

By: Jackson, et al.

S.B. No. 14

Substitute the following for S.B. No. 14:

By: Smithee

C.S.S.B. No. 14

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of residential property and commercial and personal automobile insurance; providing a criminal penalty.

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

ARTICLE 1. RATE REQUIREMENTS

PART A. RATE FILINGS

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

SUBCHAPTER Q. RATES FOR CERTAIN LINES

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

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

(b) The purposes of this article are to:

(1) promote the public welfare by regulating personal automobile insurance rates and residential property insurance rates to prohibit excessive, inadequate, unreasonable, or unfairly discriminatory rates;

(2) promote the availability of personal automobile and residential property insurance;

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

1           (4) prohibit price-fixing agreements and other  
2 anticompetitive behavior by insurers.

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

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

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

9           (3) "Disallowed expenses" includes:

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

13           (B) lobbying expenses;

14           (C) advertising expenses, other than for  
15 advertising:

16                   (i) directly related to the services or  
17 products provided by the insurer; or

18                   (ii) designed and directed at loss  
19 prevention;

20           (D) amounts paid by an insurer:

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

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

26           (E) contributions to:

27                   (i) social, religious, political, or

1 fraternal organizations; or

2 (ii) organizations engaged in legislative  
3 advocacy;

4 (F) except as authorized by rule by the  
5 commissioner, fees and assessments paid to advisory organizations;  
6 and

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

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

13 (5) "Insurer" means an insurance company, reciprocal  
14 or interinsurance exchange, mutual insurance company, capital  
15 stock company, county mutual insurance company except as provided  
16 by Section 13, Article 5.13-2, of this code, Lloyd's plan, or other  
17 legal entity authorized to write personal automobile insurance or  
18 residential property insurance in this state. The term includes an  
19 affiliate, as described by this code, if that affiliate is  
20 authorized to write personal automobile insurance or residential  
21 property insurance. The term does not include:

22 (A) the Texas Windstorm Insurance Association  
23 under Article 21.49 of this code;

24 (B) the FAIR Plan Association under Article  
25 21.49A of this code;

26 (C) the Texas Automobile Insurance Plan  
27 Association under Article 21.81 of this code; or

1           (D) an insurer that is not engaged in the  
2 business of personal automobile insurance or residential property  
3 insurance in this state before the effective date of S.B. 14, Acts  
4 of the 78th Legislature, Regular Session, 2003.

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

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

12                   (A) owned or leased by an individual or  
13 individuals; and

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

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

23           (9) "Rating manual" means a publication or schedule  
24 that lists rules, classifications, territory codes and  
25 descriptions, rates, premiums, and other similar information used  
26 by an insurer to determine the applicable premium charged an  
27 insured for personal automobile insurance or residential property

1 insurance.

2 (10) "Residential property insurance" means insurance  
3 coverage against loss to real or tangible personal property at a  
4 fixed location that is provided through a homeowners policy,  
5 including a tenants policy, a condominium owners policy, or a  
6 residential fire and allied lines policy.

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

16 (12) "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) cannot be actuarially justified;

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 actuarially credible historical  
25 premium, exposure, loss, 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 factors inside and outside this state  
5 determined to be relevant by the insurer and not disallowed by the  
6 commissioner.

7 (c) An insurer may:

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

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

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

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

26 (f) In determining a rating territory, an insurer shall use  
27 methods based on sound actuarial principles.

1       Sec. 4. RATE FILINGS. (a) An insurer shall file with the  
2 department all rates, applicable rating manuals, supplementary  
3 rating information, and additional information on an annual basis  
4 as required by the commissioner for risks written in this state.

5       (b) The commissioner by rule shall determine the  
6 information required to be provided in the filing, including:

7           (1) the categories of supporting information;

8           (2) the categories of supplementary rating  
9 information;

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

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

17       (c) The insurer shall file with each rate filing a  
18 certificate by an officer of the insurer that all rate  
19 classifications, the rates applicable to those classifications,  
20 and the risk factors to which those classifications apply are based  
21 on reasonably sound and verifiable actuarial principles and that no  
22 classifications are unfairly discriminatory as to race, color,  
23 religion, ethnicity, or national origin.

24       (d) Other than the annual rate filings required under  
25 Subsection (a) of this section, the commissioner may require an  
26 insurer to file with the department all rates, applicable rating  
27 manuals, supplementary rating information, and additional



1 information required under Subsections (b) and (c) of this section:

2 (1) on using a new policy form that has been approved  
3 by the commissioner for a line of insurance offered by the insurer;

4 (2) on changing the underwriting guidelines used by  
5 the insurer;

6 (3) if the commissioner receives a substantial number  
7 of consumer complaints, as determined by the commissioner, about an  
8 insurer's prices or practices;

9 (4) if the commissioner determines that there is a  
10 significant difference between the insurer's current loss trends  
11 and the insurer's prospective loss trends reported in the prior  
12 annual rate filing; or

13 (5) if the commissioner otherwise determines that good  
14 cause exists to review an insurer's rating information.

15 (e) Unless otherwise required by the commissioner, after an  
16 initial annual rate filing required under this section is approved  
17 by the commissioner, an insurer is not required to make subsequent  
18 annual filings if the rate to be used by the insurer is the same as  
19 the rate in effect.

20 (f) An insurer shall provide to the department in the manner  
21 prescribed by the commissioner information necessary to verify the  
22 information filed by the insurer under Subsection (c) of this  
23 section.

24 (g) The commissioner by rule shall establish what  
25 constitutes "good cause" for purposes of Subsection (d)(5) of this  
26 section.

27 (h) The commissioner may not require an insurer to file

1 information that is not contained in the books and records kept by  
2 the insurer in the insurer's normal course of business.

3 Sec. 5. PRIOR APPROVAL REQUIRED. (a) Except as provided by  
4 Subsection (j) of this section, an insurer may not use a rate until  
5 the rate has been filed with the department and approved by the  
6 commissioner as provided by this section. For purposes of this  
7 section, a rate is filed with the department on the date the rate  
8 filing is received by the department.

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

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

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

15 (c) Except as provided by Subsection (e) of this section or  
16 Section 9(c) of this article, if the rate has not been approved or  
17 disapproved by the commissioner before the expiration of the 30-day  
18 period described by Subsection (b) of this section, the rate is  
19 considered approved and the insurer may use the rate unless the rate  
20 proposed in the filing represents an increase of 12.5 percent or  
21 more from the insurer's prior filed and approved rate.

22 (d) The commissioner and the insurer may not by agreement  
23 extend the 30-day period described by Subsection (b) of this  
24 section.

25 (e) For good cause, the commissioner may extend the period  
26 for approval or disapproval of a rate for one additional 30-day  
27 period on the expiration of the 30-day period described by

1 Subsection (b) of this section.

2 (f) If the department determines that the information filed  
3 by the insurer under this article is incomplete or otherwise  
4 deficient, the department, not later than the 10th day after the  
5 date the insurer files the rate with the department, may request  
6 additional information from the insurer. If the department  
7 requests additional information from the insurer during the first  
8 30-day review period provided under Subsection (b) of this section  
9 or under the second 30-day review period provided under Subsection  
10 (e) of this section, the period of time between the date of the  
11 department's submission of the request for additional information  
12 to the insurer and the date of the receipt of the additional  
13 information by the department from the insurer is not counted to  
14 determine what constitutes the first 30-day review period or the  
15 second 30-day review period. For purposes of this subsection, the  
16 date of the department's submission of the request for additional  
17 information is the date of the electronic mailing or telephone call  
18 or the postmarked date on the department's letter relating to the  
19 request for additional information.

20 (g) The commissioner shall approve the rate filing if the  
21 proposed rate is adequate, not excessive, and not unfairly  
22 discriminatory.

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

27 (i) From the date of the filing of the rate with the

1 department to the effective date of the new rate, the insurer's  
2 previously filed rate that is in effect on the date of the filing  
3 remains in effect.

4 (j) After approval of a rate filing under this section, an  
5 insurer may use any rate subsequently filed by the insurer, without  
6 prior approval of the commissioner, if the subsequently filed rate  
7 does not exceed the lesser of 107.5 percent of the rate approved by  
8 the commissioner or 110 percent of any rate used by the insurer  
9 within the previous 12-month period. Filed rates under this  
10 subsection take effect on the date specified by the insurer.

11 Sec. 6. DISAPPROVAL OF RATE. (a) The commissioner may  
12 disapprove a rate filed under this article if the commissioner  
13 determines that the rate does not meet the requirements of this  
14 article.

15 (b) If the commissioner disapproves a rate, the  
16 commissioner shall notify the insurer that made the rate filing and  
17 shall issue a disapproval order on the date the commissioner  
18 provides notice to the insurer. The notice to the insurer and the  
19 commissioner's disapproval order must specify how the rate fails to  
20 meet the requirements of this article. The commissioner may  
21 provide the notice electronically if a subsequent written notice is  
22 also provided. The order must state the date on which the further  
23 use of the disapproved rate is prohibited. The commissioner may  
24 specify in the order a rate that would be approved by the  
25 commissioner.

26 (c) An insurer may not use a rate in this state after  
27 disapproval of the rate by the commissioner.

1       (d) An insurer whose rate is disapproved under this section  
2 is not entitled to a hearing before the commissioner's disapproval  
3 order is issued.

4       (e) After receiving notice of the commissioner's  
5 disapproval of the rate filed by the insurer, the insurer, not later  
6 than the 20th day after the date a disapproval order is issued under  
7 this section, may request:

8           (1) a rate hearing to be conducted by the State Office  
9 of Administrative Hearings; or

10           (2) a binding arbitration to be conducted by  
11 arbitrators selected in the manner described by Subsection (h) of  
12 this section.

13       (f) After completion of the rate hearing under Subsection  
14 (e)(1) of this section, the administrative law judge shall prepare  
15 a proposal for decision under Section 40.058 of this code and remand  
16 the case to the commissioner recommending:

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

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

25           (3) adoption of a temporary rate pending further  
26 review; or

27           (4) adoption of the rate filed by the insurer.

1       (g) An insurer requesting binding arbitration under  
2 Subsection (e)(2) of this section:

3           (1) waives the insurer's right to appeal the  
4 commissioner's disapproval of a filed rate beyond the binding  
5 arbitration; and

6           (2) shall pay the entire cost of the binding  
7 arbitration.

8       (h) Binding arbitration conducted under Subsection (e) of  
9 this section must be conducted by three arbitrators, one selected  
10 by the department, one selected by the insurer, and one agreed on by  
11 the arbitrators chosen by the department and the insurer. The three  
12 arbitrators shall reach a decision by considering a rate proposed  
13 by the insurer and a rate proposed by the department. The rate  
14 proposed by the department or by the insurer on which two of the  
15 three arbitrators agree shall be the insurer's effective rate.

16       (i) The office of public insurance counsel may participate  
17 in a hearing or binding arbitration conducted under this section  
18 and present evidence at the hearing or arbitration.

19       Sec. 7. BASIS FOR RATE APPROVAL. (a) In deciding whether  
20 to approve or disapprove a rate filing of an insurer under this  
21 article, the commissioner shall consider whether:

22           (1) the insurer's rate complies with the rating  
23 criteria adopted under Section 3 of this article;

24           (2) the insurer's underwriting guidelines are fair and  
25 not discriminatory;

26           (3) the insurer has applied credit scoring in  
27 accordance with Article 21.49-2U of this code; and

1           (4) any applicable management fees charged by the  
2 insurer comply with law and are not unreasonable or excessive under  
3 accepted regulatory standards.

4           (b) The insurer must itemize any applicable management fees  
5 charged by the insurer, including an analysis of each fee that  
6 states each component of the fee, and an itemization of  
7 profit-load.

