section 40.058 of this code and remand  
17 the case to the commissioner recommending:

18                   (1) that the commissioner affirm the commissioner's  
19 order; or

20                   (2) additional review of the order by the commissioner  
21 to be completed not later than the 10th day after the date the  
22 commissioner receives the administrative law judge's proposal,  
23 that the parties enter into negotiations, or that the commissioner  
24 take other appropriate action with respect to the order within a  
25 time period specified by the administrative law judge.

26           (e) An action or failure to act of the commissioner under  
27 Subsection (d) of this section is subject to appeal under



1 Subchapter D, Chapter 36 of this code.

2 (f) This article does not apply to rates for personal  
3 automobile insurance or residential property insurance for which an  
4 insurer has obtained prior approval of those rates under Section  
5 5A, Article 5.13-2 of this code.

6 (g) Subsection (b) of this section applies prospectively to  
7 a rate filed on or after the effective date of S.B. No. 14, Acts of  
8 the 78th Legislature, Regular Session, 2003.

9 SUBCHAPTER U. RATING TERRITORIES FOR CERTAIN LINES

10 Art. 5.171. RATING TERRITORIES. Notwithstanding any other  
11 provision of this code, an insurer may not use rating territories  
12 that subdivide a county unless the county is subdivided and the rate  
13 for any subdivisions within that county is not greater than 15  
14 percent higher than the rate used in any other subdivisions in the  
15 county by that insurer, except that the commissioner may by rule  
16 allow a greater rate difference for residential property insurance  
17 or personal automobile insurance.

18 Art. 5.172. APPLICATION TO CERTAIN INSURERS.

19 Notwithstanding Sections 912.002, 941.003, 942.003, or any other  
20 provision of this code, this subchapter does not apply to a county  
21 mutual insurance company, a Lloyd's plan, and a reciprocal or  
22 interinsurance exchange, before January 1, 2004.

23 PART B. RATES FOR CERTAIN PERSONAL AUTOMOBILE INSURANCE

24 SECTION 1.02. The heading to Article 5.101, Insurance Code,  
25 is amended to read as follows:

26 Art. 5.101. FLEXIBLE RATING PROGRAM FOR PERSONAL AUTOMOBILE  
27 [CERTAIN] INSURANCE [LINES]

1 SECTION 1.03. Section 1, Article 5.101, Insurance Code, is  
2 amended to read as follows:

3 Sec. 1. [~~PURPOSE,~~] APPLICABILITY. (a) [~~The program on~~  
4 ~~flexible rating is designed to help stabilize the rates charged for~~  
5 ~~insurance in lines of property and casualty insurance covered by~~  
6 ~~Subchapters A and C of this chapter.~~

7 [~~(b)~~] This article applies only to personal automobile  
8 insurance [~~does not apply to:~~

- 9 [~~(1) ocean marine insurance,~~
- 10 [~~(2) inland marine insurance,~~
- 11 [~~(3) fidelity, surety and guaranty bond insurance,~~
- 12 [~~(4) errors and omissions insurance,~~
- 13 [~~(5) directors' and officers' liability insurance,~~
- 14 [~~(6) general liability insurance,~~
- 15 [~~(7) commercial property insurance,~~
- 16 [~~(8) workers' compensation insurance,~~
- 17 [~~(9) professional liability insurance for physicians~~  
18 ~~and health care providers as defined in Article 5.15-1 of this code,~~  
19 ~~or~~
- 20 [~~(10) attorney's professional liability insurance].~~

21 (b) [~~(c)~~] Notwithstanding Subsection (a) of this section,  
22 this article does not apply to premium rates for motor vehicle  
23 insurance computed using a mile-based rating plan under Article  
24 5.01-4 of this code.

25 SECTION 1.04. Section 2, Article 5.101, Insurance Code, is  
26 amended by adding Subdivision (6) to read as follows:

27 (6) "Personal automobile insurance" means motor

1 vehicle insurance coverage for the ownership, maintenance, or use  
2 of a private passenger, utility, or miscellaneous type motor  
3 vehicle, including a motor home, mobile home, trailer, or  
4 recreational vehicle, that is:

5 (A) owned or leased by an individual or  
6 individuals; and

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

10 SECTION 1.05. Section 3, Article 5.101, Insurance Code, is  
11 amended by amending Subsection (e) and adding Subsection (r) to  
12 read as follows:

13 (e) An insurer may use any rate by classification within the  
14 flexibility band without prior approval by the commissioner. The  
15 rate may not include expenses disallowed under Subsection (o) of  
16 this section. Within 30 days of the effective date of the benchmark  
17 rate for a particular line, each insurer which proposes to write  
18 that line of insurance in this state during the effective period of  
19 the benchmark rate shall file with the commissioner its proposed  
20 rate by line, and by classification and territory under the rating  
21 manual promulgated by the commissioner, unless the insurer has  
22 obtained approval from the commissioner under Subsection (l) of  
23 this section to use its own rating manual. The insurer shall  
24 include in the filing any statistics to support the rates to be used  
25 by the insurer as required by rule of the commissioner, including  
26 information necessary to evidence that the calculation of the rate  
27 does not include disallowed expenses. [~~Rates proposed in filings~~

1 ~~made under this subsection must be just, reasonable, adequate and~~  
2 ~~not excessive for the risks to which they apply.]~~ The rate takes  
3 effect on the date specified by the insurer, but not later than the  
4 60th day after the date of filing of the rate with the commissioner.  
5 For the purpose of this section, the date the rate is received by  
6 the commissioner is the date of filing. From and after the  
7 effective date of the benchmark rate and prior to the insurer's  
8 specified effective date of a new rate, the insurer's previously  
9 filed rate shall remain in effect. Subject to the limitations  
10 contained in Subsection (p) of this section and Section 3B of this  
11 article, an insurer may continue to use its previously filed rates  
12 or may make additional rate filings based on the previous benchmark  
13 rate for new policies or policies renewing prior to the specified  
14 effective date of its new rate.

15 (r) An insurer who writes insurance in a line subject to  
16 this article is subject to the rating standards described by  
17 Section 3A of this article.

18 SECTION 1.06. Article 5.101, Insurance Code, is amended by  
19 adding Sections 3A, 3B, 3C, and 7 to read as follows:

20 Sec. 3A. RATING STANDARDS. (a) Rates used by insurers  
21 subject to this article may not be excessive, inadequate,  
22 unreasonable, or unfairly discriminatory for the risks to which  
23 they apply.

24 (b) For purposes of this section, a rate is:

25 (1) excessive if the rate is likely to produce a  
26 long-term profit that is unreasonably high in relation to the  
27 insurance coverage provided;

1           (2) inadequate if the rate is insufficient to sustain  
2 projected losses and expenses to which the rate applies, and  
3 continued use of the rate:

4                   (A) endangers the solvency of an insurer using  
5 the rate; or

6                   (B) has the effect of substantially lessening  
7 competition or creating a monopoly within any market; or

8           (3) unfairly discriminatory if the rate:

9                   (A) is not based on sound actuarial principles;

10                   (B) does not bear a reasonable relationship to  
11 the expected loss and expense experience among risks; or

12                   (C) is based wholly or partly on the race, creed,  
13 color, ethnicity, or national origin of the policyholder or an  
14 insured.

15           Sec. 3B. CHANGE OF RATE WITHIN FLEXIBILITY BAND; REQUIRED  
16 FILING. Notwithstanding Section 3(e) of this article, an insurer  
17 who changes a rate used by the insurer that is established within  
18 the flexibility band shall file the changed rate with the  
19 department in the manner prescribed by rule by the commissioner.

20           Sec. 3C. REFUND. If the commissioner determines that rates  
21 of an insurer do not comply with the rating standards established  
22 under this article and are excessive or discriminatory, the  
23 commissioner may order the insurer to make a refund in the manner  
24 prescribed by Article 5.144 of this code.

25           Sec. 7. EXPIRATION. This article expires December 1, 2004.

26                                   PART C. TRANSITION

27           SECTION 1.07. An insurer's initial filing under Section 10,

1 Article 5.142, Insurance Code, as added by this article, must  
2 include the information required under that section beginning with  
3 the calendar quarter beginning January 1, 2003.

4 ARTICLE 2. POLICY FORMS AND ENDORSEMENTS

5 SECTION 2.01. Chapter 5, Insurance Code, is amended by  
6 adding Subchapter T to read as follows:

7 SUBCHAPTER T. POLICY FORMS FOR CERTAIN LINES

8 Art. 5.145. POLICY FORMS FOR PERSONAL AUTOMOBILE INSURANCE  
9 COVERAGE AND RESIDENTIAL PROPERTY INSURANCE COVERAGE

10 Sec. 1. DEFINITIONS. In this article:

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

20 (A) the Texas Windstorm Insurance Association  
21 under Article 21.49 of this code;

22 (B) the FAIR Plan Association under Article  
23 21.49A of this code; or

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

26 (2) "Personal automobile insurance" means motor  
27 vehicle insurance coverage for the ownership, maintenance, or use

1 of a private passenger, utility, or miscellaneous type motor  
2 vehicle, including a motor home, trailer, or recreational vehicle,  
3 that is:

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

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

9 (3) "Residential property insurance" means insurance  
10 coverage against loss to residential real property at a fixed  
11 location, or tangible personal property, that is provided in a  
12 homeowners policy, including a tenants policy, a condominium owners  
13 policy, or a residential fire and allied lines policy.

14 Sec. 2. REGULATION OF POLICY FORMS AND ENDORSEMENTS.

15 (a) Notwithstanding any other provision in this code and except as  
16 provided by this section, an insurer is governed by the provisions  
17 of Section 8, Article 5.13-2 of this code, relating to policy forms  
18 and endorsements for personal automobile insurance and residential  
19 property insurance.

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

24 Sec. 3. REQUIREMENTS FOR FORMS; PLAIN LANGUAGE REQUIREMENT.

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

27 (b) Each form for a policy of personal automobile insurance

1 must provide the coverages mandated under Articles 5.06-1 and  
2 5.06-3 of this code unless the coverages are rejected by the named  
3 insured in the manner provided by those articles.

4 (c) A form may not be used if it is not in plain language.  
5 For the purposes of this section, a form is written in plain  
6 language if it achieves the minimum score established by the  
7 commissioner on the Flesch reading ease test or an equivalent test  
8 selected by the commissioner or, at the option of the commissioner,  
9 if it conforms to the language requirements in a National  
10 Association of Insurance Commissioners model act relating to plain  
11 language. This section does not apply to policy language that is  
12 mandated by state or federal law.

13 Sec. 4. PERSONAL AUTOMOBILE INSURANCE. (a) A contract or  
14 agreement that is not written into the application for insurance  
15 coverage and the personal automobile insurance policy:

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

17 (2) violates this article and Subchapter A of this  
18 chapter.

19 (b) A contract or agreement described by Subsection (a) of  
20 this section constitutes grounds for the revocation of the  
21 certificate of authority of an insurer to write personal automobile  
22 insurance in this state.

23 Sec. 5. PUBLIC INSURANCE COUNSEL. Notwithstanding Article  
24 1.35A of this code, the office of public insurance counsel may  
25 submit written comments to the commissioner and otherwise  
26 participate regarding individual company filings made under  
27 Article 5.13-2 of this code.



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

3                   ARTICLE 3. USE OF CREDIT SCORING

4                           PART A. CREDIT SCORING

5           SECTION 3.01. Subchapter E, Chapter 21, Insurance Code, is  
6 amended by adding Article 21.49-2U to read as follows:

7           Art. 21.49-2U. USE OF CREDIT SCORING IN CERTAIN PERSONAL  
8 LINES OF INSURANCE

9           Sec. 1. DEFINITIONS. In this article:

10                   (1) "Adverse effect" means an action taken by an  
11 insurer in connection with the underwriting of insurance for a  
12 consumer that results in the denial of coverage, the cancellation  
13 or nonrenewal of coverage, or the offer to and acceptance by a  
14 consumer of a policy form, premium rate, or deductible other than  
15 the policy form, premium rate, or deductible for which the consumer  
16 specifically applied.

17                   (2) "Agent" means a person licensed or required to be  
18 licensed as a general property and casualty insurance agent under  
19 Article 21.14 of this code.

20                   (3) "Applicant for insurance coverage" means an  
21 individual who has applied to an insurer for coverage under a  
22 personal insurance policy.

23                   (4) "Consumer" means an individual whose credit  
24 information is used or whose credit score is computed in the  
25 underwriting or rating of a personal insurance policy. The term  
26 includes an applicant for insurance coverage.

27                   (5) "Consumer reporting agency" means any person that,

1 for monetary fees or dues or on a cooperative nonprofit basis,  
2 regularly engages in the practice of assembling or evaluating  
3 consumer credit information or other information on consumers for  
4 the purpose of furnishing consumer reports to third parties.

5 (6) "Credit information" means any credit-related  
6 information derived from a credit report, found on a credit report  
7 itself, or provided in an application for personal insurance. The  
8 term does not include information that is not credit-related,  
9 regardless of whether that information is contained in a credit  
10 report or in an application for insurance coverage or is used to  
11 compute a credit score.

12 (7) "Credit report" means any written, oral, or other  
13 communication of information by a consumer reporting agency that:

14 (A) bears on a consumer's creditworthiness,  
15 credit standing, or credit capacity; and

16 (B) is used or expected to be used or collected in  
17 whole or in part to serve as a factor to determine personal  
18 insurance premiums, eligibility for coverage, or tier placement.

19 (8) "Creditscore" or "insurance score" means a number  
20 or rating derived from an algorithm, computer application, model,  
21 or other process that is based on credit information and used to  
22 predict the future insurance loss exposure of a consumer.

23 (9) "Insured" means a consumer who has purchased an  
24 insurance policy from an insurer.

25 (10) "Insurer" means an insurer authorized to write  
26 property and casualty insurance in this state, including an  
27 insurance company, reciprocal or interinsurance exchange, mutual

1 insurance company, capital stock company, county mutual insurance  
2 company, association, Lloyd's plan, or other entity writing  
3 personal insurance in this state. The term includes an affiliate,  
4 as described by this code, if that affiliate is authorized to write  
5 personal insurance in this state. The term does not include a farm  
6 mutual insurance company or an eligible surplus lines insurer under  
7 this code.

8 (11) "Personal insurance" means:

9 (A) a personal automobile insurance policy;

10 (B) a residential property insurance policy;

11 (C) a residential fire and allied lines insurance  
12 policy; or

13 (D) a noncommercial insurance policy covering a  
14 boat, personal watercraft, snowmobile, or recreational vehicle.

15 Sec. 2. APPLICATION. This article applies to an insurer  
16 that writes personal insurance coverage and uses credit information  
17 or credit reports for the underwriting or rating of that coverage.

18 Sec. 3. PROHIBITED USE OF CREDIT INFORMATION. (a) An  
19 insurer may not:

20 (1) use a credit score that is computed using factors  
21 that constitute unfair discrimination;

22 (2) deny, cancel, or nonrenew a policy of personal  
23 insurance solely on the basis of credit information without  
24 consideration of any other applicable underwriting factor  
25 independent of credit information; or

26 (3) take an action that results in an adverse effect  
27 against a consumer because the consumer does not have a credit card

1 account without consideration of any other applicable factor  
2 independent of credit information.

3 (b) An insurer may not consider an absence of credit  
4 information or an inability to determine credit information for an  
5 applicant for insurance coverage or insured as a factor in  
6 underwriting or rating an insurance policy unless the insurer:

7 (1) has statistical, actuarial, or reasonable  
8 underwriting information that:

9 (A) is reasonably related to actual or  
10 anticipated loss experience; and

11 (B) shows that the absence of credit information  
12 could result in actual or anticipated loss differences;

13 (2) treats the consumer as if the applicant for  
14 insurance coverage or insured had neutral credit information, as  
15 defined by the insurer; or

16 (3) excludes the use of credit information as a factor  
17 in underwriting and uses only other underwriting criteria.

18 Sec. 4. NEGATIVE FACTORS. (a) An insurer may not use any  
19 of the following as a negative factor in any credit scoring  
20 methodology or in reviewing credit information to underwrite or  
21 rate a policy of personal insurance:

22 (1) a credit inquiry that is not initiated by the  
23 consumer;

24 (2) an inquiry relating to insurance coverage, if so  
25 identified on a consumer's credit report; or

26 (3) a collection account with a medical industry code,  
27 if so identified on the consumer's credit report.

1       (b) Multiple lender inquiries made within 30 days of a prior  
2 inquiry, if coded by the consumer reporting agency on the  
3 consumer's credit report as from the home mortgage industry, shall  
4 be considered by an insurer as only one inquiry.

5       (c) Multiple lender inquiries made within 30 days of a prior  
6 inquiry, if coded by the consumer reporting agency on the  
7 consumer's credit report as from the motor vehicle lending  
8 industry, shall be considered by an insurer as only one inquiry.

9       Sec. 5. EFFECT OF EXTRAORDINARY EVENTS.

10       (a) Notwithstanding any other law, an insurer shall, on written  
11 request from an applicant for insurance coverage or an insured,  
12 provide reasonable exceptions to the insurer's rates, rating  
13 classifications, or underwriting rules for a consumer whose credit  
14 information has been directly influenced by a catastrophic illness  
15 or injury, by the death of a spouse, child, or parent, by temporary  
16 loss of employment, by divorce, or by identity theft. In such a  
17 case, the insurer may consider only credit information not affected  
18 by the event or shall assign a neutral credit score.

19       (b) An insurer may require reasonable written and  
20 independently verifiable documentation of the event and the effect  
21 of the event on the person's credit before granting an exception.  
22 An insurer is not required to consider repeated events or events the  
23 insurer reconsidered previously as an extraordinary event.

24       (c) An insurer may also consider granting an exception to an  
25 applicant for insurance coverage or an insured for an extraordinary  
26 event not listed in this section.

27       (d) An insurer is not out of compliance with any law or rule

1 relating to underwriting, rating, or rate filing as a result of  
2 granting an exception under this article.

3 Sec. 6. DISPUTE RESOLUTION; ERROR CORRECTION. (a) If it  
4 is determined through the dispute resolution process established  
5 under Section 611(a)(5), Fair Credit Reporting Act (15 U.S.C.  
6 Section 1681i), as amended, that the credit information of a  
7 current insured was inaccurate or incomplete or could not be  
8 verified and the insurer receives notice of that determination from  
9 the consumer reporting agency or from the insured, the insurer  
10 shall re-underwrite and re-rate the insured not later than the 30th  
11 day after the date of receipt of the notice.

12 (b) After re-underwriting or re-rating the insured, the  
13 insurer shall make any adjustments necessary within 30 days,  
14 consistent with the insurer's underwriting and rating guidelines.  
15 If an insurer determines that the insured has overpaid premium, the  
16 insurer shall credit the amount of overpayment. The insurer shall  
17 compute the overpayment back to the shorter of:

18 (1) the last 12 months of coverage; or

19 (2) the actual policy period.

20 Sec. 7. DISCLOSURE TO CONSUMERS FOR USE OF CREDIT SCORING.

21 (a) An insurer may use credit scoring to develop rates, rating  
22 classifications, or underwriting criteria regarding lines of  
23 insurance subject to this article except for factors that  
24 constitute unfair discrimination.

25 (b) An insurer that uses credit scoring in the underwriting  
26 or rating of insurance subject to this article shall disclose to  
27 each applicant for insurance coverage that the applicant's credit

1 report may be used in the underwriting or rating of the applicant's  
2 policy. The disclosure must be provided at the time of application  
3 by the insurer or agent and may be given orally, in writing, or  
4 electronically.

5 (c) If a policy is issued to the applicant for insurance  
6 coverage, an insurer or agent is not required to make the disclosure  
7 required under Subsection (b) of this section on any subsequent  
8 renewal of the coverage.

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

20 Sec. 8. NOTICE OF ACTION RESULTING IN ADVERSE EFFECT.

21 (a) If an insurer takes an action resulting in an adverse effect  
22 with respect to an applicant for insurance coverage or insured  
23 based in whole or in part on information contained in a credit  
24 report, the insurer shall provide to the applicant or insured  
25 within 30 days:

26 (1) written or electronic notice of the action  
27 resulting in an adverse effect and the reasons for that action;

1           (2) the name, address, and telephone number of the  
2 consumer reporting agency, including a toll-free number  
3 established by the agency and the consumer reporting agency's  
4 Internet website, if applicable;

5           (3) written or electronic notice that the consumer  
6 reporting agency did not make the decision to take the action  
7 resulting in an adverse effect and will be unable to provide the  
8 applicant or insured the specific reasons why the action was taken;  
9 and

10           (4) written or electronic notice of the applicant's or  
11 insured's right to:

12                   (A) obtain a free copy of the consumer report  
13 from the consumer reporting agency during the 60-day period after  
14 the date of the notice; and

15                   (B) dispute with the consumer reporting agency  
16 the accuracy or completeness of any information in the consumer  
17 report furnished by the agency.

18           (b) The insurer shall include a description of not more than  
19 four factors that were the primary influences of the action  
20 resulting in the adverse effect.

21           (c) The use by the insurer of a generalized term such as  
22 "poor credit history," "poor credit rating," or "poor credit score"  
23 does not constitute sufficient notice under this section of the  
24 action resulting in the adverse effect.

25           (d) Standardized credit explanations provided by a consumer  
26 reporting agency or other third-party vendors are also sufficient  
27 to comply with this section.



1       Sec. 9. MANDATED FILING WITH DEPARTMENT. An insurer that  
2 uses credit scores to underwrite and rate risks shall file the  
3 credit scoring models or other credit scoring processes with the  
4 department. Another entity may file credit scoring models on  
5 behalf of an insurer. A filing that includes credit scoring may  
6 include loss experience justifying the use of credit information.

7       Sec. 10. PUBLIC INFORMATION. A credit scoring model filed  
8 for purposes of compliance with this article, as of the date the  
9 filing is received by the department:

10           (1) is public information;

11           (2) is not subject to any exceptions to disclosure  
12 under Chapter 552, Government Code; and

13           (3) cannot be withheld from disclosure under any other  
14 law.