8           Sec. 8. USE OF UNDERWRITING GUIDELINES AND RATING MANUALS.

9 On approval of a rate filing by the commissioner under Section 5 of  
10 this article, and subject to Article 21.49-2V of this code, if  
11 applicable, an insurer may use the insurer's underwriting  
12 guidelines and rating manuals in preparing future rate filings as  
13 required under this article.

14           Sec. 9. EFFECT OF INSURER NONCOMPLIANCE. (a) If the

15 commissioner determines that any of the information required under  
16 Section 4 of this article to be included in the rate filing has not  
17 been provided to the department by an insurer in the rate filing,  
18 the commissioner in writing shall notify the insurer:

19           (1) that the insurer is not in compliance with this  
20 article; and

21           (2) the date by which the insurer must provide the  
22 information not included in the rate filing.

23           (b) Unless the commissioner determines otherwise, the  
24 30-day approval period described under Section 5(b) of this article  
25 does not begin until the date the commissioner determines that the  
26 insurer has filed a complete rate filing as required by this  
27 article. For purposes of this subsection, a rate filing is

1 considered complete on the later of:

2 (1) the 11th day after the date an insurer files a rate  
3 with the department under this article; or

4 (2) the day the department receives all information  
5 requested under Section 5(f) of this article.

6 (c) Section 5(c) of this article does not apply to an  
7 insurer that:

8 (1) has violated this article, another law, or a rule  
9 adopted under this code relating to:

10 (A) rating information required to be provided by  
11 an insurer; or

12 (B) rates generally;

13 (2) has violated any law or rule adopted under this  
14 code relating to underwriting requirements; or

15 (3) has not complied with an order issued by the  
16 commissioner during the three years preceding the date of the rate  
17 filing required under this article.

18 (d) If a rate filed by an insurer described by Subsection  
19 (c) of this section has not been approved or disapproved by the  
20 commissioner before the expiration of the 30-day period described  
21 by Section 5(b) of this article, the rate is considered denied. An  
22 insurer may appeal the commissioner's disapproval of a rate under  
23 this subsection as provided by Section 6 of this article.

24 Sec. 10. PUBLIC INFORMATION. Subject to Section 552.110,  
25 Government Code, each rate filing and any supporting information  
26 filed under this article are public information and must be  
27 disclosed under Chapter 552, Government Code, as of the date the



1 filing is received by the commissioner.

2 Sec. 11. CERTAIN USE OF FILED RATE INFORMATION. (a) Any  
3 information filed by an insurer with the department under this  
4 article may be disclosed to:

5 (1) individual members, agencies, or committees of the  
6 legislature; and

7 (2) an agency in the executive branch of state  
8 government or an employee of that agency.

9 (b) An individual member, agency, or committee of the  
10 legislature that receives information under Subsection (a)(1) of  
11 this section may use the information only for legislative purposes.

12 An agency or employee of an agency that receives information under  
13 Subsection (a)(2) of this section may use the information only for  
14 the official purposes of the agency.

15 (c) Confidential information disclosed under this section  
16 remains confidential.

17 Sec. 12. SUPERVISION REQUIREMENT. If the commissioner  
18 determines after a hearing that an insurer's rates require  
19 supervision because of the insurer's financial condition or the  
20 insurer's rating practices, the commissioner may require the  
21 insurer to file with the commissioner all rates, supplementary  
22 rating information, and any supporting information prescribed by  
23 the commissioner.

24 Sec. 13. RIGHTS OF PUBLIC INSURANCE COUNSEL. (a) On  
25 request to the commissioner, the public insurance counsel may  
26 review all rate filings and additional information provided by an  
27 insurer under this article. Confidential information reviewed

1 under this subsection remains confidential.

2 (b) The public insurance counsel, not later than the 30th  
3 day after the date of a rate filing under Section 5 of this article,  
4 may object to an insurer's rate filing or the criteria relied on by  
5 the insurer to determine the rate by filing a written objection with  
6 the commissioner. The written objection must contain the reasons  
7 for the objection.

8 Sec. 14. RATE HEARINGS; ADMINISTRATIVE PROCEDURES. Subject  
9 to Chapter 40 of this code, Chapter 2001, Government Code, applies  
10 to all hearings on rates conducted under this article. To the  
11 extent of any conflict between this article and Chapter 2001,  
12 Government Code, this article prevails.

13 Sec. 15. APPEAL. (a) An insurer or the public insurance  
14 counsel may, not later than the 30th day after the date the  
15 commissioner issues an order under this article, appeal the order  
16 in accordance with Subchapter D, Chapter 36, of this code.

17 (b) An insurer that appeals an order of the commissioner  
18 issued under this article shall pay all costs associated with the  
19 appeal, including any attorney's fees incurred by the department,  
20 if the insurer does not prevail on appeal.

21 Sec. 16. BURDEN OF PROOF. To prevail in a rate hearing  
22 under Section 14 of this article or an appeal under Section 15 of  
23 this article, an insurer must establish that the commissioner's  
24 order is an abuse of discretion.

25 Sec. 17. RULES. The commissioner shall adopt rules as  
26 necessary to implement this article.

27 Sec. 18. NOTICE TO POLICYHOLDER. (a) An insurer shall send

1 to each holder of a policy of insurance subject to this article  
2 notice of any rate increase scheduled to take effect on the renewal  
3 of the policy that exceeds 10 percent of the amount paid by the  
4 policyholder for coverage under the policy immediately before  
5 renewal.

6 (b) The insurer shall send the notice required by Subsection  
7 (a) of this section before the renewal date but not later than the  
8 30th day before the date the rate increase is scheduled to take  
9 effect.

10 Sec. 19. ADVISORY ORGANIZATIONS. (a) An advisory  
11 organization may file with the commissioner for use by insurers  
12 loss and loss adjustment expense information. An insurer that  
13 subscribes to the advisory organization may use information filed  
14 under this subsection after the information is approved by the  
15 commissioner.

16 (b) An advisory organization may not publish rates for  
17 insurance subject to this article.

18 Art. 5.143. EXCEPTIONS TO RATE FILING AND APPROVAL  
19 REQUIREMENTS

20 Sec. 1. DEFINITIONS. In this article:

21 (1) "Insurer" means a property and casualty insurer  
22 authorized to engage in the business of residential property  
23 insurance in this state. The term includes:

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

26 (B) the affiliate of an insurer, as described by  
27 this code.

1           (2) "Residential property insurance" includes:

2                   (A) homeowners insurance; and

3                   (B) residential fire and allied lines insurance.

4           Sec. 2. INSURER MARKET SHARE. An insurer with a market  
5 share of five percent or more that acquires an interest in an  
6 insurer with a smaller market share or that splits into smaller  
7 entities, to be owned in whole or in part by the insurer with the  
8 larger market share, is required to continue to file rates for all  
9 affected entities, as required by the commissioner under Section 3  
10 of this article.

11           Sec. 3. EXEMPTION FROM CERTAIN FILING REQUIREMENTS. (a) On  
12 the request of an insurer, the commissioner may, in accordance with  
13 this article, partially or wholly exempt the insurer from:

14                   (1) the requirement to file certain data with the  
15 department; and

16                   (2) the rate approval requirements adopted under  
17 Article 5.142 of this code.

18           (b) An exemption under Subsection (a)(1) of this section  
19 does not apply to requirements that the insurer file its rates and  
20 its market capacity information with the department.

21           (c) An exemption granted under Subsection (a) may be limited  
22 to a specific period.

23           Sec. 4. REDUCED FILING--INSURER WITH MARKET SHARE OF FIVE  
24 PERCENT OR MORE. An insurer with a market share of five percent or  
25 more is subject to rate approval under Article 5.142 of this code.  
26 However, on request by the insurer, the commissioner may grant the  
27 insurer a partial reduction in the amount of data required to be

1 filed with the department if:

2 (1) the commissioner has determined:

3 (A) that the filed rate represents an increase of  
4 not more than 7.5 percent of the rate previously approved for use by  
5 the insurer under this article; and

6 (B) that granting the reduced filing will not  
7 adversely affect consumers or the market; and

8 (2) the insurer certifies to the department, and the  
9 commissioner finds, that the insurer is in compliance with the  
10 requirements adopted under Section 6 of this article.

11 Sec. 5. REDUCED FILING--INSURER WITH MARKET SHARE OF LESS  
12 THAN FIVE PERCENT. (a) An insurer with a market share of less than  
13 five percent is subject to the rate filing requirements of Article  
14 5.142 of this code. However, on request of the insurer, the  
15 commissioner may grant the insurer a partial or total reduction in  
16 the amount of supporting information required to be filed with the  
17 department or in the rate approval requirements imposed under  
18 Article 5.142 of this code if:

19 (1) the commissioner has determined that granting the  
20 request will not adversely affect consumers or the market; and

21 (2) the insurer certifies to the department, and the  
22 commissioner finds, that the insurer is in compliance with the  
23 requirements adopted under Section 6 of this article.

24 (b) An insurer subject to this section may file for an  
25 exemption under Subsection (a) of this section at any time.

26 Sec. 6. INSURER REQUIREMENTS. To be eligible for a  
27 reduction in rate filing or approval requirements under Section 4

1 or 5 of this article, an insurer:

2 (1) shall agree, through an enforceable contract  
3 entered into with the department, that the insurer will not leave  
4 the residential property insurance market in this state, or  
5 substantially reduce its market share in this state, before the  
6 first anniversary of the date of the agreement, without:

7 (A) the express approval of the commissioner; and

8 (B) the filing of a withdrawal plan that is  
9 satisfactory to the commissioner;

10 (2) shall certify that the insurer's average filed  
11 rates do not exceed the rates used by the insurer during the  
12 preceding year by the greater of:

13 (A) 7.5 percent; or

14 (B) 2.5 percent plus the established or projected  
15 cost-of-living increase for the preceding year, as determined by  
16 the commissioner;

17 (3) must have promptly responded to prior data  
18 requirements and requests from the department; and

19 (4) may not be subject to any contested disciplinary  
20 action by the department.

21 Sec. 7. REDUCED FILING--INSURER WITH MARKET SHARE OF LESS  
22 THAN ONE-HALF OF ONE PERCENT. (a) Subject to Section 5 of this  
23 article, an insurer that has a market share of less than one-half of  
24 one percent is subject to the rate filing requirements of Article  
25 5.142 of this code, but may, on request to the commissioner, be  
26 exempted from any other specific filing for a period not to exceed  
27 three years from the date of the insurer's request if the

1 commissioner:

2 (1) does not disapprove the rate filing made by the  
3 insurer; and

4 (2) determines that granting the request will not  
5 adversely affect consumers or the market.

6 (b) An insurer subject to this section may file for an  
7 exemption under Subsection (a) of this section at any time.

8 Sec. 8. EFFECT OF SURPLUS LINES COVERAGE. (a) An eligible  
9 surplus lines insurer is exempt from the rate filing and approval  
10 requirements adopted under Article 5.142 of this article except as  
11 provided by Subsection (b) of this section.

12 (b) An insurer affiliated with an eligible surplus lines  
13 insurer must add all surplus lines coverage written by the  
14 affiliate to the insurer's total writings to determine if the  
15 insurer's market share is five percent or more on a finding by the  
16 commissioner, after notice and opportunity for hearing, that the  
17 insurer is using the surplus lines affiliate to avoid rate  
18 regulation. If the five percent threshold is exceeded, all the  
19 insurer's rates, including rates for surplus lines coverage, are  
20 subject to the filing and approval requirements adopted under  
21 Article 5.142 of this article.

22 Sec. 9. RATE STANDARDS. (a) Rates otherwise exempt from  
23 regulation under the provisions of this article may not be  
24 excessive, inadequate, unreasonable, or unfairly discriminatory  
25 for the risks to which they apply.