15       Sec. 11. INDEMNIFICATION. (a) An insurer shall indemnify,  
16 defend, and hold its agent harmless from and against all liability,  
17 fees, and costs that arise out of or relate to the actions, errors,  
18 or omissions of an agent who obtains or uses credit information or  
19 credit scores for the insurer if the agent follows the instructions  
20 of or procedures established by the insurer and complies with any  
21 applicable law or rule.

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

24       Sec. 12. SALE OF POLICY TERM INFORMATION BY CONSUMER  
25 REPORTING AGENCY PROHIBITED. (a) A consumer reporting agency may  
26 not provide or sell data or lists that include any information that,  
27 in whole or in part, was submitted in conjunction with an insurance

1 inquiry about a consumer's credit information or a request for a  
2 credit report or credit score, including:

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

6 (2) the terms and conditions of the consumer's  
7 insurance coverage.

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

11 (1) the agent from whom information was received;

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

13 (3) that insurer's affiliates.

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

17 Sec. 13. RULES. (a) The commissioner may adopt rules as  
18 necessary to implement this article.

19 (b) The commissioner shall promulgate by rule the allowable  
20 differences in rates charged by insurers due solely to the  
21 difference in credit scores.

22 Sec. 14. EFFECT OF VIOLATION. An insurer that violates this  
23 article or a rule adopted under this article commits an unfair  
24 practice in violation of Article 21.21 of this code and is subject  
25 to sanctions under Chapter 82 of this code.

26 Sec. 15. REPORT. (a) The commissioner shall submit a  
27 report to the governor, the lieutenant governor, the speaker of the

1 house of representatives, and the members of the 79th Legislature  
2 on the information collected from the insurer filings required  
3 under this article and other information obtained by the department  
4 regarding the use of credit information by insurers. The report  
5 must be submitted before January 1, 2005.

6 (b) The report required under this section must include:

7 (1) a summary statement regarding the use of credit  
8 information, credit reports, and credit scores by insurers,  
9 presented in a manner that protects the identity of individual  
10 insurers and consumers;

11 (2) a description of insurer practices and the effect  
12 of different credit models, presented in a manner that protects the  
13 identity of individual insurers and consumers;

14 (3) the number of consumer complaints submitted to the  
15 department regarding the use of credit information;

16 (4) a description of favorable and unfavorable effects  
17 on consumers related to the use of credit scoring from information  
18 that may be provided by insurers, including the number of consumers  
19 receiving lower or higher premiums;

20 (5) any disproportionate impact on any class of  
21 individuals, including classes based on income, race, or ethnicity,  
22 resulting from the use of credit, to the extent that information is  
23 readily available;

24 (6) recommendations from the department to the  
25 legislature regarding the use of credit information by insurers;  
26 and

27 (7) any other information considered necessary by the

1 commissioner.

2 (c) This section expires March 1, 2005.

3 Sec. 16. DUTIES OF DEPARTMENT. The department shall:

4 (1) update insurer profiles maintained on the  
5 department's Internet website to provide information to consumers  
6 stating whether or not an insurer uses credit scoring; and

7 (2) post the report required under Section 15 of this  
8 article on the department's Internet website.

9 PART B. TRANSITION

10 SECTION 3.02. An insurer that is using an insurance credit  
11 score system on the effective date of this Act must file the  
12 insurance credit scoring models described by Section 9, Article  
13 21.49-2U, Insurance Code, as added by this article, with the  
14 commissioner of insurance not later than the 90th day after the  
15 effective date of this Act. An insurer that uses an insurance  
16 credit score system after the effective date of this Act must file  
17 the insurer's insurance credit scoring models with the commissioner  
18 of insurance before using those models.

19 SECTION 3.03. (a) This article applies only to a  
20 residential property or personal automobile insurance policy:

21 (1) that is delivered, issued for delivery, or renewed  
22 on or after January 1, 2004;

23 (2) the application for which is submitted on or after  
24 January 1, 2004; or

25 (3) that is subject to determination of denial,  
26 cancellation, or nonrenewal on or after January 1, 2004.

27 (b) A residential property or personal automobile insurance

1 policy delivered, issued for delivery, or renewed before January 1,  
2 2004, or the application for which is submitted before January 1,  
3 2004, or that is subject to determination of denial, cancellation,  
4 or nonrenewal before January 1, 2004, is governed by the law as it  
5 existed immediately before January 1, 2004, and that law is  
6 continued in effect for that purpose.

7 ARTICLE 4. INITIAL RATE FILINGS; RATE REDUCTION

8 SECTION 4.01. Subchapter C, Chapter 5, Insurance Code, is  
9 amended by adding Article 5.26-1 to read as follows:

10 Art. 5.26-1. RESIDENTIAL PROPERTY INSURANCE INITIAL RATE  
11 FILINGS; RATE REDUCTION

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

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

16 Sec. 2. INITIAL RATE FILING. (a) Not later than the 20th  
17 day after the effective date of this article, each insurer subject  
18 to Article 5.142 of this code must file the insurer's rates,  
19 supporting information, and supplementary rating information with  
20 the commissioner. The insurer may notify the department that the  
21 insurer is using the rate filing submitted under Article 5.141 of  
22 this code to comply with the requirements of this article, or the  
23 insurer may file an update to the material filed under Article 5.141  
24 of this code. An insurer shall use a rate filed under this  
25 subsection not later than the 30th day after the effective date of  
26 S.B. No. 14, Acts of the 78th Legislature, Regular Session, 2003.

27 (b) The department may approve the rate filed by an insurer

1 under Subsection (a) of this section or modify a filed rate not  
2 later than the 60th day after the effective date of this article for  
3 each insurer with \$10 million or more in direct written residential  
4 property insurance premium in this state during 2002 and not later  
5 than the 90th day after the effective date of this article for each  
6 insurer with less than \$10 million in direct written residential  
7 property insurance premium. An approved or modified rate under  
8 this subsection must be just, reasonable, adequate, not excessive,  
9 and not unfairly discriminatory for the risks to which it applies.  
10 The department has exclusive jurisdiction to determine a rate under  
11 this subsection. The department shall notify the insurer of the  
12 applicable rate. The rate determined by the department under this  
13 subsection or determined under Subsection (c) of this section shall  
14 take effect on the date specified by the insurer, but not later than  
15 the later of:

16 (1) the 30th day after the date the commissioner  
17 notifies the insurer of the rate determination under this  
18 subsection; or

19 (2) the 30th day after the date the rate filed by the  
20 insurer is deemed approved under Subsection (c) of this section.

21 (c) A rate filed by an insurer under Subsection (a) of this  
22 section that is not modified on or before the applicable deadline  
23 for modification described by Subsection (b) is deemed approved on  
24 the date of the applicable deadline for modification.

25 Sec. 3. APPEAL TO COMMISSIONER. Not later than the 10th day  
26 after the date of receipt by the insurer of notification from the  
27 department of rates determined by the department under Section 2(b)

1 of this article, an insurer may appeal the department's decision to  
2 the commissioner.

3 Sec. 4. HEARING. Not later than the 30th day after the date  
4 of receipt of notification of an insurer's appeal under Section 3 of  
5 this article, the commissioner shall conduct a hearing and issue an  
6 order on the insurer's appeal. The burden of proof is on the insurer  
7 to show, by clear and convincing evidence, that the rate reduction  
8 specified by the department would produce inadequate rates.  
9 Notwithstanding any other provision of this code or the Government  
10 Code, the hearing shall not be conducted by the State Office of  
11 Administrative Hearings, but directly by the commissioner. The  
12 commissioner, by order, may affirm the rate reduction, grant a  
13 lesser rate reduction, or order a greater rate reduction than the  
14 rate reduction imposed under Section 2(b) of this article.

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

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

23 Sec. 6. REFUND REQUIRED. If on final appeal the court  
24 upholds the commissioner's determination that the insurer's rates  
25 are excessive, the insurer shall refund the difference in  
26 overcharged premium to each policyholder, plus interest. The  
27 interest rate is the prime rate plus one percent as published in *The*

1 Wall Street Journal on the first day of each calendar year that is  
2 not a Saturday, Sunday, or legal holiday.

3 Sec. 7. EXPIRATION. (a) This article expires September 1,  
4 2004.

5 (b) The expiration of this article does not affect an action  
6 or proceeding against an insurer subject to that law for a failure  
7 to comply with that law before its expiration, regardless of when  
8 the action or proceeding was commenced, and that law is continued in  
9 effect for that purpose.

10 ARTICLE 5. RATE REGULATION EFFECTIVE UNTIL DECEMBER 1, 2004

11 SECTION 5.01. Article 5.13, Insurance Code, is amended to  
12 read as follows:

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

25 (b) This subchapter [~~Sub-chapter~~] applies to the writing of  
26 casualty insurance and the writing of fidelity, surety, and  
27 guaranty bonds, on risks or operations in this State except as



1 herein stated.

2       (c) Except as otherwise provided by this subchapter, this  
3 subchapter [~~This Sub-chapter~~] does not apply to the writing of  
4 motor vehicle, life, health, accident, professional liability,  
5 reinsurance, aircraft, fraternal benefit, fire, lightning,  
6 tornado, windstorm, hail, smoke or smudge, cyclone, earthquake,  
7 volcanic eruption, rain, frost and freeze, weather or climatic  
8 conditions, excess or deficiency of moisture, flood, the rising of  
9 the waters of the ocean or its tributaries, bombardment, invasion,  
10 insurrection, riot, civil war or commotion, military or usurped  
11 power, any order of a civil authority made to prevent the spread of  
12 a conflagration, epidemic or catastrophe, vandalism or malicious  
13 mischief, strike or lockout, water or other fluid or substance,  
14 resulting from the breakage or leakage of sprinklers, pumps, or  
15 other apparatus erected for extinguishing fires, water pipes or  
16 other conduits or containers, or resulting from casual water  
17 entering through leaks or opening in buildings or by seepage  
18 through building walls, including insurance against accidental  
19 injury of such sprinklers, pumps, fire apparatus, conduits or  
20 container, workers' [~~workmen's~~] compensation, inland marine, ocean  
21 marine, marine, or title insurance; nor does this subchapter  
22 [~~Sub-chapter~~] apply to the writing of explosion insurance, except  
23 insurance against loss from injury to person or property which  
24 results accidentally from steam boilers, heaters or pressure  
25 vessels, electrical devices, engines and all machinery and  
26 appliances used in connection therewith or operation thereby.

27       (d) This subchapter [~~Sub-chapter~~] shall not be construed as

1 limiting in any manner the types or classes of insurance which may  
2 be written by the several types of insurers under appropriate  
3 statutes or their charters or permits.

4 (e) The regulatory power herein conferred is vested in the  
5 commissioner [~~Board of Insurance Commissioners of the State of~~  
6 ~~Texas. Within the Board, the Casualty Insurance Commissioner shall~~  
7 ~~have primary supervision of regulation herein provided, subject~~  
8 ~~however to the final authority of the entire Board~~].

9 SECTION 5.02. The heading of Article 5.13-2, Insurance  
10 Code, is amended to read as follows:

11 Art. 5.13-2. RATES AND FORMS FOR CERTAIN [~~GENERAL LIABILITY~~  
12 ~~AND COMMERCIAL~~] PROPERTY AND CASUALTY INSURANCE [~~COVERAGE~~]

13 SECTION 5.03. Sections 1 and 2, Article 5.13-2, Insurance  
14 Code, are amended to read as follows:

15 Sec. 1. PURPOSE. This article governs the regulation of  
16 insurance described by Section 2 of this article [~~general~~  
17 ~~liability, commercial property, which shall include farm and ranch~~  
18 ~~owners and farm and ranch policies, all commercial casualty, and~~  
19 ~~medical professional liability insurance rates and forms. It does~~  
20 ~~not govern automobile, fidelity, surety, or guaranty bonds~~]. The  
21 purposes of this article are to:

22 (1) promote the public welfare by regulating insurance  
23 rates to prohibit excessive, inadequate, or unfairly  
24 discriminatory rates;

25 (2) promote availability of insurance;

26 (3) promote price competition among insurers to  
27 provide rates and premiums that are responsive to competitive

1 market conditions;

2 (4) prohibit price-fixing agreements and other  
3 anticompetitive behavior by insurers;

4 (5) regulate the insurance forms used for lines of  
5 insurance subject to this article to ensure that they are not  
6 unjust, unfair, inequitable, misleading, or deceptive; and

7 (6) provide regulatory procedures for the maintenance  
8 of appropriate information reporting systems.

9 Sec. 2. SCOPE. (a) This article applies to all lines of  
10 the following insurance written under policies or contracts of  
11 insurance issued by an insurer authorized to engage in the business  
12 of insurance in this state:

13 (1) general liability insurance;

14 (2) [~~7~~] commercial property insurance, including farm  
15 and ranch insurance and farm and ranch owners insurance;

16 (3) personal and[~~7~~—~~all~~] commercial casualty  
17 insurance, except as provided by Subsection (b) of this section;

18 (4) [~~7~~—~~and~~] medical professional liability insurance;

19 (5) fidelity and surety bonds other than criminal  
20 court appearance bonds;

21 (6) personal umbrella insurance;

22 (7) personal liability insurance;

23 (8) guaranteed auto protection (GAP) insurance;

24 (9) involuntary unemployment insurance;

25 (10) financial guaranty insurance;

26 (11) inland marine insurance;

27 (12) rain insurance;

1           (13) hail insurance on farm crops; and

2           (14) commercial automobile insurance [~~written under~~  
3 ~~policies or contracts of insurance issued by a licensed insurer,~~  
4 ~~other than a fidelity, surety, or guaranty bond or an automobile~~  
5 ~~insurance policy~~].

6           (b) Except as otherwise specifically provided by this  
7 article, this article does not apply to a line of insurance  
8 regulated under Subchapter A or C of this chapter.

9           (c) The commissioner shall adopt rules governing the manner  
10 in which forms and rates for the various classifications of risks  
11 insured under inland marine insurance, as determined by the  
12 commissioner, are regulated.

13           SECTION 5.04. Subdivision (2), Section 3, Article 5.13-2,  
14 Insurance Code, is amended to read as follows:

15           (2) "Insurer" means an insurer to which Article 5.13  
16 of this code applies, but does not include the Texas Windstorm  
17 Insurance Association or the Texas FAIR Plan Association. However,  
18 the provisions of Sections 4, 5, 6, and 7 of this article shall not  
19 apply to Lloyd's or reciprocals with respect to commercial property  
20 insurance, and the provisions of Sections 4, 5, 6, 7, and 8 of this  
21 article shall not apply to Lloyd's or reciprocals with respect to  
22 inland marine insurance, rain insurance, or hail insurance on farm  
23 crops. The provisions of Sections 4, 5, 6, and 7 of this article  
24 shall apply to county mutual insurance companies with respect to  
25 commercial automobile insurance.

26           SECTION 5.05. This article expires December 1, 2004.

ARTICLE 6. RATE REGULATION EFFECTIVE DECEMBER 1, 2004

SECTION 6.01. Article 5.13, Insurance Code, is amended to read as follows:

Art. 5.13. SCOPE OF SUBCHAPTER [~~SUB-CHAPTER~~]. (a) This subchapter [~~Sub-chapter~~] applies to every insurance company, corporation, interinsurance exchange, mutual, reciprocal, association, Lloyd's plan, [~~Lloyds~~] or other organization or insurer writing any of the characters of insurance business herein set forth, hereinafter called "Insurer"; provided that nothing in this entire subchapter [~~Sub-chapter~~] shall [~~ever~~] be construed to apply to any county or farm mutual insurance company or association, as regulated under Chapters 911 [~~16~~] and 912 [~~17~~] of this code, except that Article 5.13-2 of this code shall apply to a county mutual insurance company with respect to personal automobile and commercial automobile insurance, residential and commercial property insurance, and inland marine insurance [~~Code~~].

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

(c) Except as otherwise provided by this subchapter, this subchapter [~~This Sub-chapter~~] does not apply to the writing of motor vehicle, life, health, accident, professional liability, reinsurance, aircraft, fraternal benefit, fire, lightning, tornado, windstorm, hail, smoke or smudge, cyclone, earthquake, volcanic eruption, rain, frost and freeze, weather or climatic conditions, excess or deficiency of moisture, flood, the rising of the waters of the ocean or its tributaries, bombardment, invasion,

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

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

22       (e) The regulatory power herein conferred is vested in the  
 23 commissioner [~~Board of Insurance Commissioners of the State of~~  
 24 ~~Texas. Within the Board, the Casualty Insurance Commissioner shall~~  
 25 ~~have primary supervision of regulation herein provided, subject~~  
 26 ~~however to the final authority of the entire Board~~].

27       SECTION 6.02. The heading of Article 5.13-2, Insurance

1 Code, is amended to read as follows:

2 Art. 5.13-2. RATES AND FORMS FOR CERTAIN [~~GENERAL LIABILITY~~  
3 ~~AND COMMERCIAL~~] PROPERTY AND CASUALTY INSURANCE [~~COVERAGE~~]

4 SECTION 6.03. Sections 1 and 2, Article 5.13-2, Insurance  
5 Code, are amended to read as follows:

6 Sec. 1. PURPOSE. This article governs the regulation of  
7 insurance described by Section 2 of this article [~~general~~  
8 ~~liability, commercial property, which shall include farm and ranch~~  
9 ~~owners and farm and ranch policies, all commercial casualty, and~~  
10 ~~medical professional liability insurance rates and forms. It does~~  
11 ~~not govern automobile, fidelity, surety, or guaranty bonds~~]. The  
12 purposes of this article are to:

13 (1) promote the public welfare by regulating insurance  
14 rates to prohibit excessive, inadequate, or unfairly  
15 discriminatory rates;

16 (2) promote availability of insurance;

17 (3) promote price competition among insurers to  
18 provide rates and premiums that are responsive to competitive  
19 market conditions;

20 (4) prohibit price-fixing agreements and other  
21 anticompetitive behavior by insurers;

22 (5) regulate the insurance forms used for lines of  
23 insurance subject to this article to ensure that they are not  
24 unjust, unfair, inequitable, misleading, or deceptive; and

25 (6) provide regulatory procedures for the maintenance  
26 of appropriate information reporting systems.

27 Sec. 2. SCOPE. (a) This article applies to all lines of

1 the following insurance written under policies or contracts of  
2 insurance issued by an insurer authorized to engage in the business  
3 of insurance in this state:

4 (1) general liability insurance;

5 (2) residential and~~[,]~~ commercial property insurance,  
6 including farm and ranch insurance and farm and ranch owners  
7 insurance;

8 (3) personal and~~[, — all]~~ commercial casualty  
9 insurance, except as provided by Subsection (b) of this section;

10 (4) ~~[, and]~~ medical professional liability insurance;

11 (5) fidelity and surety bonds other than criminal  
12 court appearance bonds;

13 (6) personal umbrella insurance;

14 (7) personal liability insurance;

15 (8) guaranteed auto protection (GAP) insurance;

16 (9) involuntary unemployment insurance;

17 (10) financial guaranty insurance;

18 (11) inland marine insurance;

19 (12) rain insurance;

20 (13) hail insurance on farm crops; and

21 (14) personal and commercial automobile insurance

22 ~~[written under policies or contracts of insurance issued by a~~  
23 ~~licensed insurer, other than a fidelity, surety, or guaranty bond~~  
24 ~~or an automobile insurance policy].~~

25 (b) The commissioner shall adopt rules governing the manner  
26 in which forms and rates for the various classifications of risks  
27 insured under inland marine insurance, as determined by the



1 commissioner, are regulated.

2 SECTION 6.04. Section 3, Article 5.13-2, Insurance Code, is  
3 amended to read as follows:

4 Sec. 3. DEFINITIONS. (a) In this article:

5 (1) "Disallowed expenses" includes:

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

9 (B) lobbying expenses;

10 (C) advertising expenses, other than for  
11 advertising:

12 (i) directly related to the services or  
13 products provided by the insurer; or

14 (ii) designed and directed at loss  
15 prevention;

16 (D) amounts paid by an insurer:

17 (i) as damages in an action brought against  
18 the insurer for bad faith, fraud, or any matters other than payment  
19 under the insurance contract; or

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

22 (E) contributions to:

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

25 (ii) organizations engaged in legislative  
26 advocacy;

27 (F) except as authorized by rule by the

1 commissioner, fees and assessments paid to advisory organizations;

2 (G) any amount determined by the commissioner to  
3 be excess premiums charged by the insurer; and

4 (H) any unreasonably incurred expenses, as  
5 determined by the commissioner after notice and hearing.

6 (2) "Filer" means an insurer that files rates,  
7 prospective loss costs, or supplementary rating information under  
8 this article.

9 (3) [~~2~~] "Insurer" means an insurer to which Article  
10 5.13 of this code applies, but does not include the Texas Windstorm  
11 Insurance Association or the Texas FAIR Plan Association, or the  
12 Texas Automobile Insurance Plan Association. All provisions of  
13 this article shall apply to Lloyd's plans, reciprocals and  
14 interinsurance exchanges, and county mutual insurance companies  
15 with respect to the lines of insurance described in Section 2 of  
16 this article, except that [~~However,~~] the provisions of Sections 4,  
17 5, 6, and 7 of this article shall not apply to Lloyd's or  
18 reciprocals with respect to commercial property insurance, and the  
19 provisions of Sections 4, 5, 6, 7, and 8 of this article shall not  
20 apply to Lloyd's or reciprocals with respect to inland marine  
21 insurance, rain insurance, or hail insurance on farm crops.

22 (4) [~~3~~] "Prospective loss costs" means that portion  
23 of a rate that does not include provisions for profit or expenses,  
24 other than loss adjustment expenses, that is based on historical  
25 aggregate losses and loss adjustment expenses projected by  
26 development to their ultimate value and through trending to a  
27 future point in time.

1           (5) [~~(4)~~] "Rate" means the cost of insurance per  
2 exposure unit, whether expressed as a single number or as a  
3 prospective loss cost, with an adjustment to account for the  
4 treatment of expenses, profit, and individual insurer variation in  
5 loss experience, before any application of individual risk  
6 variations based on loss or expense considerations.

7           (6) "Rating manual" means a publication or schedule  
8 that lists rules, classifications, territory codes and  
9 descriptions, rates, premiums, and other similar information used  
10 by an insurer to determine the applicable premium charged an  
11 insured.