26 (b) In determining a rating territory, an insurer shall use  
27 methods based on sound actuarial principles.

1       Sec. 10. FILING FROM INSURER BOOKS AND RECORDS. The  
2 commissioner may not require an insurer to file information that is  
3 not contained in the books and records kept by the insurer in the  
4 insurer's normal course of business.

5                   PART B. CONFORMING AMENDMENT

6       SECTION 1.02. Section 4C, Article 5.73, Insurance Code, is  
7 amended to read as follows:

8       Sec. 4C. Except as provided by Section 19, Article 5.142, of  
9 this code, an [An] insurer may not receive from an advisory  
10 organization prospective loss costs for personal automobile,  
11 homeowners', or dwelling fire insurance.

12                   PART C. TRANSITION

13       SECTION 1.03. An insurer that was not rate regulated before  
14 the effective date of Article 5.142, Insurance Code, as added by  
15 this article, may renew business in an affiliated company as  
16 necessary to comply with this article. Business renewed in an  
17 affiliated company is not considered nonrenewed business of the  
18 company from which the business is transferred.

19       SECTION 1.04. (a) Articles 5.142 and 5.143, Insurance  
20 Code, as added by this article, expire September 1, 2004.

21       (b) The expiration of Articles 5.142 and 5.143, Insurance  
22 Code, as added by this article, does not affect an action or  
23 proceeding against an insurer subject to those laws for a failure to  
24 comply with those laws before their expiration, regardless of when  
25 the action or proceeding is commenced, and those laws are continued  
26 in effect for this purpose.

27                   ARTICLE 2. UNDERWRITING GUIDELINES AND REQUIREMENTS;



USE OF CREDIT SCORING

SECTION 2.01. Subchapter E, Chapter 21, Insurance Code, is amended by adding Article 21.49-2U to read as follows:

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

Sec. 1. DEFINITIONS. In this article:

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

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

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

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

(5) "Consumer reporting agency" means any person that, for monetary fees or dues or on a cooperative nonprofit basis, regularly engages in the practice of assembling or evaluating consumer credit information or other information on consumers for

1 the purpose of furnishing consumer reports to third parties.

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

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

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

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

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

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

22 (10) "Insurer" means an insurer authorized to write  
23 property and casualty insurance in this state, including an  
24 insurance company, reciprocal or interinsurance exchange, mutual  
25 insurance company, capital stock company, county mutual insurance  
26 company, association, Lloyd's plan, or other entity writing  
27 personal insurance in this state. The term includes an affiliate,

1 as described by this code, if that affiliate is authorized to write  
2 personal insurance in this state. The term does not include an  
3 eligible surplus lines insurer under this code.

4 (11) "Personal insurance" means:

5 (A) a personal automobile insurance policy;

6 (B) a residential property insurance policy;

7 (C) a residential fire and allied lines insurance  
8 policy; or

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

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

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

16 (1) use a credit score that is computed using factors  
17 that constitute unfair discrimination, as that term is used under  
18 Article 21.21-6 of this code, as added by Chapter 415, Acts of the  
19 74th Legislature, Regular Session, 1995;

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

24 (3) take an action that results in an adverse effect  
25 against a consumer because the consumer does not have a credit card  
26 account without consideration of any other applicable factor  
27 independent of credit information.

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

5           (1) has statistical, actuarial, or reasonable  
6 underwriting information that:

7                   (A) is reasonably related to actual or  
8 anticipated loss experience; and

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

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

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

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

20           (1) a credit inquiry that is not initiated by the  
21 consumer;

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

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

26       (b) Multiple lender inquiries made within 30 days of a prior  
27 inquiry, if coded by the consumer reporting agency on the

1 consumer's credit report as from the home mortgage industry, shall  
2 be considered by an insurer as only one inquiry.

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

7 Sec. 5. EFFECT OF EXTRAORDINARY EVENTS. (a)

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

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

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

25 (d) An insurer is not out of compliance with any law or rule  
26 relating to underwriting, rating, or rate filing as a result of  
27 granting an exception under this article.

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

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

- 16               (1) the last 12 months of coverage; or  
17               (2) the actual policy period.

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

19       (a) An insurer may use credit scoring to develop rates, rating  
20 classifications, or underwriting criteria regarding lines of  
21 insurance subject to this article except as prohibited by Article  
22 21.21-6 of this code, as added by Chapter 415, Acts of the 74th  
23 Legislature, Regular Session, 1995.

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

1 policy. The disclosure must be provided at the time of application  
2 by the insurer or agent and may be given in writing or  
3 electronically.

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

8 (d) Use of the following sample disclosure statement  
9 constitutes compliance with this section: "In connection with this  
10 application for insurance, we may review your credit report or  
11 obtain or use a credit score based on the information contained in  
12 that credit report. We may use a third party in connection with the  
13 development of your credit score."

14 Sec. 8. NOTICE OF ACTION RESULTING IN ADVERSE EFFECT. (a)  
15 If an insurer takes an action resulting in an adverse effect with  
16 respect to an applicant for insurance coverage or insured based in  
17 whole or in part on information contained in a credit report, the  
18 insurer shall provide to the applicant or insured within 30 days:

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

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

25 (3) written or electronic notice that the consumer  
26 reporting agency did not make the decision to take the action  
27 resulting in an adverse effect and will be unable to provide the

1 applicant or insured the specific reasons why the action was taken;  
2 and

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

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

8 (B) dispute with the consumer reporting agency  
9 the accuracy or completeness of any information in the consumer  
10 report furnished by the agency.

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

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

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

21 Sec. 9. MANDATED FILING WITH DEPARTMENT. (a) An insurer  
22 that uses credit scores to underwrite and rate risks shall file  
23 within 90 days of the effective date of this article the insurer's  
24 scoring models or other credit scoring processes with the  
25 department. Another entity may file credit scoring models on  
26 behalf of an insurer. A filing that includes credit scoring may  
27 include loss experience justifying the use of credit information.



1       (b) A filing relating to credit information is a trade  
2 secret and is confidential for purposes of Chapter 552, Government  
3 Code.

4       Sec. 10. INDEMNIFICATION. (a) An insurer shall indemnify,  
5 defend, and hold its agent harmless from and against all liability,  
6 fees, and costs that arise out of or relate to the actions, errors,  
7 or omissions of an agent who obtains or uses credit information or  
8 credit scores for the insurer if the agent follows the instructions  
9 of or procedures established by the insurer and complies with any  
10 applicable law or rule.

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

13       Sec. 11. SALE OF POLICY TERM INFORMATION BY CONSUMER  
14 REPORTING AGENCY PROHIBITED. (a) A consumer reporting agency may  
15 not provide or sell data or lists that include any information that,  
16 in whole or in part, was submitted in conjunction with an insurance  
17 inquiry about a consumer's credit information or a request for a  
18 credit report or credit score, including:

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

22           (2) the terms and conditions of the consumer's  
23 insurance coverage.

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

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

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

2           (3) that insurer's affiliates.

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

6           Sec. 12. RULES. The commissioner may adopt rules as  
7 necessary to implement this article.

8           Sec. 13. EFFECT OF VIOLATION. An insurer that violates this  
9 article or a rule adopted under this article commits an unfair  
10 practice in violation of Article 21.21 of this code and is subject  
11 to sanctions under Chapter 82 of this code.

12           Sec. 14. REPORT. (a) The commissioner shall submit a  
13 report to the governor, the lieutenant governor, the speaker of the  
14 house of representatives, and the members of the 79th Legislature  
15 on the information collected from the insurer filings required  
16 under this article and other information obtained by the department  
17 regarding the use of credit information by insurers. The report  
18 must be submitted before January 1, 2005.

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

20           (1) a summary statement regarding the use of credit  
21 information, credit reports, and credit scores by insurers,  
22 presented in a manner that protects the identity of individual  
23 insurers and consumers;

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

27           (3) the number of consumer complaints submitted to the

1 department regarding the use of credit information;

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

6 (5) any disproportionate impact on any class of  
7 individuals, including classes based on income, race, or ethnicity,  
8 resulting from the use of credit, to the extent that information is  
9 readily available;

10 (6) recommendations from the department to the  
11 legislature regarding the use of credit information by insurers;  
12 and

13 (7) any other information considered necessary by the  
14 commissioner.

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

16 Sec. 15. DUTIES OF DEPARTMENT. The department shall:

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

20 (2) post the report required under Section 14 of this  
21 article on the department's Internet website.

22 SECTION 2.02. Subchapter E, Chapter 21, Insurance Code, is  
23 amended by adding Article 21.49-2V to read as follows:

24 Art. 21.49-2V. REQUIREMENTS REGARDING UNDERWRITING  
25 GUIDELINES

26 Sec. 1. DEFINITIONS. In this article:

27 (1) "Insurer" means an insurer authorized to write

1 property and casualty insurance in this state, including an  
2 insurance company, reciprocal or interinsurance exchange, mutual  
3 insurance company, capital stock company, county mutual insurance  
4 company, association, and Lloyd's plan. The term includes an  
5 affiliate, as described by this code, if that affiliate is  
6 authorized to write insurance subject to this article in this  
7 state. The term does not include an agent licensed under Chapter 21  
8 of this code.

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

13 Sec. 2. APPLICATION. This article applies only to an  
14 insurer that writes:

- 15 (1) a personal automobile insurance policy;  
16 (2) a homeowners insurance policy;  
17 (3) a farm and ranch or farm and ranch owners insurance  
18 policy; or  
19 (4) a residential fire and allied lines insurance  
20 policy.

21 Sec. 3. SUBMISSION OF GUIDELINES BY INSURER. (a) Each  
22 insurer must submit to the commissioner and the office of public  
23 insurance counsel, in the form prescribed by the department, the  
24 insurer's underwriting guidelines. The information submitted  
25 under this subsection must be sufficient to permit the department  
26 to analyze the propriety of the use of the underwriting guidelines.

27 (b) Underwriting guidelines must be sound, actuarially

1 justified, or otherwise substantially commensurate with the  
2 contemplated risk. Underwriting guidelines may not be unfairly  
3 discriminatory. The commissioner may, however, authorize an  
4 insurer to use underwriting guidelines that are applicable to  
5 certain groups if the underwriting guidelines are based on criteria  
6 that do not discriminate based on race, sex, religion, ethnicity,  
7 or national origin.

8 (c) The office of public insurance counsel may file with the  
9 commissioner any objections of that office to the use of an  
10 underwriting guideline submitted under Subsection (a) of this  
11 section.

12 (d) Except as provided by Section 4(b) of this article, any  
13 change by an insurer in an underwriting guideline submitted under  
14 Subsection (a) of this section must be filed with the department not  
15 later than the 10th day after the date on which the insurer begins  
16 to use the changed guideline.

17 Sec. 4. EXAMINATION BY COMMISSIONER. (a) The commissioner  
18 may approve, reject, or choose not to approve or reject an  
19 underwriting guideline filed under Section 3(d) of this article.  
20 If the commissioner does not reject or chooses not to approve or  
21 reject an underwriting guideline filed under Section 3(d) of this  
22 article, the insurer may use the filed underwriting guideline.

23 (b) An insurer that proposes a change in an underwriting  
24 guideline that will result in the re-underwriting and nonrenewal of  
25 more than 10 percent of the insurer's policyholders must file the  
26 proposed change with the department. The insurer may use the filed  
27 underwriting guideline beginning on the 11th day after the date the

1 insurer files the guideline if the commissioner does not reject the  
2 guideline on or before the 10th day after the date the insurer files  
3 the guideline.

4 Sec. 5. ISSUANCE AND RENEWAL CONDITION. Except as  
5 otherwise provided by law, an insurer may require that membership  
6 dues in its sponsoring organization be paid as a condition for  
7 issuance or renewal of a policy.

8 Sec. 6. CONFIDENTIALITY. (a) An insurer that provides  
9 information to the commissioner or the office of public insurance  
10 counsel under Section 3 or 4 of this article may request the office  
11 of the attorney general to classify the information as proprietary  
12 information confidential under Section 552.110, Government Code.

13 (b) Unless the office of the attorney general makes a  
14 determination under Subsection (a) of this section that the  
15 information is confidential proprietary information, the  
16 information is public information.

17 SECTION 2.03. Section 38.002, Insurance Code, is amended by  
18 adding Subsection (g) to read as follows:

19 (g) In this section, "insurer" includes a reciprocal or  
20 interinsurance exchange, a county mutual insurance company, and a  
21 Lloyd's plan.

22 SECTION 2.04. Articles 21.49-2U and 21.49-2V, Insurance  
23 Code, as added by this article, apply only to an insurance policy  
24 delivered, issued for delivery, or renewed on or after the  
25 effective date of this Act. A policy delivered, issued for  
26 delivery, or renewed before that date is governed by the law as it  
27 existed immediately before the effective date of this Act, and that

1 law is continued in effect for that purpose.

2 ARTICLE 3. COMMERCIAL AUTOMOBILE INSURANCE

3 SECTION 3.01. Article 5.13, Insurance Code, is amended to  
4 read as follows:

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

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

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

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

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

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



1 SECTION 3.02. The heading to Article 5.13-2, Insurance  
2 Code, is amended to read as follows:

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

5 SECTION 3.03. Sections 1 and 2, Article 5.13-2, Insurance  
6 Code, are amended to read as follows:

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

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

17 (2) promote availability of insurance;

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

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

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

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

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

7           SECTION 3.04. Section 3(2), Article 5.13-2, Insurance Code,  
8 is amended to read as follows:

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

17           SECTION 3.05. Article 5.13-2, Insurance Code, is amended by  
18 adding Section 11 to read as follows:

19           Sec. 11. APPLICATION TO CERTAIN INSURERS. (a)  
20 Notwithstanding Article 5.13 of this code, any other provision of  
21 this article, or any other provision of this code, an insurer that  
22 becomes authorized to write personal automobile insurance or  
23 residential property insurance in this state on or after the  
24 effective date of S.B. 14, Acts of the 78th Legislature, Regular  
25 Session, 2003, including a reciprocal or interinsurance exchange,  
26 mutual insurance company, capital stock company, county mutual  
27 insurance company, and a Lloyd's plan, is subject to Sections 4, 5,

1 6, and 7 of this article in relation to rates for personal  
2 automobile insurance or residential property insurance.

3 (b) This section expires September 1, 2004.

4 SECTION 3.06. This article expires September 1, 2004.

5 SECTION 3.07. Article 5.13-2, Insurance Code, is amended by  
6 adding Section 12 to read as follows:

7 Sec. 12. RESIDENTIAL PROPERTY INSURANCE. (a)

8 Notwithstanding any other provision of this article, Article 5.13  
9 of this code, or Subchapter Q of this chapter, rates for residential  
10 property insurance are determined under this article in accordance  
11 with this section. This section applies to any insurer subject to  
12 Article 5.142 of this code. This section applies only to rates for  
13 residential property insurance.

14 (b) Not later than the fifth day after the effective date of  
15 S.B. 14, Acts of the 78th Legislature, Regular Session, 2003, the  
16 commissioner shall adopt rating criteria for the review of initial  
17 rate filings made under this article. The rating criteria must be  
18 those the commissioner shall use to determine if a filed rate  
19 complies with the rate standards described by this article.

20 (c) The rating criteria adopted under this section shall be  
21 posted on the Internet and distributed by bulletin.

22 (d) The commissioner may use the procedures for adopting an  
23 emergency rule under Chapter 2001, Government Code, to adopt rating  
24 criteria under this section and may modify those procedures as  
25 necessary to adopt rating criteria within the time established by  
26 Subsection (b) of this section.

27 (e) Not later than the 20th day after the rating criteria

1 are published under Subsection (c) of this section, each insurer  
2 authorized to write residential property insurance in this state  
3 shall file with the commissioner the insurer's rates, supporting  
4 information, and supplementary rating information and any other  
5 information required by the commissioner by rule. The insurer may  
6 reference a rate filed by the insurer in accordance with S.B. 310,  
7 Acts of the 78th Legislature, Regular Session, 2003, or otherwise  
8 previously filed, if that information is updated and supplemented  
9 as necessary to comply with this subsection.

10 (f) Except as otherwise provided by Subsections (g) and (h)  
11 of this section, the rate filed by an insurer under this section  
12 shall take effect on the 10th day after the date the commissioner  
13 receives the insurer's filing required under Subsection (e) of this  
14 section.

15 (g) An insurer may decrease a rate in accordance with this  
16 article or file a request with the commissioner to increase the  
17 insurer's rate that is in effect. The commissioner may approve the  
18 rate increase if the commissioner finds that the rate in effect is  
19 inadequate or confiscatory.

20 (h) Not later than the 120th day after the date an insurer  
21 files its rates under this article, the department shall review the  
22 rate filing to ensure compliance with this article. The  
23 commissioner by order may disapprove or further reduce an insurer's  
24 rate filed under Subsection (e) of this section if the commissioner  
25 finds that the insurer's rate is excessive. An insurer is not  
26 entitled to a hearing prior to the issuance of an order by the  
27 commissioner under this subsection.

1       (i) After receiving notice of the commissioner's  
2 disapproval of the rate filed by the insurer, the insurer, not later  
3 than the 10th day after the date a disapproval order is issued under  
4 Subsection (h) of this section, may request a rate hearing to be  
5 conducted by the State Office of Administrative Hearings in  
6 accordance with Chapter 40 of this code. To prevail in a hearing  
7 conducted under this subsection, an insurer must establish that a  
8 reduced rate would be inadequate or confiscatory.

9       (j) After completion of the rate hearing under Subsection  
10 (i) of this section, the administrative law judge shall prepare a  
11 proposal for decision under Section 40.058 of this code and remand  
12 the case to the commissioner recommending:

13             (1) that the commissioner affirm the commissioner's  
14 order;

15             (2) additional review of the order by the  
16 commissioner, that the parties enter into negotiations, or that the  
17 commissioner take other appropriate action with respect to the  
18 order;

19             (3) adoption of a temporary rate pending further  
20 review; or

21             (4) adoption of the rate filed by the insurer.

22       (k) An insurer may appeal a decision made under Subsection  
23 (j) of this section to the Travis County district court, or the  
24 insurer may request a binding arbitration to be conducted by  
25 arbitrators selected in the manner described by Subsection (l) of  
26 this section.

27       (l) Binding arbitration conducted under Subsection (k) of

1 this section must be conducted by three arbitrators, one selected  
2 by the department, one selected by the insurer, and one agreed on by  
3 the arbitrators chosen by the department and the insurer. The three  
4 arbitrators shall reach a decision by considering a rate proposed  
5 by the insurer and a rate proposed by the department. The rate  
6 proposed by the department or by the insurer on which two of the  
7 three arbitrators agree shall be the insurer's effective rate.

8 (m) During the time a hearing or an appeal is pending under  
9 this section, an insurer may use its rate in effect or a rate  
10 approved by the commissioner. After a final determination is made  
11 under Subsection (i), (k), or (l) of this section, if the insurer is  
12 ordered to reduce its rate in effect to comply with the rating  
13 determination, the commissioner may order a refund to a  
14 policyholder as provided by Subsection (n) of this section.

15 (n) The commissioner's order under Subsection (m) of this  
16 section may require the insurer to reduce the insurer's rates to  
17 comply with the rate standards under this article and to make a  
18 refund to policyholders in an amount equal to the excess of premiums  
19 paid under the insurer's invalidated rates, plus interest as  
20 provided by this subsection. The interest on the refund amount  
21 begins to accrue on the first day a policyholder pays an excess  
22 premium and ceases to accrue on the date the insurer issues the  
23 refund under this subsection. The commissioner shall declare a  
24 rate found to be excessive under this section by 3.5 percent or less  
25 to be de minimus. An insurer is not required to directly refund an  
26 overcharge of less than 3.5 percent to the policyholder if the  
27 insurer agrees to reduce future rates by the amount of the

1 overcharge plus the prime rate of interest, as determined by the  
2 commissioner, plus one percent.

3 (o) An insurer has the burden of proof in any hearing or  
4 appeal under this section.

5 (p) An insurer requesting binding arbitration under  
6 Subsection (k) of this section shall pay the entire cost of the  
7 binding arbitration.

8 (q) This section expires September 1, 2004.

9 SECTION 3.08. The expiration of Section 12, Article 5.13-2,  
10 Insurance Code, as added by this article, does not affect a hearing  
11 or proceeding conducted under Section 12, Article 5.13-2, in  
12 connection with an action taken under that law before its  
13 expiration regardless of when the hearing or proceeding was  
14 commenced, and that law is continued in effect for this purpose.

15 SECTION 3.09. Article 5.13-2, Insurance Code, is amended by  
16 adding Section 13 to read as follows:

17 Sec. 13. STANDARD RATE INDEX FOR PERSONAL AUTOMOBILE  
18 INSURANCE; EXEMPTION. (a) Notwithstanding Article 5.142 of this  
19 code or any other provision of this article, this article governs  
20 rate regulation of personal automobile insurance issued by a county  
21 mutual insurance company as prescribed by this section.

22 (b) Using standard and generally accepted actuarial  
23 techniques, the commissioner shall annually compute and publish a  
24 statewide standard rate index that accurately reflects the average  
25 statewide rates for classifications for each of the following  
26 coverages for personal automobile insurance policies:

27 (1) bodily injury liability;

- 1           (2) property damage liability;
- 2           (3) personal injury protection;
- 3           (4) medical payments;
- 4           (5) uninsured and underinsured motorists;
- 5           (6) physical damage--collision; and
- 6           (7) physical damage--other than collision.

7           (c) The commissioner shall compute the rate index using the  
 8 benchmark rate in effect for personal automobile insurance under  
 9 Article 5.101 of this code on the effective date of S.B. 14, Acts of  
 10 the 78th Legislature, Regular Session, 2003, and adjusted annually  
 11 thereafter by the commissioner to reflect average changes in claims  
 12 costs in the personal automobile insurance market in this state.

13           (d) The commissioner may compute and establish standard  
 14 rate indexes other than the rate index required under Subsection  
 15 (b) of this section for any of the personal automobile insurance  
 16 coverages listed under that subsection as necessary to implement  
 17 this section.

18           (e) For purposes of this section, "nonstandard rates" means  
 19 rates that are 130 percent or more than the standard rate index as  
 20 determined by the commissioner under this section.

21           (f) A county mutual insurance company that issues personal  
 22 automobile insurance policies at nonstandard rates is not subject to  
 23 the filing requirements of this article or Article 5.142 of this  
 24 code if the insurer and the insurer's affiliated companies or group  
 25 have a market share of less than 3.5 percent.

26           (g) A county mutual insurance company described by  
 27 Subsection (f) of this section that increases its aggregate rates



1 by 10 percent or more in a 12-month period must file its rates in  
2 accordance with this article.

3 (h) The commissioner by rule may designate other types of  
4 insurers that historically and as of the effective date of S.B. 14,  
5 Acts of the 78th Legislature, Regular Session, 2003, have served or  
6 are serving the high-risk, nonstandard market. An insurer  
7 designated by the commissioner as having served or serving the  
8 nonstandard market is governed by this section.

9 SECTION 3.10. 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 3.11. Article 5.13-2, Insurance Code, is amended by  
16 adding Section 15 to read as follows:

17 Sec. 15. NOTICE OF PREMIUM CHARGES. (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       ARTICLE 4. RATE REGULATION EFFECTIVE SEPTEMBER 1, 2004

15       SECTION 4.01. Article 5.13, Insurance Code, is amended to  
16 read as follows:

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

1 and commercial automobile insurance and residential and commercial  
2 property insurance [~~Code~~].