12           (7) "Residential property insurance" means insurance  
13 coverage against loss to real or tangible personal property at a  
14 fixed location that is provided through a homeowners policy,  
15 including a tenants policy, a condominium owners policy, or a  
16 residential fire and allied lines policy [~~The term does not include~~  
17 ~~a minimum premium~~].

18           (8) [~~(5)~~] "Supplementary rating information" means  
19 any manual, rating schedule, plan of rules, rating rules,  
20 classification systems, territory codes and descriptions, rating  
21 plans, and other similar information used by the insurer to  
22 determine the applicable premium for an insured. The term includes  
23 factors and relativities, including [~~such as~~] increased limits  
24 factors, classification relativities, deductible relativities,  
25 premium discount, and other similar factors and rating plans such  
26 as experience, schedule, and retrospective rating.

27           (9) [~~(6)~~] "Supporting information" means:

1 (A) the experience and judgment of the filer and  
2 the experience or information of other insurers or advisory  
3 organizations relied on by the filer;

4 (B) the interpretation of any other information  
5 relied on by the filer;

6 (C) descriptions of methods used in making the  
7 rates; and

8 (D) any other information required by the  
9 department to be filed.

10 (b) For purposes of this article, a rate is:

11 (1) excessive if the rate is likely to produce a  
12 long-term profit that is unreasonably high in relation to the  
13 insurance coverage provided;

14 (2) inadequate if the rate is insufficient to sustain  
15 projected losses and expenses to which the rate applies, and  
16 continued use of the rate:

17 (A) endangers the solvency of an insurer using  
18 the rate; or

19 (B) has the effect of substantially lessening  
20 competition or creating a monopoly within any market; or

21 (3) unfairly discriminatory if the rate:

22 (A) is not based on sound actuarial principles;

23 (B) does not bear a reasonable relationship to  
24 the expected loss and expense experience among risks; or

25 (C) is based wholly or partly on the race, creed,  
26 color, ethnicity, or national origin of the policyholder or an  
27 insured.

1 SECTION 6.05. Section 4, Article 5.13-2, Insurance Code, is  
2 amended by amending Subsections (b) and (d) and adding Subsection  
3 (f) to read as follows:

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

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

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

9 (3) the insurer's actuarially credible historical  
10 premium, exposure, loss, and expense experience;

11 (4) [~~any applicable~~] catastrophe hazards within this  
12 state;

13 (5) operating [~~(3) operation~~] expenses, excluding  
14 disallowed expenses;

15 (6) [~~(4)~~] investment income;

16 (7) [~~(5)~~] a reasonable margin for profit [~~and~~  
17 ~~contingencies~~]; and

18 (8) [~~(6)~~] any other [~~relevant~~] factors inside and  
19 outside this state determined to be relevant by the insurer and not  
20 disallowed by the commissioner.

21 (d) Rates established under this article may not be  
22 excessive, inadequate, unreasonable, or unfairly discriminatory  
23 for the risks to which they apply [~~and may not be unreasonable~~].

24 (f) In determining rating territories and territorial  
25 rates, an insurer shall use methods based on sound actuarial  
26 principles.

27 SECTION 6.06. Section 5, Article 5.13-2, Insurance Code, is

1 amended by amending Subsection (a) and adding Subsections (a-1) and  
2 (a-2) to read as follows:

3 (a) Except as provided by Section 5A of this article, each  
4 ~~[Each]~~ insurer shall file with the commissioner all rates,  
5 applicable rating manuals, supplementary rating information, and  
6 additional ~~[reasonable and pertinent supporting]~~ information as  
7 required by the commissioner for risks written in this state.

8 (a-1) The commissioner by rule shall determine the  
9 information required to be provided in the filing, including:

10 (1) the categories of supporting information;

11 (2) the categories of supplementary rating  
12 information;

13 (3) any statistics or other information to support the  
14 rates to be used by the insurer, including information necessary to  
15 evidence that the computation of the rate does not include  
16 disallowed expenses; and

17 (4) information concerning policy fees, service fees,  
18 and other fees that are charged or collected by the insurer under  
19 Article 21.35A or 21.35B of this code.

20 (a-2) For an insurer with less than five percent of the  
21 market, the commissioner shall consider insurer and  
22 market-specific attributes, as applicable, and shall promulgate  
23 filing requirements accordingly to accommodate premium volume and  
24 loss experience, targeted markets, limitations on coverage, and any  
25 potential barriers to market entry or growth.

26 SECTION 6.07. Article 5.13-2, Insurance Code, is amended by  
27 adding Section 5A to read as follows:

1       Sec. 5A. PRIOR APPROVAL REQUIRED FOR CERTAIN INSURERS.

2       (a) The commissioner by order may require an insurer to file with  
3 the commissioner all rates, supplementary rate information, and any  
4 supporting information as prescribed by this section if the  
5 commissioner determines that:

6               (1) an insurer's rates require supervision because of  
7 the insurer's financial condition;

8               (2) an insurer's rates require supervision because of  
9 the insurer's rating practices; or

10              (3) a statewide insurance emergency exists.

11       (b) Except as provided by Subsection (k) of this section, an  
12 insurer may not use a rate until the rate has been filed with the  
13 department and approved by the commissioner as provided by this  
14 section. For purposes of this section, a rate is filed with the  
15 department on the date the rate filing is received by the  
16 department.

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

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

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

23       (d) Except as provided by Subsection (f) of this section, if  
24 the rate has not been approved or disapproved by the commissioner  
25 before the expiration of the 30-day period described by Subsection  
26 (c) of this section, the rate is considered approved and the insurer  
27 may use the rate unless the rate proposed in the filing represents

1 an increase of 12.5 percent or more from the insurer's prior filed  
2 rate.

3 (e) The commissioner and the insurer may not by agreement  
4 extend the 30-day period described by Subsection (c) of this  
5 section.

6 (f) For good cause, the commissioner may extend the period  
7 for approval or disapproval of a rate for one additional 30-day  
8 period on the expiration of the 30-day period described by  
9 Subsection (c) of this section.

10 (g) If the department determines that the information filed  
11 by the insurer under this article is incomplete or otherwise  
12 deficient, the department may request additional information from  
13 the insurer. If the department requests additional information  
14 from the insurer during the first 30-day review period provided  
15 under Subsection (c) of this section or under the second 30-day  
16 review period provided under Subsection (f) 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 is not counted to determine what constitutes the first  
21 30-day review period or the second 30-day review period. For  
22 purposes of this subsection, the date of the department's  
23 submission of the request for additional information is the date of  
24 the electronic mailing or telephone call or the postmarked date on  
25 the department's letter relating to the request for additional  
26 information.

27 (h) The commissioner shall approve the rate filing if the



1 proposed rate is adequate, not excessive, and not unfairly  
2 discriminatory.

3 (i) If the commissioner approves a rate filing, the  
4 commissioner shall provide written or electronic notification of  
5 the approval to the insurer. On receipt of the notice of the  
6 commissioner's approval of a rate, the insurer may use the rate.

7 (j) From the date of the filing of the rate with the  
8 department to the effective date of the new rate, the insurer's  
9 previously filed rate that is in effect on the date of the filing  
10 remains in effect.

11 (k) After approval of a rate filing under this section, an  
12 insurer may use any rate subsequently filed by the insurer, without  
13 prior approval of the commissioner, if the subsequently filed rate  
14 does not exceed the lesser of 107.5 percent of the rate approved by  
15 the commissioner or 110 percent of any rate used by the insurer  
16 within the previous 12-month period. Filed rates under this  
17 subsection take effect on the date specified by the insurer.

18 (l) If the commissioner disapproves a rate filing under  
19 Subsection (c)(2) of this section, the commissioner shall issue an  
20 order in the manner prescribed by Section 7(b) of this article. The  
21 insurer is entitled to a hearing in accordance with Section 7(b) of  
22 this article.

23 (m) The commissioner may require an insurer to file the  
24 insurer's rates under this section until the commissioner  
25 determines that the conditions described by Subsection (a) of this  
26 section no longer exist.

27 SECTION 6.08. Article 5.13-2, Insurance Code, is amended by

1 adding Section 13 to read as follows:

2 Sec. 13. STANDARD RATE INDEX FOR PERSONAL AUTOMOBILE  
3 INSURANCE; EXEMPTION. (a) This section governs rate regulation of  
4 personal automobile insurance issued by a county mutual insurance  
5 company as prescribed by this section.

6 (b) Using standard and generally accepted actuarial  
7 techniques, the commissioner shall annually compute and publish a  
8 statewide standard rate index that accurately reflects the average  
9 statewide rates for classifications for each of the following  
10 coverages for personal automobile insurance policies:

- 11 (1) bodily injury liability;
- 12 (2) property damage liability;
- 13 (3) personal injury protection;
- 14 (4) medical payments;
- 15 (5) uninsured and underinsured motorists;
- 16 (6) physical damage--collision; and
- 17 (7) physical damage--other than collision.

18 (c) The commissioner shall compute the rate index using the  
19 benchmark rate in effect for personal automobile insurance under  
20 Article 5.101 of this code on the effective date of S.B. No. 14,  
21 Acts of the 78th Legislature, Regular Session, 2003, and adjusted  
22 annually thereafter by the commissioner to reflect average changes  
23 in claims costs in the personal automobile insurance market in this  
24 state. After the effective date of S.B. No. 14, Acts of the 78th  
25 Legislature, Regular Session, 2003, and before the first annual  
26 adjustment by the commissioner, the commissioner may adjust the  
27 computation of the rate index under this section as the

1 commissioner determines necessary.

2 (d) The commissioner may compute and establish standard  
3 rate indexes other than the rate index required under Subsection  
4 (b) of this section for any of the personal automobile insurance  
5 coverages listed under that subsection as necessary to implement  
6 this section.

7 (e) For purposes of this section, "nonstandard rates" means  
8 rates that are 30 percent or more above the standard rate index as  
9 determined by the commissioner under this section.

10 (f) A county mutual insurance company that issues personal  
11 automobile insurance policies only at nonstandard rates is subject  
12 to filing requirements as determined by the commissioner by rule if  
13 the insurer and the insurer's affiliated companies or group have a  
14 market share of less than 3.5 percent. In setting rates, an  
15 insurance company subject to this subsection must comply with the  
16 rating standards established by this article. Not later than the  
17 first day on which any change in the rates becomes effective, the  
18 company shall for informational purposes file the rates and any  
19 additional information required by the department. The commissioner  
20 by rule shall determine the information required to be provided in  
21 the filing under this subsection. The commissioner may inspect the  
22 books and records of the company at any time to ensure compliance  
23 with the rating standards. An insurance company described by this  
24 subsection is subject to Article 5.144 of this code. A county mutual  
25 insurance company not described by this section is subject to Article  
26 21.81 of this code and is required to comply with the filing  
27 requirements of this article and any other provision of this code

1 applicable to a county mutual insurance company.

2 (g) The commissioner by rule may designate other types of  
3 insurers that historically and as of the effective date of S.B. No.  
4 14, Acts of the 78th Legislature, Regular Session, 2003, have  
5 served exclusively or are serving exclusively the high-risk,  
6 nonstandard market and meet capitalization and solvency  
7 requirements set by the commissioner. An insurer designated by the  
8 commissioner under this subsection is governed by this section.

9 SECTION 6.09. Article 5.13-2, Insurance Code, is amended by  
10 adding Section 14 to read as follows:

11 Sec. 14. REVIEW OF RATES. In reviewing rates under this  
12 article, the commissioner shall consider any state or federal  
13 legislation that has been enacted and that may impact rates for  
14 liability coverage included in a policy subject to this article.

15 SECTION 6.10. Article 5.13-2, Insurance Code, is amended by  
16 adding Section 15 to read as follows:

17 Sec. 15. NOTICE OF RATE INCREASE. (a) An insurer shall  
18 send a policyholder of a policy of residential property insurance  
19 issued by the insurer notice of any rate increase scheduled to take  
20 effect on the renewal of the policy that will result in an increase  
21 in the premium amount to be paid by the policyholder that is at  
22 least 10 percent greater than the lesser of the premium amount paid  
23 by the policyholder for coverage under the policy during:

24 (1) the 12-month period preceding the renewal date of  
25 the policy; or

26 (2) the policy period preceding the renewal date of  
27 the policy.

1       (b) An insurer shall send the notice required by Subsection  
2 (a) of this section before the renewal date but not later than the  
3 30th day before the date the rate increase is scheduled to take  
4 effect.

5       (c) In addition to the mandatory notice under Subsection (a)  
6 of this section, the insurer may send the notice required by  
7 Subsection (a) of this section to any policyholder of residential  
8 property insurance issued by the insurer, regardless of whether  
9 that policyholder's premium amount to be paid will increase as a  
10 result of the scheduled rate change.

11       (d) The commissioner by rule may exempt an insurer from the  
12 notice requirements under this section for a short-term policy, as  
13 defined by the commissioner, that is written by the insurer.

14       SECTION 6.11. Article 5.13-2, Insurance Code, is amended by  
15 adding Section 16 to read as follows:

16       Sec. 16. RIGHTS OF PUBLIC INSURANCE COUNSEL. (a) On  
17 request to the commissioner, the public insurance counsel may  
18 review all rate filings and additional information provided by an  
19 insurer under this article. Confidential information reviewed  
20 under this subsection remains confidential.

21       (b) The public insurance counsel, not later than the 30th  
22 day after the date of a rate filing under this article, may object  
23 to an insurer's rate filing or the criteria relied on by the insurer  
24 to determine the rate by filing a written objection with the  
25 commissioner. The written objection must contain the reasons for  
26 the objection.

27       SECTION 6.12. A county mutual insurance company required to

1 make informational rate filings under Subsection (f), Section 13,  
2 Article 5.13-2, Insurance Code, as added by this Act, shall make an  
3 initial informational rate filing, as required by the commissioner  
4 of insurance, not later than the 30th day after the effective date  
5 of this article.

6 SECTION 6.13. This article takes effect December 1, 2004,  
7 except that Sections 14 and 15, Article 5.13-2, Insurance Code, as  
8 added by this article, take effect on the effective date of this  
9 Act.

10 ARTICLE 7. EXEMPTIONS FROM CERTAIN RATE REQUIREMENTS

11 SECTION 7.01. Subchapter B, Chapter 5, Insurance Code, is  
12 amended by adding Article 5.13-2C to read as follows:

13 Art 5.13-2C. EXEMPTIONS FROM RATE FILING AND APPROVAL  
14 REQUIREMENTS FOR CERTAIN INSURERS

15 Sec. 1. DEFINITIONS. In this article:

16 (1) "Insurer" means an insurance company, reciprocal  
17 or interinsurance exchange, mutual insurance company, capital  
18 stock company, county mutual insurance company, Lloyd's plan, or  
19 other legal entity authorized to write residential property  
20 insurance in this state. The term includes an affiliate, as  
21 described by this code, if that affiliate is authorized to write  
22 residential property insurance.

23 (2) "Residential property insurance" means insurance  
24 coverage against loss to real or tangible personal property at a  
25 fixed location that is provided through a homeowners policy,  
26 including a tenants policy, a condominium owners policy, or a  
27 residential fire and allied lines policy.

1       Sec. 2. APPLICABILITY. (a) Except as provided by  
2 Subsection (b) of this section, this article applies only to an  
3 insurer that, during the calendar year preceding the date filing is  
4 otherwise required under Article 5.13-2 or 5.142 of this code,  
5 issued residential property insurance policies in this state that  
6 accounted for less than two percent of the total amount of premiums  
7 collected by insurers for residential property insurance policies  
8 issued in this state, more than 50 percent of which cover property:

9           (1) valued at less than \$100,000; and

10          (2) located in an area designated by the commissioner  
11 as underserved for residential property insurance under Article  
12 5.35-3 of this code.

13       (b) If an insurer described by Subsection (a) of this  
14 section is a member of an affiliated insurance group, this article  
15 applies to the insurer only if the total aggregate premium  
16 collected by the group accounts for less than two percent of the  
17 total amount of premiums collected by insurers for residential  
18 property insurance policies issued in this state.

19       Sec. 3. EXEMPTION. (a) Except as provided by Subsection  
20 (b) of this section, an insurer described by Section 2 of this  
21 article is exempt from the rate filing and approval requirements of  
22 Article 5.142 and of Article 5.13-2 of this code.

23       (b) An insurer described by Section 2 of this article that  
24 proposes to increase the premium rates charged policyholders for a  
25 residential property insurance product by 10 percent or more than  
26 the amount the insurer charged policyholders for the same or an  
27 equivalent residential property insurance product during the

1 preceding calendar year must file the insurer's proposed rates in  
2 accordance with Article 5.142 or 5.13-2 of this code, as  
3 applicable, and obtain approval of the proposed rates as provided  
4 by the applicable article.

5 (c) Except as provided by Subsection (b) of this section,  
6 Article 5.142 of this code does not apply to an insurer described by  
7 Section 2 of this article.

8 ARTICLE 8. REGULATION OF UNDERWRITING GUIDELINES

9 SECTION 8.01. Subchapter A, Chapter 38, Insurance Code, is  
10 amended by amending Section 38.002 and adding Section 38.003 to  
11 read as follows:

12 Sec. 38.002. UNDERWRITING GUIDELINES FOR PERSONAL  
13 AUTOMOBILE AND RESIDENTIAL PROPERTY INSURANCE; FILING;  
14 CONFIDENTIALITY. (a) In this section:

15 (1) "Insurer" means an insurance company, reciprocal  
16 or interinsurance exchange, mutual insurance company, capital  
17 stock company, county mutual insurance company, Lloyd's plan, or  
18 other legal entity engaged in the business of personal automobile  
19 insurance or residential property insurance in this state. The  
20 term includes:

21 (A) an affiliate as described by Section 2,  
22 Article 21.49-1, or Section 823.003(a) if that affiliate is  
23 authorized to write and is writing personal automobile insurance or  
24 residential property insurance in this state;

25 (B) the Texas Windstorm Insurance Association  
26 created and operated under Article 21.49;

27 (C) the FAIR Plan Association under Article



1 21.49A; and

2 (D) the Texas Automobile Insurance Plan  
3 Association under Article 21.81.

4 (2) "Personal automobile insurance" means motor  
5 vehicle insurance coverage for the ownership, maintenance, or use  
6 of a private passenger, utility, or miscellaneous type motor  
7 vehicle, including a motor home, mobile home, trailer, or  
8 recreational vehicle, that is:

9 (A) owned or leased by an individual or  
10 individuals; and

11 (B) not primarily used for the delivery of goods,  
12 materials, or services, other than for use in farm or ranch  
13 operations.

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

19 (4) "Underwriting guideline" means a rule, standard,  
20 guideline, or practice, whether written, oral, or electronic, that  
21 is used by an insurer or its agent to decide whether to accept or  
22 reject an application for coverage under a personal automobile  
23 insurance policy or residential property insurance policy or to  
24 determine how to classify those risks that are accepted for the  
25 purpose of determining a rate.

26 (b) Each insurer shall file with the department a copy of  
27 the insurer's underwriting guidelines. The insurer shall update

1 its filing each time the underwriting guidelines are changed. If a  
2 group of insurers files one set of underwriting guidelines for the  
3 group, they shall identify which underwriting guidelines apply to  
4 each company in the group.

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

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

11 (e) Underwriting guidelines must be sound, actuarially  
12 justified, or otherwise substantially commensurate with the  
13 contemplated risk. Underwriting guidelines may not be unfairly  
14 discriminatory.

15 (f) The underwriting guidelines are subject to Chapter 552,  
16 Government Code.

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

20 (b) For purposes of this section, "insurer" means a  
21 reciprocal or interinsurance exchange, mutual insurance company,  
22 capital stock company, county mutual insurance company, Lloyd's  
23 plan, life, accident, or health or casualty insurance company,  
24 health maintenance organization, mutual life insurance company,  
25 mutual insurance company other than life, mutual, or natural  
26 premium life insurance company, general casualty company,  
27 fraternal benefit society, group hospital service company, or other

1 legal entity engaged in the business of insurance in this state.  
2 The term includes an affiliate as described by Section 2, Article  
3 21.49-1, or Section 823.003(a) if that affiliate is authorized to  
4 write and is writing insurance in this state.

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

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

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

14 (f) [~~(d)~~] When underwriting guidelines are furnished to the  
15 department or the office of public insurance counsel, only a person  
16 within the department or the office of public insurance counsel  
17 with a need to know may have access to the guidelines. The  
18 department and the office of public insurance counsel shall  
19 establish internal control systems to limit access to the  
20 guidelines and shall keep records of the access provided.

21 (g) [~~(e)~~] This section does not preclude the use of  
22 underwriting guidelines as evidence in prosecuting a violation of  
23 this code. Each copy of an insurer's underwriting guidelines that  
24 is used in prosecuting a violation is presumed to be confidential  
25 and is subject to a protective order until all appeals of the case  
26 have been exhausted. If an insurer is found, after the exhaustion  
27 of all appeals, to have violated this code, a copy of the

1 underwriting guidelines used as evidence of the violation is no  
2 longer presumed to be confidential.

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

5 SECTION 8.02. Subchapter E, Chapter 21, Insurance Code, is  
6 amended by adding Article 21.49-2V to read as follows:

7 Art. 21.49-2V. MEMBERSHIP DUES; ISSUANCE AND RENEWAL OF  
8 POLICY. (a) Except as otherwise provided by law, an insurer may  
9 require that membership dues in its sponsoring organization be paid  
10 as a condition for issuance or renewal of a policy.

11 (b) For purposes of this article, "insurer" includes a  
12 county mutual insurance company, a Lloyd's plan, and a reciprocal  
13 or interinsurance exchange.

14 ARTICLE 9. WINDSTORM INSURANCE

15 SECTION 9.01. Subsection (f), Section 3, Article 21.49,  
16 Insurance Code, is amended to read as follows:

17 (f) "Insurable Property" means immovable property at fixed  
18 locations in a catastrophe area or corporeal movable property  
19 located therein (as may be designated in the plan of operation)  
20 which property is determined by the Association, pursuant to the  
21 criteria specified in the plan of operation to be in an insurable  
22 condition against windstorm, hail and/or fire and explosion as  
23 appropriate, as determined by normal underwriting standards;  
24 provided, however, that insofar as windstorm and hail insurance is  
25 concerned, any structure located within a catastrophe area,  
26 commenced on or after the 30th day following the publication of the  
27 plan of operation, not built or continuing in compliance with

1 building specifications set forth in the plan of operation shall  
2 not be an insurable risk under this Act except as otherwise provided  
3 under this Act. A structure, or an addition thereto, which is  
4 constructed in conformity with plans and specifications that comply  
5 with the specifications set forth in the plan of operation at the  
6 time construction commences shall not be declared ineligible for  
7 windstorm and hail insurance as a result of subsequent changes in  
8 the building specifications set forth in the plan of operation.  
9 Except as otherwise provided by this subsection, if [When] repair  
10 of damage to a structure involves replacement of items covered in  
11 the building specifications as set forth in the plan of operation,  
12 such repairs must be completed in a manner to comply with such  
13 specifications for the structure to continue within the definition  
14 of Insurable Property for windstorm and hail insurance. If repair  
15 to a structure, other than a roof repair that exceeds 100 square  
16 feet, is less than five percent of the amount of total property  
17 coverage on the structure, the repairs may be completed in a manner  
18 that returns the structure to its condition immediately before the  
19 loss without affecting the eligibility of the structure to qualify  
20 as insurable property. Nothing in this Act shall preclude special  
21 rating of individual risks as may be provided in the plan of  
22 operation. For purposes of this Act, all residential structures,  
23 other than a condominium, apartment, duplex, or other multifamily  
24 residence, or a hotel or resort facility, which are located within  
25 those areas designated as units under the federal Coastal Barrier  
26 Resources Act (Public Law 97-348) and for which a building permit or  
27 plat has been filed with the municipality, the county, or the United

1 States Army Corps of Engineers before the effective date of S.B. No.  
2 14, Acts of the 78th Legislature, Regular Session, 2003, are  
3 ~~[construction has commenced on or after July 1, 1991 shall not be~~  
4 ~~considered]~~ insurable property.

5 SECTION 9.02. Section 5, Article 21.49, Insurance Code, is  
6 amended by adding Subsection (m) to read as follows:

7 (m) After January 1, 2004, for geographic areas specified by  
8 the commissioner, the commissioner by rule may supplement the  
9 building specifications in the plan of operation with the  
10 structural provisions of the International Residential Code for  
11 one- and two-family dwellings, as published by the International  
12 Code Council, or by an analogous entity recognized by the  
13 department. For those specified geographic areas, the commissioner  
14 by rule may adopt subsequent editions of that code and may adopt any  
15 supplements published by the International Code Council and  
16 amendments to that code.

17 SECTION 9.03. Section 6A, Article 21.49, Insurance Code, is  
18 amended by amending Subsections (a), (d), (h), (j), and (k) and  
19 adding Subsections (j-1) and (k-1) to read as follows:

20 (a) Except as otherwise provided by this Subsection, all  
21 structures that are constructed or repaired or to which additions  
22 are made on or after January 1, 1988, to be considered insurable  
23 property for windstorm and hail insurance from the Association,  
24 must be inspected or approved by the Board for compliance with ~~[the~~  
25 ~~building specifications in]~~ the plan of operation. After January  
26 1, 2004 ~~[2002]~~, for ~~[in]~~ geographic areas specified by the  
27 commissioner, the commissioner by rule shall adopt ~~[may supplement~~

1 ~~the building specifications in the plan of operation with the~~  
2 ~~structural provisions of] the 2003 International Residential Code~~  
3 ~~for one- and two-family dwellings published by the International~~  
4 ~~Code Council. For those geographic areas, the commissioner by rule~~  
5 ~~may adopt a subsequent edition of that code and may adopt any~~  
6 ~~supplements published by the International Code Council and~~  
7 ~~amendments to the code. [Roofing materials satisfy the building~~  
8 ~~specifications in the plan of operation if those materials pass the~~  
9 ~~UL Standard 997 or a comparable test certified by the Board and are~~  
10 ~~installed as required by the Board to promote the wind resistance of~~  
11 ~~the materials.]~~ A structure constructed, repaired, or to which  
12 additions were made before January 1, 1988, that is located in an  
13 area covered at the time by a building code recognized by the  
14 Association shall be considered an insurable property for windstorm  
15 and hail insurance from the Association without compliance with the  
16 inspection or approval requirements of this Section or the plan of  
17 operation. A structure constructed, repaired, or to which  
18 additions were made before January 1, 1988, that is located in an  
19 area not covered by a building code recognized by the Association  
20 shall be considered an insurable property for windstorm and hail  
21 insurance from the Association without compliance with the  
22 inspection or approval requirements of this Section or the plan of  
23 operation if that structure has been previously insured by a  
24 licensed insurance company authorized to do business in this State  
25 and the risk is in essentially the same condition as when previously  
26 insured, except for normal wear and tear, and without any  
27 structural change other than a change made according to code.

1 Evidence of previous insurance includes a copy of a previous  
2 policy, copies of canceled checks or agent's records that show  
3 payments for previous policies, and a copy of the title to the  
4 structure or mortgage company records that show previous policies.  
5 After January 1, 2004 [~~2002~~], a person must submit a notice of a [~~an~~  
6 ~~application for~~] windstorm inspection to the unit responsible for  
7 certification of windstorm inspections [~~inspection~~] at the  
8 department before beginning to construct, alter, remodel, enlarge,  
9 or repair a structure. [~~Failure to submit a timely application may~~  
10 ~~result in a certificate of compliance not being issued unless plans~~  
11 ~~and calculations, testing information, manufacturer's installation~~  
12 ~~instructions, or any other documentation required by the~~  
13 ~~commissioner is submitted to the unit responsible for windstorm~~  
14 ~~inspection at the department as may be requested in order to fulfill~~  
15 ~~the requirements of this section. The Board may appoint or employ~~  
16 ~~qualified inspectors as defined in this Section to perform any~~  
17 ~~inspections required by this Section.]~~

18 (d) A windstorm inspection may only be performed by a  
19 qualified inspector. For purposes of this article, a "qualified  
20 inspector" includes:

21 (1) a person determined by the department [~~Board~~] to  
22 be qualified to perform building inspections because of training or  
23 experience;

24 (2) a licensed professional engineer meeting the  
25 requirements of the rules adopted by the commissioner for  
26 appointment to conduct windstorm inspections; and

27 (3) an inspector who is certified by the International



1 Code Council, the Building Officials and Code Administrators  
2 International, Inc., the International Conference of Building  
3 Officials, or the Southern Building Code Congress International,  
4 Inc., who has certifications as a buildings inspector and coastal  
5 construction inspector, and who also complies with other  
6 requirements specified by rule by the commissioner. A qualified  
7 inspector must be approved and appointed or employed by the  
8 department [~~Board~~] to perform building inspections. The department  
9 [~~Board~~] may charge a reasonable fee [~~not to exceed \$200~~] for the  
10 filing of applications and determining the qualifications of  
11 persons for appointment as qualified inspectors.

12 (h) The department [~~Board~~] may charge a reasonable fee to  
13 cover the cost of making building requirements [~~specifications~~] and  
14 inspection standards available to the public.

15 (j) After notice and hearing, the department [~~Board~~] may  
16 cancel or revoke an appointment [~~or authorization~~] made [~~, issued,~~  
17 ~~or existing~~] under this Section if the holder [~~or possessor~~] of the  
18 appointment [~~or authorization~~] is found to be in violation of, or to  
19 have failed to comply with, specific provisions of this Section or  
20 any rule or regulation of the commissioner [~~Board~~] made under this  
21 Section. In lieu of cancellation or revocation, the commissioner  
22 [~~Board~~] may order one or more of the following sanctions, if the  
23 commissioner [~~it~~] determines from the facts that it would be fair,  
24 reasonable, or equitable:

25 (1) suspending the [~~authorization or~~] appointment for  
26 a specific period, not to exceed one year;

27 (2) an order directing the holder [~~or possessor~~] of

1 the [~~authorization or~~] appointment to cease and desist from the  
2 specified activity determined to be in violation of specific  
3 provisions of this Section or rules and regulations of the  
4 commissioner [~~Board~~] made pursuant to this Section or from failing  
5 to comply with those provisions of this Section or the rules and  
6 regulations promulgated under this Section; or

7 (3) if the appointed person [~~authorized or appointed~~]  
8 is found by the commissioner [~~Board~~] to have knowingly, wilfully,  
9 fraudulently, or with gross negligence signed or caused to be  
10 prepared an inspection report that contains a false, fictitious, or  
11 fraudulent statement or entry, directing the appointed person  
12 [~~holder or possessor of the authorization or appointment~~] to remit  
13 within a specified time, not to exceed 60 days, a specified monetary  
14 forfeiture not to exceed \$5,000 for the violation or failure to  
15 comply.

16 (j-1) If an appointed person is an engineer licensed by the  
17 Texas Board of Professional Engineers who is found by the  
18 department to have knowingly, wilfully, fraudulently, or with gross  
19 negligence signed or caused to be prepared an inspection report  
20 that contains a false or fraudulent statement or entry, the  
21 commissioner may take action against the appointed person in the  
22 manner provided by Subsection (j) of this Section, but may not levy  
23 any monetary fine against an appointed person who is a licensed  
24 engineer.

25 (k) A monetary forfeiture paid as a result of an order  
26 issued under Subsection (j)(3) of this Section shall be deposited  
27 to the credit of the general revenue fund. If it is found after

1 hearing that any appointed person [~~holder or possessor~~] has failed  
2 to comply with an order issued under Subsection (j) of this Section,  
3 the department [~~Board~~] shall, unless the [~~its~~] order is lawfully  
4 stayed, cancel the [~~authorization or~~] appointment of the person  
5 [~~holder or possessor~~]. The department [~~Board~~] may informally  
6 dispose of any matter under Subsection (j) of this Section by  
7 consent order or default.

8 (k-1) The commissioner shall notify the Texas Board of  
9 Professional Engineers of each order issued by the commissioner  
10 against an appointed person who is an engineer licensed by the Texas  
11 Board of Professional Engineers, including an order suspending,  
12 canceling, or revoking the appointment of that person.

13 SECTION 9.04. Subsections (b), (f), (g), (h), (k), (l), and  
14 (m), Section 6C, Article 21.49, Insurance Code, are amended to read  
15 as follows:

16 (b) The Windstorm Building Code Advisory Committee on  
17 Specifications and Maintenance is established as an advisory  
18 committee to the commissioner to advise and make recommendations to  
19 the commissioner on building requirements [~~specifications~~] and  
20 maintenance in the plan of operation.

21 (f) The advisory committee shall analyze and make  
22 recommendations for changes regarding procedures described under  
23 Section 5(d) of this article that are [~~building specifications~~]  
24 adopted by the commissioner in the plan of operation. In making  
25 recommendations, the advisory committee shall [~~consider~~  
26 ~~technological developments in building products and windstorm~~  
27 ~~research and shall~~] seek to balance the concerns of all affected

1 parties, including consumers, builders, and the Association.

2 (g) Each proposal for a change in an applicable procedure  
3 [~~building specification~~] must be submitted to the commissioner.  
4 Each proposal must be submitted separately in writing and must  
5 contain:

6 (1) the name, mailing address, and telephone number of  
7 the proponent, or, if the proponent is a group or organization, the  
8 name of the group or organization and the mailing address and  
9 telephone number of the group or organization;

10 (2) a citation of any applicable statute or rule [~~the~~  
11 ~~building code section regarding that specification, as published in~~  
12 ~~the latest edition of that code~~];

13 (3) the text of the proposed change, with deletions  
14 from current [~~code~~] language struck through with a single line and  
15 new language underlined; and

16 (4) a statement of the purpose of the proposed change,  
17 with supporting written or printed information.

18 (h) The commissioner by rule shall adopt a form to be used by  
19 a person in presenting a proposal for a change in an applicable  
20 procedure [~~building specification~~] to the commissioner.

21 (k) At an advisory committee meeting, any interested person  
22 may present the person's views on a proposal for a change in an  
23 applicable procedure [~~building specification~~] that is included on  
24 the advisory committee's published agenda. The advisory committee  
25 shall consider each comment presented in its action on the  
26 disposition of each proposal.

27 (l) After consideration of a proposal for a change in an

1 applicable procedure [~~building specification~~], the advisory  
2 committee by vote shall:

3 (1) recommend adoption of the proposal as initially  
4 submitted;

5 (2) recommend adoption of the proposal with  
6 modifications;

7 (3) recommend rejection of the proposal; or

8 (4) suspend consideration of the proposal and request  
9 additional evaluation and study of the proposal.

10 (m) The advisory committee shall submit its recommendation  
11 on each proposal to the commissioner. The commissioner shall  
12 notify the advisory committee of the acceptance or rejection of  
13 each recommendation not later than the 30th day after the date of  
14 receipt by the commissioner. Acceptance of a recommendation by the  
15 commissioner means that the commissioner will consider adoption of  
16 that recommendation at a rulemaking hearing. Before adopting a  
17 recommendation, the commissioner must determine that the proposal,  
18 if adopted, will not weaken the integrity or diminish the  
19 effectiveness of a procedure [~~building specification~~]. [~~The~~  
20 ~~commissioner by rule may adopt a recommendation of the advisory~~  
21 ~~committee by amending the plan of operation and, in amending the~~  
22 ~~plan, may adopt a specification by reference.~~]

23 SECTION 9.05. Article 21.49, Insurance Code, is amended by  
24 adding Section 6D to read as follows:

25 Sec. 6D. APPOINTMENT OF ENGINEERS; RULES. (a) The  
26 commissioner, on the request of an engineer licensed by the Texas  
27 Board of Professional Engineers, shall appoint the engineer under

1 this article not later than the 10th day after the date of the  
2 engineer's delivery to the commissioner of information  
3 demonstrating that the engineer is qualified to perform windstorm  
4 inspections under this article.

5 (b) The commissioner shall adopt rules to determine the  
6 information the commissioner will consider in appointing engineers  
7 under Subsection (a) of this section.

8 SECTION 9.06. Subsections (c) and (e), Section 6A, Article  
9 21.49, Insurance Code, are repealed.

10 SECTION 9.07. Subdivision (9), Subsection (h), Section 8,  
11 Article 21.49, Insurance Code, is amended to read as follows:

12 (9) A rate established and authorized by the  
13 commissioner under this subsection may not reflect an average rate  
14 change that is more than 10 percent higher or lower than the rate  
15 for commercial or 10 percent higher or lower than the rate for  
16 noncommercial windstorm and hail insurance in effect on the date  
17 the filing is made. The rate may not reflect a rate change for an  
18 individual rating class that is 15 percent higher or lower than the  
19 rate for that individual class in effect on the date the filing is  
20 made. The commissioner may, after notice and hearing, suspend this  
21 subdivision upon a finding that a catastrophe loss or series of  
22 occurrences resulting in losses in the catastrophe area justify a  
23 need to assure rate adequacy in the catastrophe area and also  
24 justify a need to assure availability of insurance outside the  
25 catastrophe area. [~~This subdivision expires December 31, 2005.~~]

26 SECTION 9.08. Subsection (f), Section 3, Article 21.49,  
27 Insurance Code, as amended by this article, applies only to an

1 insurance policy delivered or issued for delivery by the Texas  
2 Windstorm Insurance Association on or after the effective date of  
3 this Act. A policy delivered or issued for delivery before the  
4 effective date of this Act is governed by the law as it existed  
5 immediately before the effective date of this Act, and that law is  
6 continued in effect for that purpose.

7 SECTION 9.09. Article 21.49, Insurance Code, as amended by  
8 this article, other than Subsection (f), Section 3, applies only to  
9 a policy of windstorm or hail insurance that is delivered, issued  
10 for delivery, or renewed after January 1, 2004. A policy that is  
11 delivered, issued for delivery, or renewed on or before January 1,  
12 2004, is governed by the law as it existed immediately before the  
13 effective date of this article, and that law is continued in effect  
14 for that purpose.

15 SECTION 9.10. Except as provided by Section 9.08 of this  
16 Act, this article takes effect January 1, 2004.

17 ARTICLE 10. WITHDRAWAL REQUIREMENTS

18 SECTION 10.01. (a) Effective June 1, 2003, Section  
19 827.001, Insurance Code, is amended to read as follows:

20 Sec. 827.001. DEFINITIONS [~~DEFINITION~~]. In this chapter:  
21 (1) "Insurer" means an insurance company or other  
22 legal entity authorized to engage in the business of insurance in  
23 this state, including a reciprocal or interinsurance exchange, a  
24 Lloyd's plan, and a county mutual insurance company. The term  
25 includes an affiliate. The term does not include a farm mutual  
26 insurance company or an eligible surplus lines insurer regulated  
27 under Chapter 981.

1           (2) "Rating[~~,"rating]~~ territory" means a rating  
2 territory established by the department.

3           (b) Until June 1, 2003, Subsection (a), Article 21.49-2C,  
4 Insurance Code, is amended by adding Subdivision (4) to read as  
5 follows:

6           (4) "Insurer" means an insurance company or other legal  
7 entity authorized to write insurance in this state, including a  
8 county mutual insurance company, a reciprocal or interinsurance  
9 exchange, and a Lloyd's plan. This subdivision expires June 1, 2003.

10          SECTION 10.02. (a) Effective June 1, 2003, Section  
11 827.002, Insurance Code, is amended to read as follows:

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

14           (1) is within the same insurance group as [~~under~~  
15 ~~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) Until June 1, 2003, Subsection (b), Article 21.49-2C,  
22 Insurance Code, 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 within the same  
25 insurance group as the insurer and is [~~under common ownership~~]  
26 admitted to do business in this state. This subsection expires  
27 June 1, 2003.



1 SECTION 10.03. (a) Effective June 1, 2003, Section  
2 827.003, Insurance Code, 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 50  
8 ~~[75]~~ percent or more; ~~[or]~~

9 (2) reduce the insurer's annual premium by 75 percent  
10 or more in a line of insurance in this state; or

11 (3) reduce in this state, or in any applicable~~[, in a]~~  
12 rating territory, the insurer's total annual premium volume in a  
13 ~~[personal]~~ line of personal automobile ~~[motor vehicle~~  
14 ~~comprehensive]~~ or residential property insurance by 50 percent or  
15 more.

16 (b) Until June 1, 2003, Subdivision (1), Subsection (a),  
17 Article 21.49-2C, Insurance Code, is amended to read as follows:

18 (1) This subdivision expires June 1, 2003. An  
19 ~~[authorized]~~ insurer shall file with the commissioner a plan for  
20 orderly withdrawal if the insurer proposes ~~[to withdraw from~~  
21 ~~writing a line of insurance in this state or]~~ to reduce its total  
22 annual premium volume by 50 ~~[75]~~ percent or more, proposes to reduce  
23 the insurer's annual premium by 75 percent or more in a line of  
24 insurance in this state, or proposes, in a personal line of motor  
25 vehicle insurance ~~[comprehensive]~~ or residential property  
26 insurance, to reduce its total annual premium volume in a rating  
27 territory by 50 percent or more. The insurer's plan shall be

1 constructed to protect the interests of the people of this state and  
2 shall indicate the date it intends to begin and complete its  
3 withdrawal plan and must contain provisions for:

4 (A) meeting the insurer's contractual  
5 obligations;

6 (B) providing service to its Texas policyholders  
7 and claimants; and

8 (C) meeting any applicable statutory  
9 obligations, such as the payment of assessments to the guaranty  
10 fund and participation in any assigned risk plans or joint  
11 underwriting arrangements.

12 SECTION 10.04. (a) Effective June 1, 2003, Section  
13 827.005, Insurance Code, is amended to read as follows:

14 Sec. 827.005. APPROVAL OF WITHDRAWAL PLAN. (a) Except as  
15 provided by Subsection (b), the [The] commissioner shall approve a  
16 withdrawal plan that adequately provides for meeting the  
17 requirements prescribed by Section 827.004(3).

18 (b) The commissioner may modify, restrict, or limit a  
19 withdrawal plan under this section as necessary if the commissioner  
20 finds that a line of insurance subject to the withdrawal plan is not  
21 offered in a quantity or manner to adequately cover the risks in  
22 this state or to adequately protect the residents of this state and  
23 policyholders in this state. The commissioner may by order set the  
24 date on which the insurer's withdrawal begins.

25 (c) A withdrawal plan is deemed approved if the  
26 commissioner:

27 (1) does not hold a hearing on the plan before the 61st

1 ~~[31st]~~ day after the date the plan is filed with the commissioner;  
2 or

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

5 (b) Until June 1, 2003, Subsections (e) and (f), Article  
6 21.49-2C, Insurance Code, are amended to read as follows:

7 (e) Except as provided by Subsection (f), the ~~[The]~~  
8 commissioner shall approve the plan if it adequately provides for:

9 (1) meeting the insurer's contractual obligations;

10 (2) providing service to its Texas policyholders and  
11 claimants; and

12 (3) meeting any applicable statutory obligations,  
13 such as the payment of assessments to the guaranty fund and  
14 participation in any assigned risk plans or joint underwriting  
15 arrangements.

16 (f) The commissioner may modify, restrict, or limit a  
17 withdrawal plan under this section as necessary if the commissioner  
18 finds that a line of insurance subject to the withdrawal plan is not  
19 offered in a quantity or manner to adequately cover the risks in  
20 this state or to adequately protect the residents of this state and  
21 policyholders in this state. The commissioner may by order set the  
22 date on which the insurer's withdrawal begins. The withdrawal plan  
23 shall be deemed approved if the commissioner has not held a hearing  
24 within 60 ~~[30]~~ days after the plan is filed with the commissioner or  
25 has not denied approval within 60 ~~[30]~~ days after the hearing. An  
26 insurer that withdraws from writing insurance in this state or that  
27 reduces its total annual premium volume by 75 percent or more in any

1 year without receiving the commissioner's approval is subject to  
2 the civil penalties under Article 1.10 of this code.

3 SECTION 10.05. (a) Effective June 1, 2003, Section  
4 827.008, Insurance Code, is amended to read as follows:

5 Sec. 827.008. RESTRICTION PLAN. (a) Before an insurer, in  
6 response to a catastrophic natural event that occurred during the  
7 preceding six months, may restrict writing new business in a rating  
8 territory in a [~~personal~~] line of personal automobile  
9 [~~comprehensive motor vehicle~~] or residential property insurance,  
10 the insurer must file a proposed restriction plan with the  
11 commissioner for the commissioner's review and approval [~~comment~~].