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

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

1 insurance, except insurance against loss from injury to person or  
2 property which results accidentally from steam boilers, heaters or  
3 pressure vessels, electrical devices, engines and all machinery and  
4 appliances used in connection therewith or operation thereby.

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

9 (e) The regulatory power herein conferred is vested in the  
10 commissioner [~~Board of Insurance Commissioners of the State of~~  
11 ~~Texas. Within the Board, the Casualty Insurance Commissioner shall~~  
12 ~~have primary supervision of regulation herein provided, subject~~  
13 ~~however to the final authority of the entire Board~~].

14 SECTION 4.02. The heading to Article 5.13-2, Insurance  
15 Code, is amended to read as follows:

16 Art. 5.13-2. RATES FOR GENERAL LIABILITY, PERSONAL AND  
17 COMMERCIAL AUTOMOBILE, COMMERCIAL INLAND MARINE, AND RESIDENTIAL  
18 AND COMMERCIAL PROPERTY INSURANCE COVERAGE

19 SECTION 4.03. Sections 1 and 2, Article 5.13-2, Insurance  
20 Code, are amended to read as follows:

21 Sec. 1. PURPOSE. This article governs the regulation of  
22 general liability, personal and commercial automobile, commercial  
23 inland marine, residential and commercial property, which shall  
24 include farm and ranch owners and farm and ranch policies, all  
25 commercial casualty, and medical professional liability insurance  
26 rates and forms. It does not govern [~~automobile,~~] fidelity,  
27 surety, or guaranty bonds. The purposes of this article are to:

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

4           (2) promote availability of insurance;

5           (3) promote price competition among insurers to  
6 provide rates and premiums that are responsive to competitive  
7 market conditions;

8           (4) prohibit price-fixing agreements and other  
9 anticompetitive behavior by insurers;

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

13          (6) provide regulatory procedures for the maintenance  
14 of appropriate information reporting systems.

15          Sec. 2. SCOPE. This article applies to all lines of general  
16 liability, personal and commercial automobile, commercial inland  
17 marine, residential and commercial property, all commercial  
18 casualty, and medical professional liability insurance written  
19 under policies or contracts of insurance issued by a licensed  
20 insurer, other than a fidelity, surety, or guaranty bond [~~or an~~  
21 ~~automobile insurance policy~~].

22          SECTION 4.04. Section 3(2), Article 5.13-2, Insurance Code,  
23 is amended to read as follows:

24          (2) "Insurer" means an insurer to which Article 5.13  
25 of this code applies, but does not include the Texas Windstorm  
26 Insurance Association or the Texas FAIR Plan Association. However,  
27 the provisions of Sections 4, 5, 6, and 7 of this article shall not

1 apply to Lloyd's plans or reciprocals with respect to commercial  
2 property insurance. The provisions of Sections 4, 5, 6, and 7 of  
3 this article shall apply to Lloyd's plans, reciprocal and  
4 interinsurance exchanges, and county mutual insurance companies  
5 with respect to personal and commercial automobile insurance and  
6 residential property insurance.

7 SECTION 4.05. Section 5(a), Article 5.13-2, Insurance Code,  
8 is amended to read as follows:

9 (a) Each insurer shall file with the commissioner all rates,  
10 supplementary rating information, and reasonable and pertinent  
11 supporting information for risks written in this state. For an  
12 insurer with less than five percent of the market, the commissioner  
13 shall consider insurer and market-specific attributes, as  
14 applicable, and shall promulgate filing requirements accordingly  
15 to accommodate premium volume and loss experience, targeted  
16 markets, limitations on coverage, and any potential barriers to  
17 market entry or growth.

18 SECTION 4.06. This article takes effect September 1, 2004.

19 ARTICLE 5. POLICY FORMS AND ENDORSEMENTS

20 SECTION 5.01. Chapter 5, Insurance Code, is amended by  
21 adding Subchapter R to read as follows:

22 SUBCHAPTER R. POLICY FORMS FOR CERTAIN LINES

23 Art. 5.145. POLICY FORMS FOR PERSONAL AUTOMOBILE INSURANCE  
24 COVERAGE AND RESIDENTIAL PROPERTY INSURANCE COVERAGE

25 Sec. 1. DEFINITIONS. In this article:

26 (1) "Insurer" means an insurance company, reciprocal  
27 or interinsurance exchange, mutual insurance company, capital

1 stock company, county mutual insurance company, Lloyd's plan, or  
2 other legal entity authorized to write personal automobile  
3 insurance or residential property insurance in this state. The  
4 term includes an affiliate, as described by this code, if that  
5 affiliate is authorized to write and is writing personal automobile  
6 insurance or residential property insurance in this state. The  
7 term does not include:

8 (A) the Texas Windstorm Insurance Association  
9 under Article 21.49 of this code;

10 (B) the FAIR Plan Association under Article  
11 21.49A of this code; or

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

14 (2) "Personal automobile insurance" means motor  
15 vehicle insurance coverage for the ownership, maintenance, or use  
16 of a private passenger, utility, or miscellaneous type motor  
17 vehicle, including a motor home, trailer, or recreational vehicle,  
18 that is:

19 (A) owned or leased by an individual or  
20 individuals; and

21 (B) not primarily used for the delivery of goods,  
22 materials, or services, other than for use in farm or ranch  
23 operations.

24 (3) "Residential property insurance" means insurance  
25 coverage against loss to residential real property at a fixed  
26 location, or tangible personal property, that is provided in a  
27 homeowners policy, including a tenants policy, a condominium owners

1 policy, or a residential fire and allied lines policy.

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

3 Notwithstanding any other provision in this code, an insurer is  
4 governed by the provisions of Section 8, Article 5.13-2, of this  
5 code relating to policy forms and endorsements for personal  
6 automobile insurance and residential property insurance.

7 ARTICLE 6. WITHDRAWAL REQUIREMENTS

8 SECTION 6.01. (a) Effective June 1, 2003, Section 827.001,  
9 Insurance Code, is amended to read as follows:

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

11 (1) "Affiliate" has the meaning described by Section  
12 823.003.

13 (2) "Insurer" means an insurance company or other  
14 legal entity authorized to engage in the business of insurance in  
15 this state, including a reciprocal or interinsurance exchange, a  
16 Lloyd's plan, and a county mutual insurance company. The term  
17 includes an affiliate. The term does not include an eligible  
18 surplus lines insurer regulated under Chapter 981.

19 (3) "Rating [~~rating~~] territory" means a rating  
20 territory established by the department.

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

24 (4) "Affiliate" has the meaning described by Section  
25 2, Article 21.49-1, of this code. This subdivision expires June 1,  
26 2003.

27 (5) "Insurer" means an insurance company or other



1 legal entity authorized to engage in the business of insurance in  
2 this state, including a reciprocal or interinsurance exchange, a  
3 Lloyd's plan, and a county mutual insurance company. The term  
4 includes an affiliate. The term does not include an eligible  
5 surplus lines insurer regulated under Article 1.14-2 of this code.  
6 This subdivision expires June 1, 2003.

7 SECTION 6.02. (a) Effective June 1, 2003, Section 827.002,  
8 Insurance Code, is amended to read as follows:

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

- 11 (1) is under common ownership with the insurer; ~~and~~  
12 (2) is authorized to engage in the business of  
13 insurance in this state; and  
14 (3) is subject to, and has not been exempted from, rate  
15 regulation under Article 5.142 or on and after September 1, 2004, is  
16 subject to rate regulation under Article 5.13-2.

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

19 (b) This article does not apply to the transfer of the  
20 business from an insurer to a company that is under common  
21 ownership, is admitted to do business in this state, and is subject  
22 to, and has not been exempted from, rate regulation under Article  
23 5.142 of this code. This subsection expires June 1, 2003.

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

26 Sec. 827.003. WITHDRAWAL PLAN REQUIRED. An ~~authorized~~  
27 insurer shall file with the commissioner a plan for orderly

1 withdrawal if the insurer proposes to:

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

5 (2) reduce, in a rating territory, the insurer's total  
6 annual premium volume in a personal line of motor vehicle  
7 comprehensive or residential property insurance by 50 percent or  
8 more.

9 (b) Until June 1, 2003, Subsection (a)(1), Article  
10 21.49-2C, Insurance Code, is amended to read as follows:

11 (1) This subdivision expires June 1, 2003. An  
12 [~~authorized~~] insurer shall file with the commissioner a plan for  
13 orderly withdrawal if the insurer proposes to withdraw from writing  
14 a line of insurance in this state or to reduce its total annual  
15 premium volume by 75 percent or more or proposes, in a personal line  
16 of motor vehicle comprehensive or residential property insurance,  
17 to reduce its total annual premium volume in a rating territory by  
18 50 percent or more. The insurer's plan shall be constructed to  
19 protect the interests of the people of this state and shall indicate  
20 the date it intends to begin and complete its withdrawal plan and  
21 must contain provisions for:

22 (A) meeting the insurer's contractual  
23 obligations;

24 (B) providing service to its Texas policyholders  
25 and claimants; and

26 (C) meeting any applicable statutory  
27 obligations, such as the payment of assessments to the guaranty

1 fund and participation in any assigned risk plans or joint  
2 underwriting arrangements.

3 SECTION 6.04. (a) Effective June 1, 2003, Section  
4 827.010(d), Insurance Code, is amended to read as follows:

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

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

15 (g) The commissioner may impose a moratorium of up to two  
16 years on the approval of plans for withdrawal or implementation of  
17 plans to restrict the writing of new business pursuant to  
18 Subsection (a)(2) of this section, including those such plans  
19 implemented subsequent to the commissioner's publishing of notice  
20 of intention to impose a moratorium regarding the catastrophic  
21 event related to such plans, and may renew the moratorium annually.  
22 To impose or renew a moratorium, the commissioner must find after  
23 notice and public hearing that a catastrophic event has occurred  
24 and that as a result of the event, the relevant line of insurance is  
25 not reasonably expected to be available to a substantial number of  
26 policyholders or potential policyholders in this state, or in the  
27 case of [~~personal~~] lines of personal automobile [~~motor vehicle~~

1 ~~comprehensive]~~ or residential property insurance, in a rating  
2 territory. Such notice and hearing shall be governed by provisions  
3 of Chapter 2001, Government Code, related to contested cases and by  
4 Chapter 40 of this code [~~of Subsection (b), Article 1.33B,~~  
5 ~~Insurance Code~~]. The commissioner shall, by rule, establish  
6 reasonable criteria for applying the above set forth standards for  
7 determining whether to impose a moratorium. The commissioner may  
8 limit a moratorium on withdrawal from or reduction in personal  
9 lines insurance to certain geographical areas of this state.

10 ARTICLE 7. INSURANCE DISCRIMINATION

11 SECTION 7.01. Article 21.21-6, Insurance Code, as added by  
12 Chapter 415, Acts of the 74th Legislature, Regular Session, 1995,  
13 is amended by adding Section 6 to read as follows:

14 Sec. 6. CRIMINAL PENALTY. (a) In this section, "person"  
15 means a legal entity described in Section (2)(a), (b), (e), (f), or  
16 (j) of this article or its officers or directors.

17 (b) A person commits an offense if the person, with criminal  
18 negligence:

19 (1) offers insurance coverage at a premium based on a  
20 rate that is, because of race, color, religion, ethnicity, or  
21 national origin, different from another premium rate offered or  
22 used by the person for the same coverage and the same risk; or

23 (2) collects an insurance premium based on a rate that  
24 is, because of race, color, religion, ethnicity, or national  
25 origin, different from another premium rate offered or used by the  
26 person for the same coverage and the same risk.