12 (b) The commissioner may modify, restrict, or limit a  
13 restriction plan under this section as necessary if the  
14 commissioner finds that a line of insurance subject to the  
15 restriction plan is not offered in this state in a quantity or  
16 manner to adequately cover the risks in this state or to adequately  
17 protect the residents of this state and policyholders in this state  
18 in light of the impact of the catastrophic natural event. The  
19 commissioner may by order set the date on which the insurer's  
20 restriction begins. [~~The commissioner's approval of a restriction~~  
21 ~~plan filed under Subsection (a) is not required. An insurer that~~  
22 ~~files a restriction plan may institute the plan on or after the 15th~~  
23 ~~day after the date the plan is filed.~~]

24 (c) A [~~Notwithstanding Subsection (b), a~~] withdrawal plan  
25 must be filed and approved under Sections 827.003 and 827.004 if an  
26 insurer's decision not to accept new business in a [~~personal~~] line  
27 of personal automobile [~~comprehensive motor vehicle~~] or

1 residential property insurance results in a reduction of the  
2 insurer's total annual premium volume by 50 percent or more.

3 (b) Until June 1, 2003, Subdivision (2), Subsection (a),  
4 Article 21.49-2C, Insurance Code, is amended to read as follows:

5 (2) If within six months after a catastrophic event of  
6 natural origin an insurer, in response to such catastrophic event,  
7 wishes to restrict its writing of new business in a personal  
8 automobile [~~line of comprehensive motor vehicle~~] or residential  
9 property insurance in a rating territory, it shall prepare and file  
10 a plan as to such proposed plan of restriction with the commissioner  
11 for the commissioner's review and approval [~~comment~~]. The  
12 commissioner may modify, restrict, or limit a restriction plan  
13 under this section as necessary if the commissioner finds that a  
14 line of insurance subject to the restriction plan is not offered in  
15 this state in a quantity or manner to adequately cover the risks in  
16 this state or to adequately protect the residents of this state and  
17 policyholders in this state in light of the impact of the  
18 catastrophic natural event. The commissioner may by order set the  
19 date on which the insurer's restriction begins. In [~~Approval of~~  
20 ~~such plan is not required and the insurer may institute such plan 15~~  
21 ~~days after filing. However, in~~] the event of a conflict between  
22 Subsections (a)(1) and (a)(2), where not accepting new business may  
23 result in a withdrawal as defined in Subsection (a)(1), Subsection  
24 (a)(1) controls.

25 SECTION 10.06. (a) Effective June 1, 2003, Subsection (d),  
26 Section 827.010, Insurance Code, is amended to read as follows:

27 (d) To impose or renew a moratorium under this section, the

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

8 (b) Until June 1, 2003, Subsection (g), Article 21.49-2C,  
9 Insurance Code, is amended to read as follows:

10 (g) The commissioner may impose a moratorium of up to two  
11 years on the approval of plans for withdrawal or implementation of  
12 plans to restrict the writing of new business pursuant to  
13 Subsection (a)(2) of this section, including those such plans  
14 implemented subsequent to the commissioner's publishing of notice  
15 of intention to impose a moratorium regarding the catastrophic  
16 event related to such plans, and may renew the moratorium annually.  
17 To impose or renew a moratorium, the commissioner must find after  
18 notice and public hearing that a catastrophic event has occurred  
19 and that as a result of the event, the relevant line of insurance is  
20 not reasonably expected to be available to a substantial number of  
21 policyholders or potential policyholders in this state, or in the  
22 case of [~~personal~~] lines of personal automobile [~~motor vehicle~~  
23 ~~comprehensive~~] or residential property insurance, in a rating  
24 territory. Such notice and hearing shall be governed by provisions  
25 of Chapter 2001, Government Code, related to contested cases and by  
26 Chapter 40 of this code [~~of Subsection (b), Article 1.33B,~~  
27 ~~Insurance Code~~]. The commissioner shall, by rule, establish

1 reasonable criteria for applying the above set forth standards for  
2 determining whether to impose a moratorium. The commissioner may  
3 limit a moratorium on withdrawal from or reduction in personal  
4 lines insurance to certain geographical areas of this state.

5 SECTION 10.07. This article applies only to a reduction of a  
6 line of insurance or a withdrawal of a line of insurance by an  
7 insurer on or after the effective date of this article. A reduction  
8 of a line of insurance or a withdrawal of a line of insurance by an  
9 insurer before the effective date of this article is governed by the  
10 law as it existed immediately before the effective date of this  
11 article, and that law is continued in effect for that purpose.

12 ARTICLE 11. REVENUE BOND PROGRAM

13 PART A. FAIR PLAN ASSOCIATION

14 SECTION 11.01. Subchapter E, Chapter 21, Insurance Code, is  
15 amended by adding Article 21.49A-1 to read as follows:

16 Art. 21.49A-1. REVENUE BOND PROGRAM FOR FAIR PLAN  
17 ASSOCIATION

18 Sec. 1. PURPOSE. The legislature finds that the issuance of  
19 public securities to provide a method to raise funds to provide  
20 residential property insurance through the FAIR Plan Association in  
21 this state is for the benefit of the public and in furtherance of a  
22 public purpose.

23 Sec. 2. DEFINITIONS. In this article:

24 (1) "Association" means the FAIR Plan Association  
25 established under Article 21.49A of this code.

26 (2) "Public security resolution" means the resolution  
27 or order authorizing public securities to be issued under this

1 article.

2 (3) "Bond" means any debt instrument or public  
3 security issued by the Texas Public Finance Authority.

4 (4) "Board" means the board of directors of the Texas  
5 Public Finance Authority.

6 (5) "Insurer" means any insurer required to  
7 participate in the association under Section 5, Article 21.49A of  
8 this code, including a Lloyd's plan or a reciprocal or  
9 interinsurance exchange.

10 Sec. 3. PUBLIC SECURITIES AUTHORIZED; APPLICATION OF TEXAS  
11 PUBLIC FINANCE AUTHORITY ACT. (a) At the request of the  
12 association, the Texas Public Finance Authority shall issue public  
13 securities to:

14 (1) fund the association, including:  
15 (A) to establish and maintain reserves to pay  
16 claims;

17 (B) to pay operating expenses; and

18 (C) to purchase reinsurance;

19 (2) pay costs related to issuance of the public  
20 securities; and

21 (3) pay other costs related to the public securities  
22 as may be determined by the board.

23 (b) To the extent not inconsistent with this article,  
24 Chapter 1232, Government Code, applies to public securities issued  
25 under this article. In the event of a conflict, this article  
26 controls.

27 Sec. 4. APPLICABILITY OF OTHER STATUTES. The following



1 laws apply to public securities issued under this article to the  
2 extent consistent with this article:

3 (1) Chapters 1201, 1202, 1204, 1205, 1231, and 1371,  
4 Government Code; and

5 (2) Subchapter A, Chapter 1206, Government Code.

6 Sec. 5. LIMITS. The Texas Public Finance Authority may  
7 issue, on behalf of the association, public securities in a total  
8 amount not to exceed \$75 million.

9 Sec. 6. CONDITIONS. (a) Public securities issued under  
10 this article may be issued at public or private sale.

11 (b) Public securities may mature not more than 10 years  
12 after the date issued.

13 (c) Public securities must be issued in the name of the  
14 association.

15 Sec. 7. ADDITIONAL COVENANTS. In a public security  
16 resolution, the board may make additional covenants with respect to  
17 the public securities and the designated income and receipts of the  
18 association pledged to their payment, and may provide for the flow  
19 of funds and the establishment, maintenance, and investment of  
20 funds and accounts with respect to the public securities.

21 Sec. 8. SPECIAL ACCOUNTS. (a) A public security  
22 resolution may establish special accounts, including an interest  
23 and sinking fund account, reserve account, and other accounts.

24 (b) The association shall administer the accounts in  
25 accordance with Article 21.49A of this code.

26 Sec. 9. SECURITY. (a) Public securities are payable only  
27 from the service fee established under Section 10 of this article or

1 other amounts that the association is authorized to levy, charge,  
2 and collect.

3 (b) Public securities are obligations solely of the  
4 association. Public securities do not create a pledging, giving,  
5 or lending of the faith, credit, or taxing authority of this state.

6 (c) Each public security must include a statement that the  
7 state is not obligated to pay any amount on the public security and  
8 that the faith, credit, and taxing authority of this state are not  
9 pledged, given, or lent to those payments.

10 (d) Each public security issued under this article must  
11 state on its face that the public security is payable solely from  
12 the revenues pledged for that purpose and that the public security  
13 does not and may not constitute a legal or moral obligation of the  
14 state.

15 Sec. 10. SERVICE FEE. (a) A service fee may be assessed  
16 against:

17 (1) each insurer; and

18 (2) the association.

19 (b) The service fee shall be set by the commissioner in an  
20 amount sufficient to pay all debt service on the public securities.  
21 The service fee shall be paid by each insurer and the association as  
22 required by the commissioner by rule.

23 (c) The comptroller shall collect the service fee and the  
24 department shall reimburse the comptroller in the manner described  
25 by Article 4.19 of this code.

26 (d) The commissioner, in consultation with the comptroller,  
27 may coordinate payment and collection of the service fee with other

1 payments made by insurers and collected by the comptroller.

2 (e) As a condition of engaging in the business of insurance  
3 in this state, an insurer agrees that if the company leaves the  
4 property insurance market in this state the insurer remains  
5 obligated to pay, until the public securities are retired, the  
6 insurer's share of the service fee assessed under this section in an  
7 amount proportionate to that insurer's share of the property  
8 insurance market, including residential property insurance, in  
9 this state as of the last complete reporting period before the date  
10 on which the insurer ceases to engage in that insurance business in  
11 this state. The proportion assessed against the insurer shall be  
12 based on the insurer's gross premiums for property insurance,  
13 including residential property insurance, for the insurer's last  
14 reporting period.

15 Sec. 11. TAX EXEMPT. The public securities issued under  
16 this article, any interest from those public securities, and all  
17 assets pledged to secure the payment of the public securities are  
18 free from taxation by the state or a political subdivision of this  
19 state.

20 Sec. 12. AUTHORIZED INVESTMENTS. The public securities  
21 issued under this article constitute authorized investments under  
22 Articles 2.10 and 3.33 and Subpart A, Part I, Article 3.39 of this  
23 code.

24 Sec. 13. STATE PLEDGE. The state pledges to and agrees with  
25 the owners of any public securities issued in accordance with this  
26 article that the state will not limit or alter the rights vested in  
27 the association to fulfill the terms of any agreements made with the

1 owners of the public securities or in any way impair the rights and  
2 remedies of those owners until the public securities, bond premium,  
3 if any, or interest, and all costs and expenses in connection with  
4 any action or proceeding by or on behalf of those owners, are fully  
5 met and discharged. The association may include this pledge and  
6 agreement of the state in any agreement with the owners of the  
7 public securities.

8 Sec. 14. ENFORCEMENT BY MANDAMUS. A writ of mandamus and  
9 all other legal and equitable remedies are available to any party at  
10 interest to require the association and any other party to carry out  
11 agreements and to perform functions and duties under this article,  
12 the Texas Constitution, or a public security resolution.

13 SECTION 11.02. Subsection (e), Section 3, Article 21.49A,  
14 Insurance Code, is amended to read as follows:

15 (e) The plan of operation shall provide:

16 (1) for establishment of a FAIR Plan Association for  
17 the issuing of residential property insurance pursuant to this Act  
18 and the distribution of the losses and the expenses in the writing  
19 of such insurance in this state;

20 (2) that all insurers licensed to write property  
21 insurance and writing residential property insurance shall  
22 participate in the writings, expenses, ~~[profits]~~ and losses of the  
23 association, in the proportion that the net direct premiums, of  
24 each participating insurer, written in this state during the  
25 preceding calendar year, bear to the aggregate net direct premium  
26 written in this state by all participating insurers; such  
27 information shall be determined in accordance with the residential

1 property statistical plan adopted by the commissioner;

2 (3) that a participating insurer is entitled to  
3 receive credit for similar insurance voluntarily written in a  
4 designated underserved area and its participation in the writings  
5 in the association shall be reduced in accordance with the  
6 provisions of the plan of operation;

7 (4) for the immediate binding of eligible risks; for  
8 the use of premium installment payment plans, adequate marketing,  
9 and service facilities; and for the establishment of reasonable  
10 service standards;

11 (5) procedures for efficient, economical, fair, and  
12 nondiscriminatory administration of the FAIR Plan Association;

13 (6) procedures for determining the net level of  
14 participation required for each insurer in the FAIR Plan  
15 Association;

16 (7) for the use of deductibles and other underwriting  
17 devices and for assessment of all members in amounts sufficient to  
18 operate the association; and establish maximum limits of liability  
19 to be placed through the program; and commissions to be paid to the  
20 licensed agents submitting applications;

21 (8) that the association issue policies in its own  
22 name;

23 (9) reasonable underwriting standards for determining  
24 insurability of the risk;

25 (10) procedures for the assumption and ceding of  
26 reinsurance by the association; and

27 (11) any other procedures or operational matters

1 deemed necessary by the governing committee or the commissioner.

2 SECTION 11.03. Subsection (d), Section 5, Article 21.49A,  
3 Insurance Code, is amended to read as follows:

4 (d) Each insurer must participate in the writings,  
5 expenses, [~~profits,~~] and losses of the association in the  
6 proportion that its net direct premiums written bear to the  
7 aggregate net direct premiums written by all insurers.

8 SECTION 11.04. Section 11, Article 21.49A, Insurance Code,  
9 is amended to read as follows:

10 Sec. 11. ASSESSMENTS AND PREMIUM SURCHARGES. Should a  
11 deficit occur in the association, the association, at the direction  
12 of the commissioner, shall either request the issuance of public  
13 securities as authorized by Article 21.49A-1 of this code or assess  
14 participating insurers in accordance with this section. Each [~~and~~  
15 ~~each~~] insurer may charge a premium surcharge on every property  
16 insurance policy issued by it insuring property in this state, the  
17 effective date of which policy is within the three-year period  
18 commencing 90 days after the date of assessment by the association  
19 under this section. The amount of the surcharge shall be calculated  
20 on the basis of a uniform percentage of the premium on such policies  
21 equal to one-third of the ratio of the amount of an insurer's  
22 assessment to the amount of its direct earned premiums as reported  
23 in its financial statement to the department for the calendar year  
24 immediately preceding the year in which the assessment is made,  
25 such that over the period of three years the aggregate of all such  
26 surcharges by an insurer shall be equal to the amount of the  
27 assessment of such insurer. The minimum surcharges on a policy may

1 be \$1; all surcharges may be rounded to the nearest dollar.

2 SECTION 11.05. Article 21.49A, Insurance Code, is amended  
3 by adding Section 15 to read as follows:

4 Sec. 15. RETENTION OF PROFITS. The association shall  
5 retain any profits of the association to be used for the purposes of  
6 the association. The profits of the association shall be used to  
7 mitigate losses, including the purchase of reinsurance and the  
8 offset of future assessments, and may not be distributed to  
9 insurers.

10 PART B. TRANSITION

11 SECTION 11.06. The changes in law made by this article to  
12 Article 21.49A, Insurance Code, apply only to the profits earned by  
13 the FAIR Plan Association in accordance with Article 21.49A on or  
14 after the effective date of this Act.

15 ARTICLE 12. SANCTIONS, PENALTIES, AND PAYMENT UNDER CERTAIN  
16 POLICIES

17 SECTION 12.01. Section 5, Article 21.21-6, Insurance Code,  
18 as added by Chapter 415, Acts of the 74th Legislature, Regular  
19 Session, 1995, is amended to read as follows:

20 Sec. 5. SANCTIONS. (a) Any legal entity engaged in the  
21 business of insurance in this state found to be in violation of or  
22 failing to comply with this article is subject to the sanctions  
23 authorized by Chapter 82 [~~in Article 1.10~~] of this code or [~~7~~  
24 ~~including~~] administrative penalties authorized by Chapter 84  
25 [~~under Article 1.10E~~] of this code. The commissioner may also  
26 utilize the cease and desist procedures authorized by Chapter 83  
27 [~~Article 1.10A~~] of this code.

1       (b) It is not a defense to an action of the commissioner  
2 under Subsection (a) of this section that the contract giving rise  
3 to the alleged violation was entered into before the effective date  
4 of this article.

5       SECTION 12.02. Subchapter B, Chapter 21, Insurance Code, is  
6 amended by adding Article 21.21-6A to read as follows:

7       Art. 21.21-6A. CRIMINAL PENALTY. (a) In this article,  
8 "person" means a legal entity engaged in the business of life  
9 insurance described by Subdivisions (a), (b), (e), (f), and (j),  
10 Section 2, Article 21.21-6 of this code, as added by Chapter 415,  
11 Acts of the 74th Legislature, Regular Session, 1995, or an officer  
12 or director of one of those entities.

13       (b) A person commits an offense if the person recklessly:

14           (1) offers insurance coverage at a premium based on a  
15 rate that is, because of race, color, religion, ethnicity, or  
16 national origin, different from another premium rate offered or  
17 used by the person for the same coverage, other than for  
18 classifications applicable alike to persons of every race, color,  
19 religion, ethnicity, or national origin; or

20           (2) collects an insurance premium based on a rate that  
21 is, because of race, color, religion, ethnicity, or national  
22 origin, different from another premium rate offered or used by the  
23 person for the same coverage, other than for classifications  
24 applicable alike to persons of every race, color, religion,  
25 ethnicity, or national origin.

26       (c) An offense under this article is a state jail felony.

27       SECTION 12.03. Subsection (c), Section 3, Article 21.21-8,



1 Insurance Code, is amended to read as follows:

2 (c) All actions under this article must be commenced on or  
3 before the second anniversary of [~~within 12 months after~~] the date  
4 on which the plaintiff was denied insurance or the unfair act  
5 occurred or the date the plaintiff, in the exercise of reasonable  
6 diligence, should have discovered the occurrence of the unfair act.

7 SECTION 12.04. Section 1, Article 21.74, Insurance Code, is  
8 amended by amending Subdivisions (1) and (2) and adding Subdivision  
9 (4) to read as follows:

10 (1) "Holocaust victim" means a person who was killed  
11 or injured, or who lost real or personal property or financial  
12 assets, as the result of discriminatory laws, policies, or actions  
13 directed against any discrete group of which the person was a  
14 member, during the period of 1920 to 1945, inclusive, in Germany,  
15 areas occupied by Germany, [~~or~~] countries allied with Germany, or  
16 countries that were sympathizers with Germany.

17 (2) "Insurer" means an insurance company or other  
18 entity engaged in the business of insurance or reinsurance in this  
19 state. The term includes:

20 (A) a capital stock company, a mutual company, or  
21 a Lloyd's plan; and

22 (B) any parent, subsidiary, reinsurer, successor  
23 in interest, managing general agent, or affiliated company, at  
24 least 50 percent of the stock of which is in common ownership with  
25 an insurer engaged in the business of insurance in this state.

26 (4) "Proceeds" means the face value or other payout  
27 value of insurance policies and annuities plus reasonable interest

1 to date of payment without diminution for wartime or immediate  
2 postwar currency devaluation.

3 SECTION 12.05. Article 21.74, Insurance Code, is amended by  
4 adding Sections 2A and 2B to read as follows:

5 Sec. 2A. FILINGS AND CERTIFICATES OF INSURANCE. (a) This  
6 section applies to each insurer engaging in business in the state  
7 that, directly or through a related company, sold to persons in  
8 Europe insurance policies described by Section 1 of this article or  
9 dowry or educational insurance policies that were in effect during  
10 the period of 1920 to 1945, whether the sale occurred before or  
11 after the insurer and the related company became related.

12 (b) Each insurer shall file or cause to be filed with the  
13 commissioner the following information:

14 (1) the number of insurance policies described by  
15 Subsection (a) of this section sold by the insurer or a related  
16 company;

17 (2) the holder, beneficiary, and current status of the  
18 policies; and

19 (3) the city of origin, domicile, or address for each  
20 policyholder listed in the policies.

21 (c) Each insurer shall certify:

22 (1) that the proceeds of the policies described by  
23 Subsection (a) of this section have been paid to the designated  
24 beneficiaries or their heirs in circumstances in which that person  
25 or those persons, after diligent search, could be located and  
26 identified;

27 (2) that the proceeds of the policies, in

1 circumstances in which the beneficiaries or heirs could not, after  
2 diligent search, be located or identified, have been distributed to  
3 Holocaust survivors or to qualified charitable nonprofit  
4 organizations for the purpose of assisting Holocaust survivors;

5 (3) that a court of law has certified in a legal  
6 proceeding resolving the rights of unpaid policyholders and their  
7 heirs and beneficiaries a plan for the distribution of the  
8 proceeds; or

9 (4) that the proceeds have not been distributed and  
10 the amount of those proceeds.

11 (d) The commissioner by rule shall require that insurers  
12 update the information submitted to the commissioner under this  
13 section at reasonable intervals.

14 Sec. 2B. ESTABLISHMENT AND MAINTENANCE OF REGISTRY; PUBLIC  
15 ACCESS. (a) The commissioner shall establish and maintain within  
16 the department a central registry containing records and  
17 information relating to insurance policies described by Section  
18 2A(a) of this article of Holocaust victims, living and deceased.  
19 The registry shall be known as the Holocaust Era Insurance  
20 Registry.

21 (b) The commissioner by rule shall establish appropriate  
22 mechanisms to ensure public access to the registry.

23 (c) Information contained in the registry:

24 (1) is public information;

25 (2) is not subject to any exceptions to disclosure  
26 under Chapter 552, Government Code; and

27 (3) cannot be withheld from disclosure under any other

1 law.

2 SECTION 12.06. (a) Article 21.21-6A, Insurance Code, as  
3 added by this Act, applies only to an offense committed on or after  
4 the effective date of this Act. An offense committed before the  
5 effective date of this Act is governed by the law in effect  
6 immediately before the effective date of this Act, and that law is  
7 continued in effect for that purpose. For the purposes of this  
8 subsection, an offense is committed before the effective date of  
9 this Act if any element of the offense occurs before that date.

10 (b) Subsection (c), Section 3, Article 21.21-8, Insurance  
11 Code, as amended by this Act, applies to a cause of action for which  
12 the limitations period established under that subsection before its  
13 amendment by this Act has not expired on the effective date of this  
14 Act.

15 SECTION 12.07. Not later than the 180th day after the  
16 effective date of this Act, an insurer subject to Article 21.74,  
17 Insurance Code, as amended by this Act, shall file the information  
18 and certification required by Section 2A of that article.

19 ARTICLE 13. RATES STANDARDS

20 SECTION 13.01. Chapter 1, Insurance Code, is amended by  
21 adding Article 1.02 to read as follows:

22 Art. 1.02. RATING. (a) In this article, "insurer" means  
23 an insurance company, reciprocal or interinsurance exchange,  
24 mutual insurance company, farm mutual insurance company, capital  
25 stock company, county mutual insurance company, Lloyd's plan, a  
26 surplus lines insurer, or other legal entity engaged in the  
27 business of insurance in this state. The term includes:

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

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

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

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

9           (b) Rates used under this code must be just, fair,  
10 reasonable, adequate, not confiscatory and not excessive for the  
11 risks to which they apply, and not unfairly discriminatory. An  
12 insurer may not use rates that violate this article.

13           (c) For purposes of this article, a rate is:

14           (1) excessive if the rate is likely to produce a  
15 long-term profit that is unreasonably high in relation to the  
16 insurance coverage provided;

17           (2) inadequate if the rate is insufficient to sustain  
18 projected losses and expenses to which the rate applies, and  
19 continued use of the rate:

20                   (A) endangers the solvency of an insurer using  
21 the rate; or

22                   (B) has the effect of substantially lessening  
23 competition or creating a monopoly within any market; or

24           (3) unfairly discriminatory if the rate:

25                   (A) is not based on sound actuarial principles;

26                   (B) does not bear a reasonable relationship to  
27 the expected loss and expense experience among risks; or

1           (C) is based in whole or in part on the race,  
2 creed, color, ethnicity, or national origin of the policyholder or  
3 an insured.

4           ARTICLE 14. LEGISLATIVE OVERSIGHT COMMITTEE

5           SECTION 14.01. Subchapter E, Chapter 21, Insurance Code, is  
6 amended by adding Article 21.49-20 to read as follows:

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

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

11           (1) the chair of the Senate Business and Commerce  
12 Committee and the chair of the House Committee on Insurance, who  
13 shall serve as joint chairs of the committee;

14           (2) two members of the senate appointed by the  
15 lieutenant governor;

16           (3) two members of the house of representatives  
17 appointed by the speaker of the house of representatives; and

18           (4) the public insurance counsel.

19           (c) An appointed member of the committee serves at the  
20 pleasure of the appointing official. In making appointments to the  
21 committee, the appointing officials shall attempt to appoint  
22 persons who represent the gender composition, minority  
23 populations, and geographic regions of the state.

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

27           (e) The committee shall:

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

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

5           (3) monitor the progress of property and casualty  
6 insurance regulation reform, including the fairness of rates,  
7 underwriting guidelines, and rating manuals, the availability of  
8 coverage, the effect of rate rollbacks, credit scoring, and  
9 regulation of homeowners and automobile insurance markets;

10           (4) review recommendations for legislation proposed  
11 by the department; and

12           (5) review the necessity of having the department  
13 periodically examine the market conduct of an insurer or group of  
14 insurers, including the business practices, performance, and  
15 operations of the insurer or group of insurers.

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

18           (g) Not later than November 15 of each even-numbered year,  
19 the committee shall report to the governor, lieutenant governor,  
20 and speaker of the house of representatives on the committee's  
21 activities under Subsection (e) of this section. The report shall  
22 include:

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

25           (2) recommendations of any legislative action  
26 necessary to address those problems and to foster stability,  
27 availability, and competition within the property and casualty

1 insurance industry.

2 ARTICLE 15. RULEMAKING

3 SECTION 15.01. Section 36.001, Insurance Code, is amended  
4 to read as follows:

5 Sec. 36.001. [~~RULES FOR~~] GENERAL RULEMAKING AUTHORITY [~~AND~~  
6 ~~UNIFORM APPLICATION~~]. (a) The commissioner may adopt any rules  
7 necessary and appropriate to implement [~~for the conduct and~~  
8 ~~execution of~~] the powers and duties of the department under this  
9 code and other laws of this state [~~only as authorized by statute~~].

10 (b) Rules adopted under this section must have general and  
11 uniform application.

12 [~~(c) The commissioner shall publish the rules in a format~~  
13 ~~organized by subject matter. The published rules shall be kept~~  
14 ~~current and be available in a form convenient to any interested~~  
15 ~~person.~~]

16 SECTION 15.02. Section 36.004, Insurance Code, is amended  
17 to read as follows:

18 Sec. 36.004. COMPLIANCE WITH NATIONAL ASSOCIATION OF  
19 INSURANCE COMMISSIONERS REQUIREMENTS. Except as provided by  
20 Section 36.005, the [~~The~~] department may not require an insurer to  
21 comply with a rule, regulation, directive, or standard adopted by  
22 the National Association of Insurance Commissioners, including a  
23 rule, regulation, directive, or standard relating to policy  
24 reserves, unless application of the rule, regulation, directive, or  
25 standard is expressly authorized by statute and approved by the  
26 commissioner.

27 SECTION 15.03. Subchapter A, Chapter 36, Insurance Code, is



1 amended by adding Section 36.005 to read as follows:

2 Sec. 36.005. INTERIM RULES TO COMPLY WITH FEDERAL  
3 REQUIREMENTS. (a) The commissioner may adopt rules to implement  
4 state responsibility in compliance with a federal law or regulation  
5 or action of a federal court relating to a person or activity under  
6 the jurisdiction of the department if:

7 (1) federal law or regulation, or an action of a  
8 federal court, requires:

9 (A) a state to adopt the rules; or

10 (B) action by a state to ensure protection of the  
11 citizens of the state;

12 (2) the rules will avoid federal preemption of state  
13 insurance regulation; or

14 (3) the rules will prevent the loss of federal funds to  
15 this state.

16 (b) The commissioner may adopt a rule under this section  
17 only if the federal action requiring the adoption of a rule occurs  
18 or takes effect between sessions of the legislature or at such time  
19 during a session of the legislature that sufficient time does not  
20 remain to permit the preparation of a recommendation for  
21 legislative action or permit the legislature to act. A rule adopted  
22 under this section shall remain in effect only until 30 days  
23 following the end of the next session of the legislature unless a  
24 law is enacted that authorizes the subject matter of the rule. If a  
25 law is enacted that authorizes the subject matter of the rule, the  
26 rule will continue in effect.

27 SECTION 15.04. Subsection (p), Article 3.42, Insurance

1 Code, is amended to read as follows:

2 (p) The commissioner is hereby authorized to adopt [~~such~~  
3 reasonable rules [~~and regulations~~] as [~~are~~] necessary to implement  
4 and accomplish the [~~specific provisions of this Article and are~~  
5 ~~within the standards and~~] purposes of this Article. The  
6 commissioner shall adopt rules under this Article in compliance  
7 with Chapter 2001, Government Code [~~(Administrative Procedure~~  
8 ~~Act)~~]. A rule adopted under this Article may not be repealed or  
9 amended until after the first anniversary of the adoption of the  
10 rule unless the commissioner finds that it is in the significant and  
11 material interests of the citizens of this state or that it is  
12 necessary as a result of legislative enactment to amend, repeal, or  
13 adopt a [~~in a public hearing after notice that there is a compelling~~  
14 ~~public need for the amendment or repeal of the~~] rule or part of a  
15 [~~the~~] rule.

16 SECTION 15.05. Section 36.002, Insurance Code, is repealed.

17 ARTICLE 16. CANCELLATION OF CERTAIN INSURANCE POLICIES

18 SECTION 16.01. Section 4, Article 21.49-2B, Insurance Code,  
19 is amended by amending Subsection (i) and adding Subsection (j) to  
20 read as follows:

21 (i) An insurer may cancel any insurance policy other than a  
22 personal automobile or homeowners insurance policy if the policy  
23 has been in effect less than 90 days. An insurer may cancel a  
24 personal automobile insurance policy if the policy [~~it~~] has been in  
25 effect less than 60 days. An insurer may cancel a homeowners  
26 insurance [~~any other~~] policy if the policy [~~it~~] has been in effect  
27 less than 60 [~~90~~] days if:

1           (1) the insurer identifies a condition that:

2                   (A) creates an increased risk of hazard;

3                   (B) was not disclosed in the application for  
4 insurance coverage; and

5                   (C) is not the subject of a prior claim; or

6           (2) before the effective date of the policy, the  
7 insurer does not accept a copy of a required inspection report that:

8                   (A) was completed by an inspector licensed by the  
9 Texas Real Estate Commission or who is otherwise authorized to  
10 perform inspections; and

11                   (B) is dated not earlier than the 90th day before  
12 the effective date of the policy.

13           (j) For the purposes of Subsection (i), an inspection report  
14 is deemed accepted if an insurer does not reject the inspection  
15 report given to the insurer under Subsection (i)(2) before the 11th  
16 day after the date the inspection report is received by the insurer.

17                                   ARTICLE 17. N.A.I.C. FEES

18           SECTION 17.01. Section 802.055, Insurance Code, as  
19 effective June 1, 2003, is amended to read as follows:

20           Sec. 802.055. COSTS PAID BY INSURANCE COMPANY. [~~(a)~~] An  
21 insurance company shall pay all [~~the~~] costs of preparing and  
22 furnishing to the National Association of Insurance Commissioners  
23 the information required under Section 802.052, including any  
24 related filing fees.

25           ~~[(b) Except as provided by Subsection (a), costs relating to~~  
26 ~~providing the information required under Section 802.052 may not be~~  
27 ~~assessed against an insurance company.]~~

ARTICLE 18. MEDICAL LIABILITY INSURANCE

UNDERWRITING ASSOCIATION

SECTION 18.01. Subdivision (5), Subsection (b), Section 4, Article 21.49-3, Insurance Code, is amended to read as follows:

(5) In the event that sufficient funds are not available for the sound financial operation of the association, in addition to assessments paid pursuant to the plan of operation in accordance with Section 3(c)(2) of this article and contributions from the policyholder's stabilization reserve fund, all members shall, on a basis authorized by the department [~~board~~], as long as the department [~~board~~] deems it necessary, contribute to the financial requirements of the association in the manner provided for in Section 5. Any assessment or contribution shall be reimbursed to the members, or to the state to the extent that the members have recouped their assessments using premium tax credits as provided under Subsection (b)(3) of this section, with interest at a rate to be approved by the commissioner, subject to the approval of the commissioner [~~board~~]. Pending recoupment or reimbursement of assessments or contributions paid to the association by a member, the unrepaid balance of such assessments and contributions may be reflected in the books and records of the insurer as an admitted asset of the insurer for all purposes, including exhibition in annual statements pursuant to Section 862.001 [~~Article 6.12~~] of this code.

ARTICLE 19. CERTAIN INSURANCE TRUSTS

SECTION 19.01. Subsection (b), Article 21.49-4, Insurance Code, is amended to read as follows:

1 (b) An incorporated association, the purpose of which,  
2 among other things, shall be to federate and bring into one compact  
3 organization the entire profession licensed to practice medicine  
4 and surgery or dentistry in the State of Texas, or a portion of the  
5 members of the profession licensed to practice medicine who are  
6 practicing a particular specialty within the practice of medicine  
7 or surgery in the state or are practicing within a particular region  
8 of the state [~~and to unite with similar associations of other states~~  
9 ~~to form a nationwide medical association or dental association~~],  
10 may create a trust to self-insure physicians or dentists and by  
11 contract or otherwise agree to insure other members of the  
12 organization or association against health care liability claims  
13 and related risks on complying with the following conditions:

14 (1) the organization or association must have been in  
15 continuing existence for a period of at least two years [~~prior to~~  
16 ~~the effective date of this Act~~];

17 (2) establishment of a health care liability claim  
18 trust or other agreement to provide coverage against health care  
19 liability claims and related risks; and

20 (3) employment of appropriate professional staff and  
21 consultants for program management.

22 ARTICLE 20. INSURER INTERESTS IN CERTAIN REPAIR FACILITIES

23 SECTION 20.01. Subdivision (4), Section 2306.001,  
24 Occupations Code, as added by H.B. No. 1131, Acts of the 78th  
25 Legislature, Regular Session, 2003, is amended to read as follows:

26 (4) "Insurer" means an insurer authorized by the Texas  
27 Department of Insurance to write motor vehicle insurance in this

1 state, including a county mutual insurance company, a Lloyd's plan,  
2 and a reciprocal or interinsurance exchange if that insurer owns an  
3 interest in a repair facility in this state. The term includes an  
4 entity that is an affiliate of an insurer as described by Section  
5 823.003, Insurance Code.

6 SECTION 20.02. Subdivision (4), Section 2306.001,  
7 Occupations Code, as amended by this article, is contingent on the  
8 passage of H.B. No. 1131, Acts of the 78th Legislature, Regular  
9 Session. If that legislation does not become law, Subdivision (4),  
10 Section 2306.001, Occupations Code, as amended by this article, has  
11 no effect.

12 ARTICLE 21. CONFORMING AMENDMENTS; REPEALER

13 SECTION 21.01. Subsection (f), Article 5.01, Insurance  
14 Code, is amended to read as follows:

15 (f) Notwithstanding Subsections (a) through (d) of this  
16 article, on and after the effective date of S.B. No. 14, Acts of the  
17 78th Legislature, Regular Session, 2003 [March 1, 1992], rates for  
18 personal automobile insurance in this state are determined as  
19 provided by Article 5.101 of this code, and rates for commercial  
20 motor vehicle insurance in this state are determined as provided by  
21 Article 5.13-2 [the flexible rating program adopted under  
22 Subchapter M] of this code [chapter]. On and after December 1,  
23 2004, rates for personal automobile insurance and commercial  
24 automobile insurance in this state are determined as provided by  
25 Article 5.13-2 of this code.

26 SECTION 21.02. Section 4, Article 5.01C, Insurance Code, is  
27 amended to read as follows:

1           Sec. 4. FORMS. An insurer selling short-term liability  
2 insurance policies under this article must use the policy forms  
3 adopted by the commissioner under Article 5.06 of this code or filed  
4 and in effect as provided by Article 5.145 of this code unless the  
5 insurer is exempt from using those forms.

6           SECTION 21.03. Subsection (b), Article 5.01-2, Insurance  
7 Code, is amended to read as follows:

8           (b) On and after the effective date of S.B. No. 14, Acts of  
9 the 78th Legislature, Regular Session, 2003 [March 1, 1992], rates  
10 for personal automobile [motor vehicle] insurance written by a  
11 Lloyd's plan insurer or a reciprocal or interinsurance exchange are  
12 determined as provided by the flexible rating program adopted under  
13 Subchapter M of this chapter. This subsection expires December 1,  
14 2004.

15           SECTION 21.04. Section 4, Article 5.01-4, Insurance Code,  
16 is amended to read as follows:

17           Sec. 4. APPLICABILITY OF CERTAIN LAWS. (a) In reporting  
18 incurred losses and earned premiums as required under this  
19 subchapter or [7] Subchapter M of this chapter, or on and after  
20 December 1, 2004, under Article 5.13-2 [or Chapter 17] of this  
21 code, an insurer shall separately report experience based on use of  
22 the mile-based rating plan and the time-based rating plan.

23           (b) The classifications used by an insurer for motor  
24 vehicles insured under the mile-based rating plan are exempt from  
25 the provisions of this subchapter other than this article, [and]  
26 Subchapter M of this chapter, and on and after December 1, 2004,  
27 Article 5.13-2 of this code.

1 SECTION 21.05. Subsection (g), Article 5.03, Insurance  
2 Code, is amended to read as follows:

3 (g) Notwithstanding Sections (a) through (e) of this  
4 article, on and after the effective date of S.B. No. 14, Acts of the  
5 78th Legislature, Regular Session, 2003 [~~March 1, 1992~~], rates for  
6 personal automobile insurance in this state are determined as  
7 provided by Article 5.101 of this code, and rates for commercial  
8 motor vehicle insurance in this state [~~vehicles~~] are determined as  
9 provided by Article 5.13-2 [~~Subchapter M~~] of this code [~~chapter~~].  
10 On and after December 1, 2004, rates for personal automobile  
11 insurance and commercial automobile insurance in this state are  
12 determined as provided by Article 5.13-2 of this code.

13 SECTION 21.06. Subsection (c), Article 5.04, Insurance  
14 Code, is amended to read as follows:

15 (c) Notwithstanding Subsections (a) and (b) of this  
16 article, on and after the effective date of S.B. No. 14, Acts of the  
17 78th Legislature, Regular Session, 2003 [~~March 1, 1992~~], rates for  
18 personal automobile insurance in this state are determined as  
19 provided by Article 5.101 of this code, and rates for commercial  
20 motor vehicle insurance in this state [~~vehicles~~] are determined as  
21 provided by Article 5.13-2 [~~Subchapter M~~] of this code [~~chapter~~].  
22 On and after December 1, 2004, rates for personal automobile  
23 insurance and commercial automobile insurance in this state are  
24 determined as provided by Article 5.13-2 of this code.

25 SECTION 21.07. Article 5.06, Insurance Code, is amended by  
26 adding Subsection (12) to read as follows:

27 (12)(a) Notwithstanding Subsections (1)-(10) of this



1 article, policy forms and endorsements for automobile insurance in  
2 this state are regulated under Article 5.13-2 of this code.

3 (b) An insurer may continue to use the policy forms and  
4 endorsements promulgated, approved, or adopted by the commissioner  
5 under this article before the effective date of S.B. No. 14, Acts of  
6 the 78th Legislature, Regular Session, 2003, on notification in  
7 writing to the commissioner that the insurer will continue to use  
8 the policy forms and endorsements promulgated, approved, or adopted  
9 by the commissioner under this article.

10 SECTION 21.08. Subsection (2), Article 5.06-1, Insurance  
11 Code, is amended to read as follows:

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

18 (b) The term "underinsured motor vehicle" means an  
19 insured motor vehicle on which there is valid and collectible  
20 liability insurance coverage with limits of liability for the owner  
21 or operator which were originally lower than, or have been reduced  
22 by payment of claims arising from the same accident to, an amount  
23 less than the limit of liability stated in the underinsured  
24 coverage of the insured's policy.

25 (c) The commissioner [~~Board~~] may, in the policy forms  
26 adopted under Article 5.06 of this code, define "uninsured motor  
27 vehicle" to exclude certain motor vehicles whose operators are in

1 fact uninsured. The commissioner may in the policy forms filed  
2 under Article 5.145 of this code allow the term "uninsured motor  
3 vehicle" to be defined to exclude certain motor vehicles whose  
4 operators are in fact uninsured.

5 (d) The portion of a policy form adopted under Article  
6 5.06 of this code or filed under Article 5.145 of this code to  
7 provide coverage under this article shall include provisions that,  
8 regardless of the number of persons insured, policies or bonds  
9 applicable, vehicles involved, or claims made, the total aggregate  
10 limit of liability to any one person who sustains bodily injury or  
11 property damage as the result of any one occurrence shall not exceed  
12 the limit of liability for these coverages as stated in the policy  
13 and the total aggregate limit of liability to all claimants, if more  
14 than one, shall not exceed the total limit of liability per  
15 occurrence as stated in the policy; and shall provide for the  
16 exclusion of the recovery of damages for bodily injury or property  
17 damage or both resulting from the intentional acts of the insured.  
18 The portion of a policy form adopted under Article 5.06 of this code  
19 or filed under Article 5.145 of this code to provide coverage under  
20 this article shall require that in order for the insured to recover  
21 under the uninsured motorist coverages where the owner or operator  
22 of any motor vehicle which causes bodily injury or property damage  
23 to the insured is unknown, actual physical contact must have  
24 occurred between the motor vehicle owned or operated by such  
25 unknown person and the person or property of the insured.

26 SECTION 21.09. Article 5.06-6, Insurance Code, is amended  
27 to read as follows:

1           Art. 5.06-6. COVERAGES FOR SPOUSES AND FORMER SPOUSES. A  
2 personal automobile policy or any similar policy form adopted or  
3 approved by the commissioner [~~State Board of Insurance~~] under  
4 Article 5.06 of this code or filed under Article 5.145 of this code  
5 that covers liability arising out of ownership, maintenance, or use  
6 of a motor vehicle of a spouse, who is otherwise insured by the  
7 policy, shall contain a provision to continue coverage for the  
8 spouse during a period of separation in contemplation of divorce.

9           SECTION 21.10. Subsection (c), Article 5.09, Insurance  
10 Code, is amended to read as follows:

11           (c) Notwithstanding Subsection (a) of this article, on and  
12 after the effective date of S.B. No. 14, Acts of the 78th  
13 Legislature, Regular Session, 2003 [~~March 1, 1992~~], rates for  
14 personal automobile insurance in this state are determined as  
15 provided by Article 5.101 of this code, and rates for commercial  
16 motor vehicle insurance in this state [~~vehicles~~] are determined as  
17 provided by Article 5.13-2 [~~Subchapter M~~] of this code [~~chapter~~].  
18 On and after December 1, 2004, rates for personal automobile  
19 insurance and commercial automobile insurance in this state are  
20 determined as provided by Article 5.13-2 of this code.

21           SECTION 21.11. Subsection (c), Article 5.11, Insurance  
22 Code, is amended to read as follows:

23           (c) Notwithstanding Subsections (a) and (b) of this  
24 article, on and after the effective date of S.B. No. 14, Acts of the  
25 78th Legislature, Regular Session, 2003 [~~March 1, 1992~~], rates for  
26 personal automobile insurance in this state are determined as  
27 provided by Article 5.101 of this code, and rates for commercial

1 motor vehicle insurance in this state [~~vehicles~~] are determined as  
2 provided by Article 5.13-2 [~~Subchapter M~~] of this code [~~chapter~~].  
3 On and after December 1, 2004, rates for personal automobile  
4 insurance and commercial automobile insurance in this state are  
5 determined as provided by Article 5.13-2 of this code.