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

ARTICLE 8. REVENUE BOND PROGRAM

PART A. FAIR PLAN ASSOCIATION

SECTION 8.01. Subchapter E, Chapter 21, Insurance Code, is amended by adding Article 21.49A-1 to read as follows:

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

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

Sec. 2. DEFINITIONS. In this article:

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

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

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

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

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

Sec. 3. PUBLIC SECURITIES AUTHORIZED; APPLICATION OF TEXAS PUBLIC FINANCE AUTHORITY ACT. (a) At the request of the

1 association, the Texas Public Finance Authority shall issue public  
2 securities to:

3 (1) fund the association, including:

4 (A) to establish and maintain reserves to pay  
5 claims;

6 (B) to pay operating expenses; and

7 (C) to purchase reinsurance;

8 (2) pay costs related to issuance of the public  
9 securities; and

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

12 (b) To the extent not inconsistent with this article,  
13 Chapter 1232, Government Code, applies to public securities issued  
14 under this article. In the event of a conflict, this article  
15 controls.

16 Sec. 4. APPLICABILITY OF OTHER STATUTES. The following  
17 laws apply to public securities issued under this article to the  
18 extent consistent with this article:

19 (1) Chapters 1201, 1202, 1204, 1205, 1231, and 1371,  
20 Government Code; and

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

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

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

27 (b) Public securities may mature not more than 10 years

1 after the date issued.

2 (c) Public securities must be issued in the name of the  
3 association.

4 Sec. 7. ADDITIONAL COVENANTS. In a public security  
5 resolution, the board may make additional covenants with respect to  
6 the public securities and the designated income and receipts of the  
7 association pledged to their payment, and may provide for the flow  
8 of funds and the establishment, maintenance, and investment of  
9 funds and accounts with respect to the public securities.

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

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

15 Sec. 9. SECURITY. (a) Public securities are payable only  
16 from the service fee established under Section 10 of this article or  
17 other amounts that the association is authorized to levy, charge,  
18 and collect.

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

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

26 (d) Each public security issued under this article must  
27 state on its face that the public security is payable solely from

1 the revenues pledged for that purpose and that the public security  
2 does not and may not constitute a legal or moral obligation of the  
3 state.

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

6 (1) each insurer; and

7 (2) the association.

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

12 (c) The comptroller shall collect the service fee and the  
13 department shall reimburse the comptroller in the manner described  
14 by Article 4.19 of this code.

15 (d) The commissioner, in consultation with the comptroller,  
16 may coordinate payment and collection of the service fee with other  
17 payments made by insurers and collected by the comptroller.

18 (e) As a condition of engaging in the business of insurance  
19 in this state, an insurer agrees that if the company leaves the  
20 property insurance market in this state the insurer remains  
21 obligated to pay, until the public securities are retired, the  
22 insurer's share of the service fee assessed under this section in an  
23 amount proportionate to that insurer's share of the property  
24 insurance market, including residential property insurance, in  
25 this state as of the last complete reporting period before the date  
26 on which the insurer ceases to engage in that insurance business in  
27 this state. The proportion assessed against the insurer shall be



1 based on the insurer's gross premiums for property insurance,  
2 including residential property insurance, for the insurer's last  
3 reporting period.

4 Sec. 11. TAX EXEMPT. The public securities issued under  
5 this article, any interest from those public securities, and all  
6 assets pledged to secure the payment of the public securities are  
7 free from taxation by the state or a political subdivision of this  
8 state.

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

13 Sec. 13. STATE PLEDGE. The state pledges to and agrees with  
14 the owners of any public securities issued in accordance with this  
15 article that the state will not limit or alter the rights vested in  
16 the association to fulfill the terms of any agreements made with the  
17 owners of the public securities or in any way impair the rights and  
18 remedies of those owners until the public securities, bond premium,  
19 if any, or interest, and all costs and expenses in connection with  
20 any action or proceeding by or on behalf of those owners, are fully  
21 met and discharged. The association may include this pledge and  
22 agreement of the state in any agreement with the owners of the  
23 public securities.

24 Sec. 14. ENFORCEMENT BY MANDAMUS. A writ of mandamus and  
25 all other legal and equitable remedies are available to any party at  
26 interest to require the association and any other party to carry out  
27 agreements and to perform functions and duties under this article,

1 the Texas Constitution, or a public security resolution.

2 SECTION 8.02. Section 3(e), Article 21.49A, Insurance Code,  
3 is amended to read as follows:

4 (e) The plan of operation shall provide:

5 (1) for establishment of a FAIR Plan Association for  
6 the issuing of residential property insurance pursuant to this Act  
7 and the distribution of the losses and the expenses in the writing  
8 of such insurance in this state;

9 (2) that all insurers licensed to write property  
10 insurance and writing residential property insurance shall  
11 participate in the writings, expenses, [~~profits,~~] and losses of the  
12 association, in the proportion that the net direct premiums, of  
13 each participating insurer, written in this state during the  
14 preceding calendar year, bear to the aggregate net direct premium  
15 written in this state by all participating insurers; such  
16 information shall be determined in accordance with the residential  
17 property statistical plan adopted by the commissioner;

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

23 (4) for the immediate binding of eligible risks; for  
24 the use of premium installment payment plans, adequate marketing,  
25 and service facilities; and for the establishment of reasonable  
26 service standards;

27 (5) procedures for efficient, economical, fair, and

1 nondiscriminatory administration of the FAIR Plan Association;

2 (6) procedures for determining the net level of  
3 participation required for each insurer in the FAIR Plan  
4 Association;

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

10 (8) that the association issue policies in its own  
11 name;

12 (9) reasonable underwriting standards for determining  
13 insurability of the risk;

14 (10) procedures for the assumption and ceding of  
15 reinsurance by the association; and

16 (11) any other procedures or operational matters  
17 deemed necessary by the governing committee or the commissioner.

18 SECTION 8.03. Section 5(d), Article 21.49A, Insurance Code,  
19 is amended to read as follows:

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

24 SECTION 8.04. Section 11, Article 21.49A, Insurance Code,  
25 is amended to read as follows:

26 Sec. 11. ASSESSMENTS AND PREMIUM SURCHARGES. Should a  
27 deficit occur in the association, the association, at the direction

1 of the commissioner, shall either request the issuance of public  
2 securities as authorized by Article 21.49A-1 of this code or assess  
3 participating insurers in accordance with this section. Each [~~and~~  
4 ~~each~~] insurer may charge a premium surcharge on every property  
5 insurance policy issued by it insuring property in this state, the  
6 effective date of which policy is within the three-year period  
7 commencing 90 days after the date of assessment by the association  
8 under this section. The amount of the surcharge shall be calculated  
9 on the basis of a uniform percentage of the premium on such policies  
10 equal to one-third of the ratio of the amount of an insurer's  
11 assessment to the amount of its direct earned premiums as reported  
12 in its financial statement to the department for the calendar year  
13 immediately preceding the year in which the assessment is made,  
14 such that over the period of three years the aggregate of all such  
15 surcharges by an insurer shall be equal to the amount of the  
16 assessment of such insurer. The minimum surcharges on a policy may  
17 be \$1; all surcharges may be rounded to the nearest dollar.

18 SECTION 8.05. Article 21.49A, Insurance Code, is amended by  
19 adding Section 15 to read as follows:

20 Sec. 15. RETENTION OF PROFITS. The association shall retain  
21 any profits of the association to be used for the purposes of the  
22 association. The profits of the association may not be distributed  
23 to insurers.

24 PART B. TRANSITION

25 SECTION 8.06. The changes in law made by this article to  
26 Article 21.49A, Insurance Code, apply only to the profits earned by  
27 the FAIR Plan Association in accordance with Article 21.49A on or

1 after the effective date of this Act.

2 ARTICLE 9. CONFORMING AMENDMENTS; REPEALER

3 SECTION 9.01. Article 5.01(f), Insurance Code, is amended  
4 to read as follows:

5 (f) Notwithstanding Subsections (a) through (d) of this  
6 article, on and after the effective date of S.B. 14, Acts of the  
7 78th Legislature, Regular Session, 2003 [March 1, 1992], rates for  
8 personal automobile insurance in this state are determined as  
9 provided by Subchapter Q of this chapter, and rates for commercial  
10 motor vehicle insurance in this state are determined as provided by  
11 Article 5.13-2 [the flexible rating program adopted under  
12 Subchapter M] of this code [chapter]. On and after September 1,  
13 2004, rates for personal automobile insurance in this state are  
14 determined as provided by Article 5.13-2 of this code.

15 SECTION 9.02. Section 4, Article 5.01C, Insurance Code, is  
16 amended to read as follows:

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

22 SECTION 9.03. Article 5.01-2(b), Insurance Code, is amended  
23 to read as follows:

24 (b) On and after the effective date of S.B. 14, Acts of the  
25 78th Legislature, Regular Session, 2003 [March 1, 1992], rates for  
26 personal automobile [motor vehicle] insurance written by a Lloyd's  
27 plan insurer or a reciprocal or interinsurance exchange are

1 determined as provided by [~~the flexible rating program adopted~~  
2 ~~under~~] Subchapter Q [~~M~~] of this chapter. This subsection expires  
3 June 1, 2003.

4 SECTION 9.04. Section 4, Article 5.01-4, Insurance Code, is  
5 amended to read as follows:

6 Sec. 4. APPLICABILITY OF CERTAIN LAWS. (a) In reporting  
7 incurred losses and earned premiums as required under this  
8 subchapter or [~~7~~] Subchapter Q [~~M~~] of this chapter, or on and after  
9 September 1, 2004, under Article 5.13-2 [~~or Chapter 17~~] of this  
10 code, an insurer shall separately report experience based on use of  
11 the mile-based rating plan and the time-based rating plan.

12 (b) The classifications used by an insurer for motor  
13 vehicles insured under the mile-based rating plan are exempt from  
14 the provisions of this subchapter other than this article, [~~and~~]  
15 Subchapter Q [~~M~~] of this chapter, and on and after September 1,  
16 2004, Article 5.13-2 of this code.

17 SECTION 9.05. Article 5.03(g), Insurance Code, is amended  
18 to read as follows:

19 (g) Notwithstanding Sections (a) through (e) of this  
20 article, on and after the effective date of S.B. 14, Acts of the  
21 78th Legislature, Regular Session, 2003 [~~March 1, 1992~~], rates for  
22 personal automobile insurance in this state are determined as  
23 provided by Subchapter Q of this chapter, and rates for commercial  
24 motor vehicle insurance in this state [~~vehicles~~] are determined as  
25 provided by Article 5.13-2 [~~Subchapter M~~] of this code [~~chapter~~].  
26 On and after September 1, 2004, rates for personal automobile  
27 insurance in this state are determined as provided by Article

1 5.13-2 of this code.

2 SECTION 9.06. Article 5.04(c), Insurance Code, is amended  
3 to read as follows:

4 (c) Notwithstanding Subsections (a) and (b) of this  
5 article, on and after the effective date of S.B. 14, Acts of the  
6 78th Legislature, Regular Session, 2003 [March 1, 1992], rates for  
7 personal automobile insurance in this state are determined as  
8 provided by Subchapter Q of this chapter, and rates for commercial  
9 motor vehicle insurance in this state [vehicles] are determined as  
10 provided by Article 5.13-2 [Subchapter M] of this code [chapter].  
11 On and after September 1, 2004, rates for personal automobile  
12 insurance in this state are determined as provided by Article  
13 5.13-2 of this code.

14 SECTION 9.07. Article 5.06, Insurance Code, is amended by  
15 adding Subsection (12) to read as follows:

16 (12)(a) Notwithstanding Subsections (1)-(10) of this  
17 article, policy forms and endorsements for personal automobile  
18 insurance in this state are regulated under Article 5.13-2 of this  
19 code.

20 (b) An insurer may continue to use the policy forms and  
21 endorsements promulgated, approved, or adopted by the commissioner  
22 under this article before the effective date of S.B. 14, Acts of the  
23 78th Legislature, Regular Session, 2003, on notification in writing  
24 to the commissioner that the insurer will continue to use the policy  
25 forms and endorsements promulgated, approved, or adopted by the  
26 commissioner under this article.

27 SECTION 9.08. Subsection (2), Article 5.06-1, Insurance

1 Code, is amended to read as follows:

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

8 (b) The term "underinsured motor vehicle" means an  
9 insured motor vehicle on which there is valid and collectible  
10 liability insurance coverage with limits of liability for the owner  
11 or operator which were originally lower than, or have been reduced  
12 by payment of claims arising from the same accident to, an amount  
13 less than the limit of liability stated in the underinsured  
14 coverage of the insured's policy.

15 (c) The commissioner [~~Board~~] may, in the policy forms  
16 adopted under Article 5.06 of this code, define "uninsured motor  
17 vehicle" to exclude certain motor vehicles whose operators are in  
18 fact uninsured. The commissioner may in the policy forms filed  
19 under Article 5.145 of this code allow the term "uninsured motor  
20 vehicle" to be defined to exclude certain motor vehicles whose  
21 operators are in fact uninsured.

22 (d) The portion of a policy form adopted under Article  
23 5.06 of this code or filed under Article 5.145 of this code to  
24 provide coverage under this article shall include provisions that,  
25 regardless of the number of persons insured, policies or bonds  
26 applicable, vehicles involved, or claims made, the total aggregate  
27 limit of liability to any one person who sustains bodily injury or



1 property damage as the result of any one occurrence shall not exceed  
2 the limit of liability for these coverages as stated in the policy  
3 and the total aggregate limit of liability to all claimants, if more  
4 than one, shall not exceed the total limit of liability per  
5 occurrence as stated in the policy; and shall provide for the  
6 exclusion of the recovery of damages for bodily injury or property  
7 damage or both resulting from the intentional acts of the insured.  
8 The portion of a policy form adopted under Article 5.06 of this code  
9 or filed under Article 5.145 of this code to provide coverage under  
10 this article shall require that in order for the insured to recover  
11 under the uninsured motorist coverages where the owner or operator  
12 of any motor vehicle which causes bodily injury or property damage  
13 to the insured is unknown, actual physical contact must have  
14 occurred between the motor vehicle owned or operated by such  
15 unknown person and the person or property of the insured.

16 SECTION 9.09. Article 5.06-6, Insurance Code, is amended to  
17 read as follows:

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

26 SECTION 9.10. Article 5.09(c), Insurance Code, is amended  
27 to read as follows:

1 (c) Notwithstanding Subsection (a) of this article, on and  
2 after the effective date of S.B. 14, Acts of the 78th Legislature,  
3 Regular Session, 2003 [March 1, 1992], rates for personal  
4 automobile insurance in this state are determined as provided by  
5 Subchapter Q of this chapter, and rates for commercial motor  
6 vehicle insurance in this state [vehicles] are determined as  
7 provided by Article 5.13-2 [Subchapter M] of this code [chapter].  
8 On and after September 1, 2004, rates for personal automobile  
9 insurance in this state are determined as provided by Article  
10 5.13-2 of this code.

11 SECTION 9.11. Article 5.11(c), Insurance Code, is amended  
12 to read as follows:

13 (c) Notwithstanding Subsections (a) and (b) of this  
14 article, on and after the effective date of S.B. 14, Acts of the  
15 78th Legislature, Regular Session, 2003 [March 1, 1992], rates for  
16 personal automobile insurance in this state are determined as  
17 provided by Subchapter Q of this chapter, and rates for commercial  
18 motor vehicle insurance in this state [vehicles] are determined as  
19 provided by Article 5.13-2 [Subchapter M] of this code [chapter].  
20 On and after September 1, 2004, rates for personal automobile  
21 insurance in this state are determined as provided by Article  
22 5.13-2 of this code.

23 SECTION 9.12. Article 5.25(b), Insurance Code, is amended  
24 to read as follows:

25 (b) Notwithstanding Subsection (a) of this article, on and  
26 after the effective date of S.B. 14, Acts of the 78th Legislature,  
27 Regular Session, 2003 [March 1, 1992], rates for homeowners and

1 residential fire and residential allied lines insurance coverage  
2 under this subchapter are determined as provided by Subchapter Q  
3 [~~M~~] of this chapter, and rates for other lines of insurance subject  
4 to this subchapter are determined as provided by Article 5.13-2 of  
5 this code, except that on and after September 1, 2004, rates for all  
6 lines of insurance subject to this subchapter are determined as  
7 provided by Article 5.13-2 of this code. This subsection does not  
8 affect the requirement for the commissioner to conduct inspections  
9 of commercial property and prescribe a manual of rules and rating  
10 schedules for commercial property under this subchapter.

11 SECTION 9.13. Article 5.25A(b), Insurance Code, is amended  
12 to read as follows:

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

23 SECTION 9.14. Article 5.25-2, Insurance Code, is amended to  
24 read as follows:

25 Art. 5.25-2. CITY FIRE LOSS LISTS

26 Sec. 1. In this article,

27 [~~(1)~~] "list" means the list of fire and lightning

1 losses in excess of \$100 paid under policy forms adopted or approved  
2 by the commissioner [~~board~~] under Article 5.35 of this code or filed  
3 and in effect as provided by Article 5.145 of this code [~~subchapter~~]  
4 in a particular city or town prepared by the department [~~State Board~~  
5 ~~of Insurance~~] for distribution to the city or town[+]

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

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

13 (b) The list shall include:

14 (1) the names of persons recovering losses under  
15 policy forms adopted or approved by the commissioner [~~board~~] under  
16 Article 5.35 of this code or filed and in effect as provided by  
17 Article 5.145 of this code [~~subchapter~~];

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

20 (3) the amount paid by the insurance company on each  
21 loss.

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

25 Sec. 3. Upon the request of any city or town, or its duly  
26 authorized agent or fire marshall, the department [~~board~~] shall  
27 provide that city and town with a copy of the list for its

1 particular area.

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

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

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

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

12           Sec. 5. The department [~~board~~] shall make such changes or  
13 corrections as to it shall seem appropriate in order to correct the  
14 list of insured fire and lightning losses paid under policy forms  
15 adopted or approved by the commissioner [~~board~~] under Article 5.35  
16 of this code or filed and in effect as provided by Article 5.145 of  
17 this code [~~subchapter~~] in a particular city or town and said list of  
18 losses, as changed or corrected, shall be used to determine the fire  
19 record credit or debit for each particular city or town for the next  
20 year.

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

1           Sec. 7. The department [~~board~~] is authorized to require  
2 each and every city or town in the State of Texas and each and every  
3 insurance company or carrier of every type and character whatsoever  
4 doing business in the State of Texas to furnish to it a complete and  
5 accurate list of all fire and lightning losses occurring within the  
6 State of Texas and reflected in their records for the purpose of  
7 accumulating statistical information for the control and  
8 prevention of fires.

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

12           SECTION 9.15. Article 5.26(i), Insurance Code, is amended  
13 to read as follows:

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

24           SECTION 9.16. Article 5.28(d), Insurance Code, is amended  
25 to read as follows:

26           (d) Notwithstanding Subsection (a) of this article, on and  
27 after the effective date of S.B. 14, Acts of the 78th Legislature,

1 Regular Session, 2003 [~~March 1, 1992~~], rates for homeowners and  
2 residential fire and residential allied lines insurance coverage  
3 under this subchapter are determined as provided by Subchapter Q  
4 [~~M~~] of this chapter, and rates for other lines of insurance subject  
5 to this subchapter are determined as provided by Article 5.13-2 of  
6 this code, except that on and after September 1, 2004, rates for all  
7 lines of insurance subject to this subchapter are determined as  
8 provided by Article 5.13-2 of this code.

9 SECTION 9.17. Article 5.29(b), Insurance Code, is amended  
10 to read as follows:

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

21 SECTION 9.18. Article 5.30(b), Insurance Code, is amended  
22 to read as follows:

23 (b) Notwithstanding Subsection (a) of this article, on and  
24 after the effective date of S.B. 14, Acts of the 78th Legislature,  
25 Regular Session, 2003 [~~March 1, 1992~~], rates for homeowners and  
26 residential fire and residential allied lines insurance coverage  
27 under this subchapter are determined as provided by Subchapter Q

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

6 SECTION 9.19. Article 5.31(b), Insurance Code, is amended  
7 to read as follows:

8 (b) Notwithstanding Subsection (a) of this article, on and  
9 after the effective date of S.B. 14, Acts of the 78th Legislature,  
10 Regular Session, 2003 [March 1, 1992], rates for homeowners and  
11 residential fire and residential allied lines insurance coverage  
12 under this subchapter are determined as provided by Subchapter Q  
13 [M] of this chapter, and rates for other lines of insurance subject  
14 to this subchapter are determined as provided by Article 5.13-2 of  
15 this code, except that on and after September 1, 2004, rates for all  
16 lines of insurance subject to this subchapter are determined as  
17 provided by Article 5.13-2 of this code.

18 SECTION 9.20. Article 5.32(b), Insurance Code, is amended  
19 to read as follows:

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



1 lines of insurance subject to this subchapter are determined as  
2 provided by Article 5.13-2 of this code.

3 SECTION 9.21. Article 5.34(b), Insurance Code, is amended  
4 to read as follows:

5 (b) Notwithstanding Subsection (a) of this article, on and  
6 after the effective date of S.B. 14, Acts of the 78th Legislature,  
7 Regular Session, 2003 [March 1, 1992], rates for homeowners and  
8 residential fire and residential allied lines insurance coverage  
9 under this subchapter are determined as provided by Subchapter Q  
10 [M] of this chapter, and rates for other lines of insurance subject  
11 to this subchapter are determined as provided by Article 5.13-2 of  
12 this code, except that on and after September 1, 2004, rates for all  
13 lines of insurance subject to this subchapter are determined as  
14 provided by Article 5.13-2 of this code.

15 SECTION 9.22. Article 5.35, Insurance Code, is amended by  
16 adding Subsection (k) to read as follows:

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

20 (2) An insurer may continue to use the policy forms and  
21 endorsements promulgated, approved, or adopted by the commissioner  
22 under this article before the effective date of S.B. 14, Acts of the  
23 78th Legislature, Regular Session, 2003, on notification in writing  
24 to the commissioner that the insurer will continue to use the policy  
25 forms and endorsements promulgated, approved, or adopted by the  
26 commissioner under this article.

27 SECTION 9.23. Article 5.35-1, Insurance Code, is amended to

1 read as follows:

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

15 SECTION 9.24. Article 5.36, Insurance Code, is amended to  
16 read as follows:

17 Art. 5.36. WRITTEN EXPLANATION OF CERTAIN ENDORSEMENTS  
18 REQUIRED. An insurer may not use an endorsement to a policy form to  
19 which Article 5.35 of this code or Article 5.145 of this code  
20 applies that reduces the amount of coverage, unless requested by  
21 the insured, that would otherwise be provided under the policy  
22 unless the insurer provides the policyholder with a written  
23 explanation of the change made by the endorsement before the  
24 effective date of the change.