6 SECTION 21.12. Subsection (b), Article 5.25, 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 S.B. No. 14, Acts of the 78th  
10 Legislature, Regular Session, 2003 [~~March 1, 1992~~], rates for  
11 homeowners and residential fire and residential allied lines  
12 insurance coverage under this subchapter are determined as provided  
13 by Subchapter Q [~~M~~] of this chapter, and rates for other lines of  
14 insurance subject to this subchapter are determined as provided by  
15 Article 5.13-2 of this code, except that on and after December 1,  
16 2004, rates for all lines of insurance subject to this subchapter  
17 are determined as provided by Article 5.13-2 of this code. This  
18 subsection does not affect the requirement for the commissioner to  
19 conduct inspections of commercial property and prescribe a manual  
20 of rules and rating schedules for commercial property under this  
21 subchapter.

22 SECTION 21.13. Subsection (b), Article 5.25A, 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 S.B. No. 14, Acts of the 78th  
26 Legislature, Regular Session, 2003 [~~March 1, 1992~~], rates for  
27 homeowners and residential fire and residential allied lines

1 insurance coverage under this subchapter are determined as provided  
2 by Subchapter Q [~~M~~] of this chapter, and rates for other lines of  
3 insurance subject to this subchapter are determined as provided by  
4 Article 5.13-2 of this code, except that on and after December 1,  
5 2004, rates for all lines of insurance subject to this subchapter  
6 are determined as provided by Article 5.13-2 of this code.

7 SECTION 21.14. Article 5.25-2, Insurance Code, is amended  
8 to read as follows:

9 Art. 5.25-2. CITY FIRE LOSS LISTS

10 Sec. 1. In this article,

11 [~~(1)~~] "list" means the list of fire and lightning  
12 losses in excess of \$100 paid under policy forms adopted or approved  
13 by the commissioner [~~board~~] under Article 5.35 of this code or filed  
14 and in effect as provided by Article 5.145 of this code [~~subchapter~~]  
15 in a particular city or town prepared by the department [~~State Board~~  
16 ~~of Insurance~~] for distribution to the city or town[+]

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

18 Sec. 2. (a) The department [~~board~~] shall compile for each  
19 city or town in Texas a list of the insured fire losses paid under  
20 policy forms adopted or approved by the commissioner [~~board~~] under  
21 Article 5.35 of this code or filed and in effect as provided by  
22 Article 5.145 of this code [~~subchapter~~] in that city or town for the  
23 preceding statistical year.

24 (b) The list shall include:

25 (1) the names of persons recovering losses under  
26 policy forms adopted or approved by the commissioner [~~board~~] under  
27 Article 5.35 of this code or filed and in effect as provided by

1 Article 5.145 of this code [~~subchapter~~];

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

4 (3) the amount paid by the insurance company on each  
5 loss.

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

9 Sec. 3. Upon the request of any city or town, or its duly  
10 authorized agent or fire marshall, the department [~~board~~] shall  
11 provide that city and town with a copy of the list for its  
12 particular area.

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

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

19 (2) a list of any losses not occurring in the limits of  
20 the city or town; and

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

23 Sec. 5. The department [~~board~~] shall make such changes or  
24 corrections as to it shall seem appropriate in order to correct the  
25 list of insured fire and lightning losses paid under policy forms  
26 adopted or approved by the commissioner [~~board~~] under Article 5.35  
27 of this code or filed and in effect as provided by Article 5.145 of

1 this code [~~subchapter~~] in a particular city or town and said list of  
2 losses, as changed or corrected, shall be used to determine the fire  
3 record credit or debit for each particular city or town for the next  
4 year.

5       Sec. 6. The commissioner [~~board~~] shall set and collect a  
6 charge for compiling and providing a list of fire and lightning  
7 losses paid under policy forms adopted or approved by the  
8 commissioner [~~board~~] under Article 5.35 of this code or filed and in  
9 effect as provided by Article 5.145 of this code [~~subchapter~~] in a  
10 particular city or town and as the commissioner [~~board~~] shall deem  
11 appropriate to administer the fire record system.

12       Sec. 7. The department [~~board~~] is authorized to require  
13 each and every city or town in the State of Texas and each and every  
14 insurance company or carrier of every type and character whatsoever  
15 doing business in the State of Texas to furnish to it a complete and  
16 accurate list of all fire and lightning losses occurring within the  
17 State of Texas and reflected in their records for the purpose of  
18 accumulating statistical information for the control and  
19 prevention of fires.

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

23       SECTION 21.15. Subsection (i), Article 5.26, Insurance  
24 Code, is amended to read as follows:

25       (i) Notwithstanding Subsections (a)-(h) of this article, on  
26 and after the effective date of S.B. No. 14, Acts of the 78th  
27 Legislature, Regular Session, 2003 [~~March 1, 1992~~], rates for

1 homeowners and residential fire and residential allied lines  
2 insurance coverage under this subchapter are determined as provided  
3 by Subchapter Q [~~M~~] of this chapter, and rates for other lines of  
4 insurance subject to this subchapter are determined as provided by  
5 Article 5.13-2 of this code, except that on and after December 1,  
6 2004, rates for all lines of insurance subject to this subchapter  
7 are determined as provided by Article 5.13-2 of this code.

8 SECTION 21.16. Subsection (d), Article 5.28, Insurance  
9 Code, is amended to read as follows:

10 (d) Notwithstanding Subsection (a) of this article, on and  
11 after the effective date of S.B. No. 14, Acts of the 78th  
12 Legislature, Regular Session, 2003 [~~March 1, 1992~~], rates for  
13 homeowners and residential fire and residential allied lines  
14 insurance coverage under this subchapter are determined as provided  
15 by Subchapter Q [~~M~~] of this chapter, and rates for other lines of  
16 insurance subject to this subchapter are determined as provided by  
17 Article 5.13-2 of this code, except that on and after December 1,  
18 2004, rates for all lines of insurance subject to this subchapter  
19 are determined as provided by Article 5.13-2 of this code.

20 SECTION 21.17. Subsection (b), Article 5.29, 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 S.B. No. 14, Acts of the 78th  
24 Legislature, Regular Session, 2003 [~~March 1, 1992~~], rates for  
25 homeowners and residential fire and residential allied lines  
26 insurance coverage under this subchapter are determined as provided  
27 by Subchapter Q [~~M~~] of this chapter, and rates for other lines of



1 insurance subject to this subchapter are determined as provided by  
2 Article 5.13-2 of this code, except that on and after December 1,  
3 2004, rates for all lines of insurance subject to this subchapter  
4 are determined as provided by Article 5.13-2 of this code.

5 SECTION 21.18. Subsection (b), Article 5.30, Insurance  
6 Code, is amended to read as follows:

7 (b) Notwithstanding Subsection (a) of this article, on and  
8 after the effective date of S.B. No. 14, Acts of the 78th  
9 Legislature, Regular Session, 2003 [~~March 1, 1992~~], rates for  
10 homeowners and residential fire and residential allied lines  
11 insurance coverage under this subchapter are determined as provided  
12 by Subchapter Q [~~M~~] of this chapter, and rates for other lines of  
13 insurance subject to this subchapter are determined as provided by  
14 Article 5.13-2 of this code, except that on and after December 1,  
15 2004, rates for all lines of insurance subject to this subchapter  
16 are determined as provided by Article 5.13-2 of this code.

17 SECTION 21.19. Subsection (b), Article 5.31, Insurance  
18 Code, is amended to read as follows:

19 (b) Notwithstanding Subsection (a) of this article, on and  
20 after the effective date of S.B. 14, Acts of the 78th Legislature,  
21 Regular Session, 2003 [~~March 1, 1992~~], rates for homeowners and  
22 residential fire and residential allied lines insurance coverage  
23 under this subchapter are determined as provided by Subchapter Q  
24 [~~M~~] of this chapter, and rates for other lines of insurance subject  
25 to this subchapter are determined as provided by Article 5.13-2 of  
26 this code, except that on and after December 1, 2004, rates for all  
27 lines of insurance subject to this subchapter are determined as

1 provided by Article 5.13-2 of this code.

2 SECTION 21.20. Subsection (b), Article 5.32, Insurance  
3 Code, is amended to read as follows:

4 (b) Notwithstanding Subsection (a) of this article, on and  
5 after the effective date of S.B. No. 14, Acts of the 78th  
6 Legislature, Regular Session, 2003 [~~March 1, 1992~~], rates for  
7 homeowners and residential fire and residential allied lines  
8 insurance coverage under this subchapter are determined as provided  
9 by Subchapter Q [~~M~~] of this chapter, and rates for other lines of  
10 insurance subject to this subchapter are determined as provided by  
11 Article 5.13-2 of this code, except that on and after December 1,  
12 2004, rates for all lines of insurance subject to this subchapter  
13 are determined as provided by Article 5.13-2 of this code.

14 SECTION 21.21. Subsection (b), Article 5.34, Insurance  
15 Code, is amended to read as follows:

16 (b) Notwithstanding Subsection (a) of this article, on and  
17 after the effective date of S.B. No. 14, Acts of the 78th  
18 Legislature, Regular Session, 2003 [~~March 1, 1992~~], rates for  
19 homeowners and residential fire and residential allied lines  
20 insurance coverage under this subchapter are determined as provided  
21 by Subchapter Q [~~M~~] of this chapter, and rates for other lines of  
22 insurance subject to this subchapter are determined as provided by  
23 Article 5.13-2 of this code, except that on and after December 1,  
24 2004, rates for all lines of insurance subject to this subchapter  
25 are determined as provided by Article 5.13-2 of this code.

26 SECTION 21.22. Article 5.35, Insurance Code, is amended by  
27 adding Subsection (k) to read as follows:

1       (k)(1) Notwithstanding Subsections (a)-(j) of this article,  
2 policy forms and endorsements for residential property insurance in  
3 this state are regulated under Article 5.13-2 of this code.

4       (2) An insurer may continue to use the policy forms and  
5 endorsements promulgated, approved, or adopted by the commissioner  
6 under this article before the effective date of S.B. No. 14, Acts of  
7 the 78th Legislature, Regular Session, 2003, on notification in  
8 writing to the commissioner that the insurer will continue to use  
9 the policy forms and endorsements promulgated, approved, or adopted  
10 by the commissioner under this article.

11       SECTION 21.23. Article 5.35-1, Insurance Code, is amended  
12 to read as follows:

13       Art. 5.35-1. COVERAGES FOR SPOUSES AND FORMER SPOUSES. A  
14 homeowner's policy or fire policy promulgated under Article 5.35 of  
15 this code or filed and in effect as provided by Article 5.145 of  
16 this code may not be delivered, issued for delivery, or renewed in  
17 this state unless the policy contains the following language: "It  
18 is understood and agreed that this policy, subject to all other  
19 terms and conditions contained in this policy, when covering  
20 residential community property, as defined by state law, shall  
21 remain in full force and effect as to the interest of each spouse  
22 covered, irrespective of divorce or change of ownership between the  
23 spouses unless excluded by endorsement attached to this policy  
24 until the expiration of the policy or until canceled in accordance  
25 with the terms and conditions of this policy."

26       SECTION 21.24. Article 5.36, Insurance Code, is amended to  
27 read as follows:

1           Art. 5.36. WRITTEN EXPLANATION OF CERTAIN ENDORSEMENTS  
2 REQUIRED. An insurer may not use an endorsement to a policy form to  
3 which Article 5.35 of this code or Article 5.145 of this code  
4 applies that reduces the amount of coverage, unless requested by  
5 the insured, that would otherwise be provided under the policy  
6 unless the insurer provides the policyholder with a written  
7 explanation of the change made by the endorsement before the  
8 effective date of the change.

9           SECTION 21.25. Subsection (b), Article 5.39, Insurance  
10 Code, is amended to read as follows:

11           (b) Notwithstanding Subsection (a) of this article, on and  
12 after the effective date of S.B. No. 14, Acts of the 78th  
13 Legislature, Regular Session, 2003 [~~March 1, 1992~~], rates for  
14 homeowners and residential fire and residential allied lines  
15 insurance coverage under this subchapter are determined, and  
16 hearings related to those rates are conducted, as provided by  
17 Subchapter Q [~~M~~] of this chapter, and rates for other lines of  
18 insurance subject to this subchapter are determined as provided by  
19 Article 5.13-2 of this code, except that on and after December 1,  
20 2004, rates for all lines of insurance subject to this subchapter  
21 are determined as provided by Article 5.13-2 of this code.

22           SECTION 21.26. Subsection (d), Article 5.40, Insurance  
23 Code, is amended to read as follows:

24           (d) Notwithstanding Subsections (a)-(c) of this article, on  
25 and after the effective date of S.B. No. 14, Acts of the 78th  
26 Legislature, Regular Session, 2003 [~~March 1, 1992~~], rates for  
27 homeowners and residential fire and residential allied lines

1 insurance coverage under this subchapter are determined, and  
2 hearings related to those rates are conducted, as provided by  
3 Subchapter Q [~~M~~] of this chapter, and rates for other lines of  
4 insurance subject to this subchapter are determined as provided by  
5 Article 5.13-2 of this code, except that on and after December 1,  
6 2004, rates for all lines of insurance subject to this subchapter  
7 are determined as provided by Article 5.13-2 of this code.

8 SECTION 21.27. Subsection (b), Article 5.41, Insurance  
9 Code, is amended to read as follows:

10 (b) Notwithstanding Subsection (a) of this article, on and  
11 after the effective date of S.B. No. 14, Acts of the 78th  
12 Legislature, Regular Session, 2003 [~~March 1, 1992~~], rates for  
13 homeowners and residential fire and residential allied lines  
14 insurance coverage under this subchapter are determined as provided  
15 by Subchapter Q [~~M~~] of this chapter, and rates for other lines of  
16 insurance subject to this subchapter are determined as provided by  
17 Article 5.13-2 of this code, except that on and after December 1,  
18 2004, rates for all lines of insurance subject to this subchapter  
19 are determined as provided by Article 5.13-2 of this code.

20 SECTION 21.28. Article 5.52, Insurance Code, is amended to  
21 read as follows:

22 Art. 5.52. PROVISIONS GOVERNING LIGHTNING, WINDSTORM,  
23 HAIL, INVASION, RIOT, VANDALISM, STRIKES, LOCKOUTS AND OTHER  
24 INSURANCE; "EXPLOSION" DEFINED. (a) The writing of insurance  
25 against loss by lightning, tornado, windstorm, hail, smoke or  
26 smudge, cyclone, earthquake, volcanic eruption, rain, frost and  
27 freeze, weather or climatic conditions, excess or deficiency of

1 moisture, flood, the rising of the waters of the ocean or its  
2 tributaries, bombardment, invasion, insurrection, riot, civil war  
3 or commotion, military or usurped power, any order of a civil  
4 authority made to prevent the spread of a conflagration, epidemic  
5 or catastrophe, vandalism or malicious mischief, strike or lockout,  
6 explosion, water or other fluid or substance, resulting from the  
7 breakage or leakage of sprinklers, pumps, or other apparatus  
8 erected for extinguishing fires, water pipes or other conduits or  
9 containers, or resulting from casual water entering through leaks  
10 or openings in buildings, or by seepage through building walls,  
11 including insurance against accidental injury of such sprinklers,  
12 pumps, fire apparatus, conduits or containers, and the rates to be  
13 collected therefor in this State, and all matters pertaining to  
14 such insurance except as hereinafter set out as to [~~inland~~ marine  
15 insurance as defined by Article 5.53 of this code, [~~rain insurance~~  
16 ~~and insurance against loss by hail on farm crops~~], shall be governed  
17 and controlled by the provisions of Articles 5.25 to 5.48,  
18 inclusive, and also Articles 5.50 to 5.51, inclusive, of this  
19 subchapter and Article 5.67 of Subchapter D of this Chapter, in the  
20 same manner and to the same extent as fire insurance and fire  
21 insurance rates are now affected by the provisions of said articles  
22 of this code.

23 (b) Notwithstanding Subsection (a) of this section, rain  
24 insurance and hail insurance on farm crops are governed by Article  
25 5.13-2 of this code.

26 (c) The term "explosion" as used in this article [~~above~~]  
27 shall not include insurance against loss of or damage to any

1 property of the insured, resulting from the explosion of or injury  
2 to (a) any boiler, heater, or other fired pressure vessel; (b) any  
3 unfired pressure vessel; (c) pipes or containers connected with any  
4 of said boilers or vessels; (d) any engine, turbine, compressor,  
5 pump, or wheel; (e) any apparatus generating, transmitting or using  
6 electricity; (f) any other machinery or apparatus connected with or  
7 operating by any of the previously named boilers, vessels or  
8 machines; nor shall same include the making of inspections and  
9 issuance of certificates of inspections upon any such boiler,  
10 apparatus or machinery, whether insured or otherwise. Said term  
11 shall include, but shall not be limited to (1) the explosion of  
12 pressure vessels (except steam boilers of more than fifteen pounds  
13 pressure) in buildings designed and used solely for residential  
14 purposes by not more than four (4) families; (2) explosion of any  
15 kind originating outside of the insured buildings or outside of the  
16 building containing the property insured; (3) explosion of pressure  
17 vessels which do not contain steam or which are not operated with  
18 steam coils or steam jets; (4) electric disturbance causing or  
19 concomitant with an explosion in public service or public utility  
20 property.

21 SECTION 21.29. Article 5.53, Insurance Code, is amended to  
22 read as follows:

23 Art. 5.53. APPLICATION TO [~~INLAND~~] MARINE INSURANCE [~~, RAIN~~  
24 ~~INSURANCE, OR HAIL INSURANCE ON FARM CROPS, DEFINITIONS, RATES AND~~  
25 ~~RATING PLANS FILED, POLICY FORMS, CHECKING OFFICES)]. The  
26 provisions of this article shall apply to all insurance which is now  
27 or hereafter defined by statute, by rules of the commissioner~~

1 ~~[ruling of the Board of Insurance Commissioners]~~, or by lawful  
2 custom, as ~~[inland]~~ marine insurance~~[, rain insurance, or insurance~~  
3 ~~against loss by hail on farm crops]~~. None of the terms contained in  
4 ~~[this article and]~~ Article 5.52 shall be deemed to include  
5 insurance of vessels or craft, their cargoes, marine builder's  
6 risk, marine protection and indemnity, or other risk commonly  
7 insured under marine as distinguished from inland marine insurance  
8 policies.

9 The ~~[Whenever used in this article the]~~ term "Marine  
10 Insurance" shall mean and include insurance and reinsurance against  
11 any and all kinds of loss or damage to the following subject matters  
12 of insurance interest therein:

13 Marine Insurance. Hulls, vessels and craft of every kind,  
14 aids to navigation, dry docks and marine railways, including marine  
15 builders' and repairers' risks, and whether complete or in process  
16 of or awaiting construction; also all marine protection and  
17 indemnity risks; also all goods, freights, cargoes, merchandise,  
18 effects, disbursements, profits, moneys, bullion, precious stones,  
19 securities, choses in action, evidences of debt, valuable papers,  
20 bottomry and respondentia interests, and all other kinds of  
21 property and interests therein, in respect to, appertaining to or  
22 in connection with any and all risks or perils of navigation,  
23 transit or transportation on or under any seas, lakes, rivers, or  
24 other waters or in the air, or on land in connection with or  
25 incident to export, import or waterborne risks, or while being  
26 assembled, packed, crated, baled, compressed or similarly prepared  
27 for such shipment or while awaiting the same, or during any delays,



1 storage, transshipment or reshipment incident thereto, including  
2 the insurance of war risks in respect to any or all of the aforesaid  
3 subject matters of insurance.

4 ~~[(a) As to all classes of insurance contained in this~~  
5 ~~article, for which class rates or rating plans are customarily~~  
6 ~~fixed by rating bureaus or associations of underwriters, rates or~~  
7 ~~rating plans, together with applicable policy forms and~~  
8 ~~endorsements, shall be filed by all authorized insurers writing~~  
9 ~~such classes with the Board in such manner and form as it shall~~  
10 ~~direct; and all rates on risks not falling within a recognized class~~  
11 ~~fixed by any such bureau or association, together with applicable~~  
12 ~~policy forms and endorsements, shall be similarly filed. Due~~  
13 ~~consideration shall be given to past and prospective loss~~  
14 ~~experience within and outside the State, including catastrophe~~  
15 ~~hazard, to a reasonable margin for profit and contingencies, and to~~  
16 ~~all other relevant factors within and outside the State.~~

17 ~~[(b) As soon as reasonably possible after the filing has~~  
18 ~~been made, the Board shall in writing approve or disapprove the~~  
19 ~~same; provided that any filing of class rates or rating plans,~~  
20 ~~together with applicable policies and endorsements, shall be deemed~~  
21 ~~approved unless disapproved within thirty (30) days; provided the~~  
22 ~~Board may by official order postpone action for such further time~~  
23 ~~not exceeding thirty (30) days, as it deems necessary for proper~~  
24 ~~consideration, and provided further that rates on risks not falling~~  
25 ~~within a recognized class fixed by a rating bureau or association of~~  
26 ~~underwriters, together with applicable policies and endorsements,~~  
27 ~~shall be deemed approved from the date of filing to the date of~~

1 ~~formal approval or disapproval. The Board may investigate rates~~  
2 ~~not required to be filed under the provisions of this article and~~  
3 ~~may require the filing of any particular rate, together with~~  
4 ~~applicable policies and endorsements, not otherwise required to be~~  
5 ~~filed.~~

6 ~~[(c) Any filing by an insurer of a rate less than an approved~~  
7 ~~rate relative to any of the rates mentioned in sub-division (a) of~~  
8 ~~this article may be used by such insurer after same shall have been~~  
9 ~~approved by the Board, or after same shall have been on file with~~  
10 ~~the Board without action for thirty (30) days.~~

11 ~~[(d) If at any time the Board finds that an approved filing~~  
12 ~~no longer meets the requirements of this article, it may after~~  
13 ~~hearing issue an order withdrawing its approval thereof.~~

14 ~~[(e) An insurer may satisfy its obligation to make such~~  
15 ~~filings by becoming a member of, or a subscriber to, a licensed~~  
16 ~~rating organization which makes such filings, and by authorizing~~  
17 ~~the Board to accept such filings on its behalf. A corporation, an~~  
18 ~~un-incorporated association, a partnership, or an individual,~~  
19 ~~whether located within or outside the State, may be licensed as a~~  
20 ~~rating organization in connection with any of the sorts of~~  
21 ~~insurance mentioned in this article, subject to the conditions, not~~  
22 ~~inconsistent herewith, prescribed by law for such organizations in~~  
23 ~~connection with other kinds of insurance, provided two or more~~  
24 ~~insurers have designated it to act for them as to any such class or~~  
25 ~~classes of insurance in the manner prescribed herein. An insurer~~  
26 ~~may belong or subscribe to rating bureaus or associations for other~~  
27 ~~types of insurance.~~

1           ~~[(f) Insurers may, subject to the supervision of the Board,~~  
2 ~~operate any checking office or offices deemed necessary or~~  
3 ~~advisable.~~

4           ~~[(g) The writing of inland marine insurance, rain insurance~~  
5 ~~and insurance against loss by hail on farm crops, shall be governed~~  
6 ~~by the provisions of Articles 5.25 to 5.48, inclusive, and also~~  
7 ~~Articles 5.50 to 5.51, inclusive, of this subchapter and Article~~  
8 ~~5.67 of Subchapter D. of this chapter, in the same manner and to the~~  
9 ~~same extent as fire insurance and fire insurance rates are now~~  
10 ~~affected by the provisions of said articles, except that wherever~~  
11 ~~in any of said articles reference is made to making, fixing,~~  
12 ~~prescribing, determination or promulgation by the Board of rates or~~  
13 ~~policy forms or endorsements, the provisions of this article shall~~  
14 ~~control. Notwithstanding any other provision of this subchapter,~~  
15 ~~the flexible rating program created under Subchapter M of this~~  
16 ~~chapter does not apply to this article.~~

17           ~~[(h)]~~ The provisions of Chapter 5 of this code, other than  
18 this article, shall not apply to marine insurance as defined ~~[other~~  
19 ~~than inland marine insurance governed]~~ by this article.