25 SECTION 9.25. Article 5.39(b), Insurance Code, is amended  
26 to read as follows:

27 (b) Notwithstanding Subsection (a) of this article, on and

1 after the effective date of S.B. 14, Acts of the 78th Legislature,  
2 Regular Session, 2003 [~~March 1, 1992~~], rates for homeowners and  
3 residential fire and residential allied lines insurance coverage  
4 under this subchapter are determined, and hearings related to those  
5 rates are conducted, as provided by Subchapter Q [~~M~~] of this  
6 chapter, and rates for other lines of insurance subject to this  
7 subchapter are determined as provided by Article 5.13-2 of this  
8 code, except that on and after September 1, 2004, rates for all  
9 lines of insurance subject to this subchapter are determined as  
10 provided by Article 5.13-2 of this code.

11 SECTION 9.26. Article 5.40(d), Insurance Code, is amended  
12 to read as follows:

13 (d) Notwithstanding Subsections (a)-(c) of this article, on  
14 and after the effective date of S.B. 14, Acts of the 78th  
15 Legislature, Regular Session, 2003 [~~March 1, 1992~~], rates for  
16 homeowners and residential fire and residential allied lines  
17 insurance coverage under this subchapter are determined, and  
18 hearings related to those rates are conducted, as provided by  
19 Subchapter Q [~~M~~] of this chapter, and rates for other lines of  
20 insurance subject to this subchapter are determined as provided by  
21 Article 5.13-2 of this code, except that on and after September 1,  
22 2004, rates for all lines of insurance subject to this subchapter  
23 are determined as provided by Article 5.13-2 of this code.

24 SECTION 9.27. Article 5.41(b), Insurance Code, is amended  
25 to read as follows:

26 (b) Notwithstanding Subsection (a) of this article, on and  
27 after the effective date of S.B. 14, Acts of the 78th Legislature,

1 Regular Session, 2003 [~~March 1, 1992~~], rates for homeowners and  
2 residential fire and residential allied lines insurance coverage  
3 under this subchapter are determined as provided by Subchapter Q  
4 [~~M~~] of this chapter, and rates for other lines of insurance subject  
5 to this subchapter are determined as provided by Article 5.13-2 of  
6 this code, except that on and after September 1, 2004, rates for all  
7 lines of insurance subject to this subchapter are determined as  
8 provided by Article 5.13-2 of this code.

9 SECTION 9.28. Article 5.53(g), Insurance Code, is amended  
10 to read as follows:

11 (g) The writing of inland marine insurance, rain insurance  
12 and insurance against loss by hail on farm crops, shall be governed  
13 by the provisions of Articles 5.25 to 5.48, inclusive, and also  
14 Article [~~Articles 5.50 to~~] 5.51[~~, inclusive,~~] of this subchapter  
15 and Article 5.67 of Subchapter D[~~+~~] of this chapter, in the same  
16 manner and to the same extent as fire insurance and fire insurance  
17 rates are now affected by the provisions of said articles, except  
18 that wherever in any of said articles reference is made to making,  
19 fixing, prescribing, determination or promulgation by the Board of  
20 rates or policy forms or endorsements, the provisions of this  
21 article shall control. On and after September 1, 2004, rates for  
22 commercial inland marine insurance are determined as provided by  
23 Article 5.13-2 of this code. Notwithstanding any other provision  
24 of this subchapter, rates for inland marine insurance, other than  
25 commercial inland marine insurance, are determined as provided by  
26 this article. [~~Notwithstanding any other provision of this~~  
27 ~~subchapter, the flexible rating program created under Subchapter M~~

1 ~~of this chapter does not apply to this article.]~~

2 SECTION 9.29. Article 5.96(a-1), Insurance Code, is amended  
3 to read as follows:

4 (a-1) This ~~[Except as provided by Section 5(d), Article~~  
5 ~~5.101, of this code, this]~~ article does not apply to the setting of  
6 ~~[benchmark]~~ rates for motor vehicle insurance and fire and allied  
7 lines insurance under Subchapter Q ~~[M]~~ of this chapter or, on and  
8 after September 1, 2004, rates for motor vehicle insurance and fire  
9 and allied lines insurance under Article 5.13-2 of this code.

10 SECTION 9.30. Section 8, Article 21.77, Insurance Code, is  
11 amended to read as follows:

12 Sec. 8. POLICY FORMS. All policy forms for insurance  
13 written under this article shall be prescribed by the commissioner  
14 ~~[board]~~ as provided in Article 5.06 of this code or filed and in  
15 effect as provided in Article 5.145 of this code~~[, Insurance Code].~~

16 SECTION 9.31. (a) Effective June 1, 2003, Section 912.002,  
17 Insurance Code, is amended by amending Subsection (a) and adding  
18 Subsection (c) to read as follows:

19 (a) A county mutual insurance company is exempt from the  
20 operation of all insurance laws of this state~~[, including the~~  
21 ~~flexible rating program under Article 5.101,]~~ except laws that are  
22 made applicable by their specific terms or except as specifically  
23 provided by this chapter.

24 (c) Rate regulation for a personal automobile insurance  
25 policy written by a county mutual insurance company is subject to  
26 Subchapter Q, Chapter 5. Rate regulation for a residential fire and  
27 allied lines insurance policy written by a county mutual insurance

1 company is subject to Subchapter Q, Chapter 5. On and after  
2 September 1, 2004, rate regulation for a personal automobile  
3 insurance policy and a residential fire and allied lines insurance  
4 policy written by a county mutual insurance company is subject to  
5 Article 5.13-2. A county mutual insurance company is subject to  
6 Subchapter O, Chapter 5. The commissioner may adopt rules as  
7 necessary to implement this subsection.

8 (b) Until June 1, 2003, Article 17.22(b), Insurance Code, is  
9 amended to read as follows:

10 (b) Rate regulation for a personal automobile insurance  
11 policy written by a county mutual insurance company is subject to  
12 Subchapter Q, Chapter 5, of this code. Rate regulation for a  
13 residential fire and allied lines insurance policy written by a  
14 county mutual insurance company is subject to Subchapters O and Q,  
15 Chapter 5, of this code. The commissioner may adopt rules as  
16 necessary to implement this subsection. This subsection expires  
17 June 1, 2003. [~~The flexible rating program created under~~  
18 ~~Subchapter M, Chapter 5, of this code does not apply to county~~  
19 ~~mutual insurance companies.]~~

20 SECTION 9.32. Section 912.152, Insurance Code, is amended  
21 to read as follows:

22 Sec. 912.152. POLICY FORMS. (a) A county mutual insurance  
23 company is subject to Articles 5.06, ~~[and]~~ 5.35, and 5.145.

24 (b) County [~~The commissioner, in accordance with Article~~  
25 ~~5.35, may adopt for use by county]~~ mutual insurance companies shall  
26 file policy forms under Article 5.145 or continue to use the  
27 standard policy forms and endorsements promulgated under Articles

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

6 ~~(1) may use the policy forms adopted under this~~  
7 ~~subsection; or~~

8 ~~(2) shall use the policy forms adopted for other~~  
9 ~~companies].~~

10 SECTION 9.33. (a) Effective June 1, 2003, Section  
11 941.003(b), Insurance Code, is amended to read as follows:

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

13 (1) Section 5, Article 1.10;

14 (2) Article 1.15A;

15 (3) Subchapters [~~Subchapter~~] A, O, Q, and R, Chapter  
16 5;

17 (4) Articles 5.35, 5.38, 5.39, 5.40, and 5.49;

18 (5) Articles 21.21 and 21.49-8; [~~and~~]

19 (6) Sections 822.203, 822.205, 822.210, and 822.212;  
20 and

21 (7) Article 5.13-2, as provided by that article.

22 (b) Until June 1, 2003, Article 18.23, Insurance Code, is  
23 amended by adding Subsection (c) to read as follows:

24 (c) Rate regulation for a personal automobile insurance  
25 policy written by a Lloyd's plan is subject to Subchapter Q, Chapter  
26 5, of this code. Rate regulation for a homeowners or residential  
27 fire and allied lines insurance policy written by a Lloyd's plan is

1 subject to Subchapter Q, Chapter 5, of this code. The commissioner  
2 may adopt rules as necessary to implement this subsection. A  
3 Lloyd's plan is subject to Subchapter O, Chapter 5, of this code.  
4 This subsection expires June 1, 2003.

5 SECTION 9.34. (a) Effective June 1, 2003, Section  
6 942.003(b), Insurance Code, is amended to read as follows:

7 (b) An exchange is subject to:

- 8 (1) Section 5, Article 1.10;  
9 (2) Articles 1.15, 1.15A, and 1.16;  
10 (3) Subchapters [~~Subchapter~~] A, O, Q, and R, Chapter  
11 5;  
12 (4) Articles 5.35, 5.37, 5.38, 5.39, and 5.40;  
13 (5) Articles 21.21 and 21.49-8; [~~and~~]  
14 (6) Sections 822.203, 822.205, 822.210, 822.212,  
15 861.254(a)-(f), 861.255, 862.001(b), and 862.003; and  
16 (7) Article 5.13-2, as provided by that article.

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

19 (c) Rate regulation for a personal automobile insurance  
20 policy written by a reciprocal or interinsurance exchange is  
21 subject to Subchapter Q, Chapter 5, of this code. Rate regulation  
22 for a homeowners or residential fire and allied lines insurance  
23 policy written by a reciprocal or interinsurance exchange is  
24 subject to Subchapter Q, Chapter 5, of this code. The commissioner  
25 may adopt rules as necessary to implement this subsection. A  
26 reciprocal or interinsurance exchange is subject to Subchapter O,  
27 Chapter 5, of this code. This subsection expires June 1, 2003.



1 SECTION 9.35. Section 502.153(d), Transportation Code, is  
2 amended to read as follows:

3 (d) A personal automobile policy used as evidence of  
4 financial responsibility under this section must comply with  
5 Article 5.06 or 5.145, Insurance Code.

6 SECTION 9.36. Section 521.143(c), Transportation Code, is  
7 amended to read as follows:

8 (c) A personal automobile insurance policy used as evidence  
9 of financial responsibility under this section must comply with  
10 Article 5.06 or 5.145, Insurance Code.

11 SECTION 9.37. The following laws are repealed:

12 (1) Articles 5.03-2, 5.03-3, 5.03-4, and 5.03-5,  
13 Insurance Code;

14 (2) Articles 5.26(h), 5.33A, 5.33C, 5.50, 5.101, and  
15 40.061, Insurance Code;

16 (3) Section 6, Article 17.25, Insurance Code;

17 (4) Section 4C, Article 5.73, Insurance Code;

18 (5) as effective June 1, 2003, Section 912.201,  
19 Insurance Code;

20 (6) as effective June 1, 2003, Sections 941.003(c) and  
21 942.003(c), Insurance Code; and

22 (7) Article 5.33B, Insurance Code, as added by Chapter  
23 337, Acts of the 74th Legislature, Regular Session, 1995.

24 ARTICLE 10. GENERAL TRANSITION; EFFECTIVE DATE

25 SECTION 10.01. This Act applies only to an insurance policy  
26 that is delivered, issued for delivery, or renewed on or after the  
27 120th day after the effective date of this Act. A policy delivered,

1 issued for delivery, or renewed before the 120th day after the  
2 effective date of this Act is governed by the law as it existed  
3 immediately before the effective date of this Act, and that law is  
4 continued in effect for that purpose.

5 SECTION 10.02. (a) Except as provided by this section,  
6 this Act takes effect immediately if it receives a vote of  
7 two-thirds of all the members elected to each house, as provided by  
8 Section 39, Article III, Texas Constitution. If this Act does not  
9 receive the vote necessary for immediate effect, this Act takes  
10 effect September 1, 2003.

11 (b) Provisions of this Act that specify an effective date  
12 take effect on the date specified in those provisions.

13 (c) Section 5(j), Article 5.142, Insurance Code, as added by  
14 this Act, takes effect on the first anniversary of the effective  
15 date specified in Subsection (a) of this section and expires on  
16 September 1, 2004, in accordance with Article 1 of this Act.