20           SECTION 21.30. Subsection (a), Section 1, Article 5.53-A,  
21 Insurance Code, is amended to read as follows:

22           (a) Any company licensed to engage in the business of fire  
23 insurance and its allied lines, or inland marine insurance, or  
24 both, is authorized to write home warranty insurance or home  
25 protection insurance in this state.

26           SECTION 21.31. Subsection (a-1), Article 5.96, Insurance  
27 Code, is amended to read as follows:

1           (a-1) This [~~Except as provided by Section 5(d), Article~~  
2 ~~5.101, of this code, this~~] article does not apply to the setting of  
3 [~~benchmark~~] rates for personal automobile [~~motor vehicle~~]  
4 insurance under Article 5.101 of this code, rates for [~~and~~] fire and  
5 allied lines insurance under Subchapter Q [~~M~~] of this chapter or, on  
6 and after December 1, 2004, rates for personal automobile insurance  
7 and fire and allied lines insurance under Article 5.13-2 of this  
8 code.

9           SECTION 21.32. Subsections (a) through (d) and (f) through  
10 (m), Article 5.97, Insurance Code, are amended to read as follows:

11           (a) The department [~~State Board of Insurance~~] may take  
12 action on filings for standard and uniform rates, rating plans,  
13 manual rules, classification plans, statistical plans, and policy  
14 and endorsement forms, or any modification of any of these for the  
15 lines of insurance regulated in Subchapter B, Chapter 5, of this  
16 code [~~and for the regulated lines of insurance in Article 5.53 and~~  
17 ~~Article 5.53-A of this code~~] under the procedure specified in this  
18 article.

19           (b) Any interested person may initiate proceedings before  
20 the commissioner [~~board~~] with respect to any matter specified in  
21 Section (a) of this article by filing a petition with the department  
22 [~~State Board of Insurance~~] that includes the following:

23                   (1) specific identification of the matter that is  
24 proposed to be adopted, approved, amended, or repealed;

25                   (2) the wording of the matter proposed to be adopted,  
26 approved, amended, or repealed; and

27                   (3) justification for the proposed action in

1 sufficient particularity to inform the commissioner [~~board~~] and any  
2 interested person of the petitioner's reasons and arguments.

3 (c) A copy of each petition initiating a proceeding shall be  
4 marked with the date it was received by the department [~~State Board~~  
5 ~~of Insurance~~] and shall be made available for public inspection at  
6 the office of the chief clerk of the department [~~board~~] throughout  
7 the period the petition is pending. Except for emergency matters  
8 acted on under Section (j) of this article, the commissioner  
9 [~~board~~] may not act on a petition until it has been available for  
10 public inspection for at least 15 days after the date of filing and  
11 notice has been given in accordance with this section. Not later  
12 than the 10th day before the date the commissioner [~~board~~] takes  
13 action on any rule, rating plan, classification plan, statistical  
14 plan, or policy or endorsement form under this article, the  
15 department [~~board~~] shall publish in the Texas Register [~~a notice of~~  
16 ~~the meeting or hearing at which the action will be taken. The~~  
17 ~~notice must include~~] a brief summary of the substance of the  
18 proposed rule, rating plan, classification plan, statistical plan,  
19 or policy or endorsement form, and a statement that the full text of  
20 the rule, rating plan, classification plan, statistical plan, or  
21 policy or endorsement form is available for review in the office of  
22 the chief clerk of the department [~~State Board of Insurance~~].

23 (d) Any interested person may request [~~the board to hold~~]  
24 hearing before the commissioner [~~it~~] acts on a pending petition.  
25 Except as provided by Article 5.97A of this code, the commissioner  
26 [~~board~~] has discretion whether or not to hold such a hearing.

27 (f) The commissioner may [~~board shall~~] hold a hearing to

1 consider the proposal or may [~~shall~~] enter an order implementing or  
2 denying the proposal. If the commissioner [~~board~~] denies a  
3 proposal, the commissioner [~~it~~] shall specify the reasons for the  
4 denial in the commissioner's [~~its~~] order.

5 (g) On its own motion, the department [~~board~~] may initiate a  
6 proceeding with respect to any matter specified in Section (a) of  
7 this article.

8 (h) If a hearing is scheduled to consider a proposal, the  
9 department [~~board~~] shall publish notice in the Texas Register not  
10 less than 10 days before the hearing and shall state the time,  
11 place, and legal authority for the hearing and the matters to be  
12 considered.

13 (i) After entering an order with respect to any matter  
14 specified in Section (a) of this article, the department [~~board~~]  
15 shall file a notice of the commissioner's [~~its~~] action for  
16 publication in the adopted rule section of the Texas Register. In  
17 addition, before the effective date of the action, the department  
18 [~~board~~] shall cause notice of the order to be mailed to the  
19 applicant, to all insurers writing the affected line of insurance  
20 in this state, and to all other persons who have made timely written  
21 request for notification. Failure to mail this notice will not  
22 invalidate any action taken.

23 (j) The commissioner's [~~board's~~] action takes effect 15 days  
24 after the date that notice of the action is published in the Texas  
25 Register or on a later specified date. If the commissioner [~~board~~]  
26 finds that an imminent peril to the public health, safety, or  
27 welfare, or a requirement of state or federal law, requires the

1 commissioner's [~~its~~] action to be effective before the end of the  
2 15-day period, the commissioner [~~it~~] may take emergency action to  
3 be effective at an earlier time. The commissioner's [~~board's~~]  
4 action on an emergency matter may be effective for 120 days, and  
5 renewable once for a period not exceeding 60 days immediately  
6 following the 120-day period. The permanent adoption of an  
7 identical change is not precluded.

8 (k) Any person aggrieved by an order of the commissioner  
9 [~~board~~] is entitled to redress as provided by [~~Article 5.15,~~]  
10 Article 5.23[~~, Article 5.53, or Article 5.53-A~~] of this code[~~,~~  
11 ~~whichever is applicable to the line of insurance addressed in the~~  
12 ~~order~~].

13 (l) Chapters 2001 and 2002, Government Code, do [~~The~~  
14 ~~Administrative Procedure and Texas Register Act (Article 6252-13a,~~  
15 ~~Vernon's Texas Civil Statutes), does~~] not apply to commissioner or  
16 department [~~board~~] action taken under this article.

17 (m) The department [~~board~~] or the office of public insurance  
18 counsel may require that a person who has filed a petition under  
19 Subsection (b) of this article or who has otherwise presented  
20 materials to the department [~~board~~] in connection with a proceeding  
21 under this article provide additional information to the department  
22 [~~board~~] or office, including any statistical, actuarial, or other  
23 information on which the petition or other materials were based.

24 SECTION 21.33. Subsection (c), Article 21.28-E, Insurance  
25 Code, is amended to read as follows:

26 (c) The provisions of this article shall not apply to marine  
27 insurance as defined [~~other than inland marine insurance governed~~]

1 by Article 5.53.

2 SECTION 21.34. Subdivision (4), Subsection (b), Section 4,  
3 Article 21.49-3, Insurance Code, is amended to read as follows:

4 (4) After the initial year of operation, rates, rating  
5 plans, and rating rules, and any provision for recoupment should be  
6 based upon the association's loss and expense experience, together  
7 with such other information based upon such experience as the  
8 department [~~board~~] may deem appropriate. The resultant premium  
9 rates shall be on an actuarially sound basis and shall be calculated  
10 to be self-supporting.

11 SECTION 21.35. Subsection (a), Section 5, Article 21.55,  
12 Insurance Code, is amended to read as follows:

13 (a) This article does not apply to:  
14 (1) workers' compensation insurance;  
15 (2) mortgage guaranty insurance;  
16 (3) title insurance;  
17 (4) fidelity, surety, or guaranty bonds;  
18 (5) marine insurance as defined [~~other than inland~~  
19 ~~marine insurance governed~~] by Article 5.53 of this code; or  
20 (6) a guaranty association created and operating under  
21 Article 9.48 of this code.

22 SECTION 21.36. Subsection (e), Article 21.56, Insurance  
23 Code, is amended to read as follows:

24 (e) The provisions of this article shall not apply to marine  
25 insurance as defined [~~other than inland marine insurance governed~~]  
26 by Article 5.53 of this code.

27 SECTION 21.37. Section 8, Article 21.77, Insurance Code, is



1 amended to read as follows:

2           Sec. 8. POLICY FORMS. All policy forms for insurance  
3 written under this article shall be prescribed by the commissioner  
4 [~~board~~] as provided in Article 5.06 of this code or filed and in  
5 effect as provided in Article 5.145 of this code[~~, Insurance Code~~].

6           SECTION 21.38. Article 21.79E, Insurance Code, is amended  
7 to read as follows:

8           Art. 21.79E. CREDIT INVOLUNTARY UNEMPLOYMENT INSURANCE.  
9 Any insurer authorized to write any form of casualty insurance in  
10 this state shall also be authorized to write group or individual  
11 credit involuntary unemployment insurance indemnifying a debtor  
12 for installment or other periodic payments on the indebtedness  
13 while the debtor is involuntarily unemployed, including policy  
14 forms and endorsements which define involuntary unemployment to  
15 provide coverage and a premium charge for interruption or reduction  
16 of a debtor's income during periods of leave (paid or otherwise)  
17 authorized by the Federal Family and Medical Leave Act of 1993 (29  
18 U.S.C. Section 2601 et seq.), as amended, or other state or federal  
19 laws. Such insurance may be written alone or in conjunction with  
20 credit life insurance, credit accident and health insurance, or  
21 both, in policies issued by any authorized insurer, but not in  
22 contravention of the Texas Free Enterprise and Antitrust Act of  
23 1983 (Chapter 15, Business & Commerce Code). Rates and forms for  
24 such insurance may be made and filed in accordance with Article  
25 5.13-2 [~~Articles 5.14 and 5.15~~] of this code.

26           SECTION 21.39. Subdivision (2), Section 1, Article 21.81,  
27 Insurance Code, is amended to read as follows:

1           (2) "Authorized insurer" means any insurer authorized  
2 by the Texas Department of Insurance to write motor vehicle  
3 liability coverage under the provisions of Chapter 5 of this code.  
4 Except as provided by Section 13(f), Article 5.13-2 of this code,  
5 the [The] term does not include an insurer organized under Chapter  
6 17 of this code.

7           SECTION 21.40. (a) Effective June 1, 2003, Section  
8 912.002, Insurance Code, is amended by amending Subsection (a) and  
9 adding Subsection (c) to read as follows:

10           (a) A county mutual insurance company is exempt from the  
11 operation of all insurance laws of this state[~~, including the~~  
12 ~~flexible rating program under Article 5.101,~~] except laws that are  
13 made applicable by their specific terms or except as specifically  
14 provided by this chapter.

15           (c) Rate regulation for a residential fire and allied lines  
16 insurance policy written by a county mutual insurance company is  
17 subject to Subchapters Q and U, Chapter 5. On and after December 1,  
18 2004, rate regulation for a personal automobile insurance policy  
19 and a residential fire and allied lines insurance policy written by  
20 a county mutual insurance company is subject to Article 5.13-2. A  
21 county mutual insurance company is subject to Subchapter U, Chapter  
22 5. The commissioner may adopt rules as necessary to implement this  
23 subsection.

24           (b) Until June 1, 2003, Subsection (b), Article 17.22,  
25 Insurance Code, is amended to read as follows:

26           (b) Rate regulation for a residential fire and allied lines  
27 insurance policy written by a county mutual insurance company is

1 subject to Subchapters O and Q, Chapter 5 of this code. The  
2 commissioner may adopt rules as necessary to implement this  
3 subsection. The flexible rating program created under Subchapter  
4 M, Chapter 5, of this code does not apply to county mutual insurance  
5 companies. This subsection expires June 1, 2003.

6 SECTION 21.405. Subchapter A, Chapter 912, Insurance Code,  
7 is amended by adding Section 912.005 to read as follows:

8 Sec. 912.005. LIMITATION ON TRANSFER OF BUSINESS TO COUNTY  
9 MUTUAL INSURANCE COMPANY. An insurer may not transfer more than 10  
10 percent of the insurer's insurance policies to a county mutual  
11 insurance company without the prior approval of the commissioner.

12 SECTION 21.41. Section 912.152, Insurance Code, is amended  
13 to read as follows:

14 Sec. 912.152. POLICY FORMS. (a) A county mutual insurance  
15 company is subject to Articles 5.06, ~~[and]~~ 5.35, and 5.145.

16 (b) County ~~[The commissioner, in accordance with Article~~  
17 ~~5.35, may adopt for use by county]~~ mutual insurance companies shall  
18 file policy forms under Article 5.145 or continue to use the  
19 standard policy forms and endorsements promulgated under Articles  
20 5.06 and 5.35 on notification to the commissioner in writing in the  
21 manner prescribed by those articles that those forms will continue  
22 to be used ~~[uniform policy forms that differ from the forms adopted~~  
23 ~~for use by other companies and shall prescribe the conditions under~~  
24 ~~which a county mutual insurance company:~~

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

27 ~~[(2) shall use the policy forms adopted for other~~

1 ~~companies]~~.

2 SECTION 21.42. (a) Effective June 1, 2003, Section  
3 912.201, Insurance Code, is amended to read as follows:

4 Sec. 912.201. SCHEDULE OF CHARGES. A county mutual  
5 insurance company shall file with the department a schedule of the  
6 amounts the company charges a policyholder or an applicant for a  
7 policy, regardless of the term the company uses to refer to those  
8 charges, including "rate," "policy fee," "inspection fee,"  
9 "membership fee," or "initial charge." A county mutual insurance  
10 company shall file premium, expense, and loss experience data with  
11 the department in the manner prescribed by the commissioner. An  
12 insurer shall file the schedules and data required under this  
13 section according to rules promulgated by the commissioner.

14 (b) Until June 1, 2003, Section 6, Article 17.25, Insurance  
15 Code, is amended to read as follows:

16 Sec. 6. FILE SCHEDULE OF CHARGES. Such companies shall file  
17 with the Board a schedule of its rates, the amount of policy fee,  
18 inspection fee, membership fee, or initial charge by whatever name  
19 called, to be charged its policyholders or those applying for  
20 policies. Items required under this section shall be filed  
21 according to rules promulgated by the commissioner.

22 SECTION 21.43. (a) Effective June 1, 2003, Subsection (b),  
23 Section 941.003, Insurance Code, is amended to read as follows:

- 24 (b) A Lloyd's plan is subject to:
- 25 (1) Section 5, Article 1.10;
  - 26 (2) Article 1.15A;
  - 27 (3) Subchapters [~~Subchapter~~] A, Q, T, and U, Chapter

1 5;

2 (4) Articles 5.35, 5.38, 5.39, 5.40, and 5.49;

3 (5) Articles 21.21 and 21.49-8; [~~and~~]

4 (6) Sections 822.203, 822.205, 822.210, and 822.212;

5 and

6 (7) Article 5.13-2, as provided by that article.

7 (b) Until June 1, 2003, Article 18.23, Insurance Code, is  
8 amended by adding Subsection (c) to read as follows:

9 (c) Rate regulation for a personal automobile insurance  
10 policy written by a Lloyd's plan is subject to Subchapter M, Chapter  
11 5 of this code. Rate regulation for a homeowners or residential  
12 fire and allied lines insurance policy written by a Lloyd's plan is  
13 subject to Subchapter Q, Chapter 5 of this code. The commissioner  
14 may adopt rules as necessary to implement this subsection. A  
15 Lloyd's plan is subject to Subchapter O, Chapter 5 of this code.  
16 This subsection expires June 1, 2003.

17 SECTION 21.44. (a) Effective June 1, 2003, Subsection (b),  
18 Section 942.003, Insurance Code, is amended to read as follows:

19 (b) An exchange is subject to:

20 (1) Section 5, Article 1.10;

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

22 (3) Subchapters [~~Subchapter~~] A, Q, T, and U, Chapter

23 5;

24 (4) Articles 5.35, 5.37, 5.38, 5.39, and 5.40;

25 (5) Articles 21.21 and 21.49-8; [~~and~~]

26 (6) Sections 822.203, 822.205, 822.210, 822.212,

27 861.254(a)-(f), 861.255, 862.001(b), and 862.003; and

1           (7) Article 5.13-2, as provided by that article.

2           (b) Until June 1, 2003, Article 19.12, Insurance Code, is  
3 amended by adding Subsection (c) to read as follows:

4           (c) Rate regulation for a personal automobile insurance  
5 policy written by a reciprocal or interinsurance exchange is  
6 subject to Subchapter M, Chapter 5 of this code. Rate regulation  
7 for a homeowners or residential fire and allied lines insurance  
8 policy written by a reciprocal or interinsurance exchange is  
9 subject to Subchapter Q, Chapter 5 of this code. The commissioner  
10 may adopt rules as necessary to implement this subsection. A  
11 reciprocal or interinsurance exchange is subject to Subchapter O,  
12 Chapter 5 of this code. This subsection expires June 1, 2003.

13           SECTION 21.45. Subsection (d), Section 502.153,  
14 Transportation Code, is amended to read as follows:

15           (d) A personal automobile policy used as evidence of  
16 financial responsibility under this section must comply with  
17 Article 5.06 or 5.145, Insurance Code.

18           SECTION 21.46. Subsection (c), Section 521.143,  
19 Transportation Code, is amended to read as follows:

20           (c) A personal automobile insurance policy used as evidence  
21 of financial responsibility under this section must comply with  
22 Article 5.06 or 5.145, Insurance Code.

23           SECTION 21.47. The following laws are repealed:

24           (1) Articles 5.03-2, 5.03-3, 5.03-4, and 5.03-5,  
25 Insurance Code;

26           (2) Subsection (h), Article 5.26, and Articles 5.33C,  
27 5.50, and 40.061, Insurance Code;

1           (3) Subsection (b), Section 5, Article 5.13-2,  
2 Insurance Code;

3           (4) Section 4C, Article 5.73, Insurance Code;

4           (5) Article 5.33B, Insurance Code, as added by Chapter  
5 337, Acts of the 74th Legislature, Regular Session, 1995;

6           (6) Articles 5.14, 5.15, and 5.15B, Insurance Code;

7           (7) Subsection (e), Article 5.97, Insurance Code; and

8           (8) Subdivision (2), Subsection (b), Section 4,  
9 Article 21.49-3, Insurance Code.

10           SECTION 21.48. Article 5.33A, Insurance Code, is repealed.

11           ARTICLE 22. GENERAL TRANSITION; SEVERABILITY; EFFECTIVE DATE

12           SECTION 22.01. The amendment of statutory provisions by  
13 this Act does not affect the repeal of those provisions by Section  
14 31, Chapter 1419, Acts of the 77th Legislature, Regular Session,  
15 2001.

16           SECTION 22.02. This Act applies to an insurance policy that  
17 is delivered, issued for delivery, or renewed on or after the  
18 effective date of this Act and to rates for such a policy. A policy  
19 delivered, issued for delivery, or renewed before the effective  
20 date of this Act and the rates for such a policy are governed by the  
21 law as it existed immediately before the effective date of this Act,  
22 and that law is continued in effect for that purpose.

23           SECTION 22.03. If any provision of this Act or its  
24 application to any person or circumstance is held invalid, the  
25 invalidity does not affect other provisions or applications of this  
26 Act that can be given effect without the invalid provision or  
27 application, and to this end the provisions of this Act are declared

1 to be severable.

2           SECTION 22.04. Except as otherwise provided by this Act,  
3 this Act takes effect immediately if it receives a vote of  
4 two-thirds of all the members elected to each house, as provided by  
5 Section 39, Article III, Texas Constitution. If this Act does not  
6 receive the vote necessary for immediate effect, this Act takes  
7 effect September 1, 2003.



\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Speaker of the House

I hereby certify that S.B. No. 14 passed the Senate on April 2, 2003, by the following vote: Yeas 28, Nays 3; May 27, 2003, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 28, 2003, House granted request of the Senate; June 1, 2003, Senate adopted Conference Committee Report by the following vote: Yeas 26, Nays 4, one present not voting.

\_\_\_\_\_  
Secretary of the Senate

I hereby certify that S.B. No. 14 passed the House, with amendments, on May 24, 2003, by a non-record vote; May 28, 2003, House granted request of the Senate for appointment of Conference Committee; June 2, 2003, House adopted Conference Committee Report by the following vote: Yeas 113, Nays 34, one present not voting.

\_\_\_\_\_  
Chief Clerk of the House

Approved:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Governor