

1-1 By: Jackson, et al. S.B. No. 14  
1-2 (In the Senate - Filed November 20, 2002; January 27, 2003,  
1-3 read first time and referred to Committee on Business and Commerce;  
1-4 March 24, 2003, reported adversely, with favorable Committee  
1-5 Substitute by the following vote: Yeas 6, Nays 2, 1 present not  
1-6 voting; March 24, 2003, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 14 By: Jackson

1-8 A BILL TO BE ENTITLED  
1-9 AN ACT

1-10 relating to the regulation of residential property and automobile  
1-11 insurance.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 ARTICLE 1. RATE REQUIREMENTS

1-14 PART A. RATE FILINGS

1-15 SECTION 1.01. Chapter 5, Insurance Code, is amended by  
1-16 adding Subchapter Q to read as follows:

1-17 SUBCHAPTER Q. RATES FOR CERTAIN LINES

1-18 Art. 5.142. RATES FOR PERSONAL AUTOMOBILE AND RESIDENTIAL  
1-19 PROPERTY INSURANCE COVERAGE

1-20 Sec. 1. SCOPE. (a) This article governs the regulation of  
1-21 rates for personal automobile insurance and residential property  
1-22 insurance.

1-23 (b) Notwithstanding Subsection (a) of this section, this  
1-24 article does not apply to premium rates for motor vehicle insurance  
1-25 computed using a mile-based rating plan under Article 5.01-4 of  
1-26 this code.

1-27 Sec. 2. DEFINITIONS. In this article:

1-28 (1) "Advisory organization" means an organization  
1-29 licensed under Article 5.73 of this code.

1-30 (2) "Classification" means the grouping of risks with  
1-31 similar risk characteristics so that differences in expected costs  
1-32 may be appropriately recognized.

1-33 (3) "Disallowed expenses" includes:

1-34 (A) administrative expenses, not including  
1-35 acquisition, loss control, and safety engineering expenses, that  
1-36 exceed 110 percent of the industry median for those expenses;

1-37 (B) lobbying expenses;

1-38 (C) advertising expenses, other than for  
1-39 advertising:

1-40 (i) directly related to the services or  
1-41 products provided by the insurer;

1-42 (ii) designed and directed at loss  
1-43 prevention; or

1-44 (iii) for the promotion of organizations  
1-45 exempt from federal taxation under Section 501(c)(3), Internal  
1-46 Revenue Code of 1986, and its subsequent amendments;

1-47 (D) amounts paid or reserved by an insurer,  
1-48 whether classified by the insurer as a loss or an expense:

1-49 (i) as damages in an action brought against  
1-50 the insurer for bad faith; or

1-51 (ii) as fees, fines, or penalties for a  
1-52 civil or criminal violation of law;

1-53 (E) contributions to:

1-54 (i) social, religious, political, or  
1-55 fraternal organizations; or

1-56 (ii) organizations engaged in legislative  
1-57 advocacy;

1-58 (F) except as authorized by rule by the  
1-59 commissioner, fees and assessments paid to advisory organizations;  
1-60 and

1-61 (G) any unreasonably incurred expenses, as  
1-62 determined by the commissioner after notice and hearing.

1-63 (4) "Filer" means an insurer that files rates,

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

2-4 (5) "Insurer" means an insurance company, reciprocal  
2-5 or interinsurance exchange, mutual insurance company, capital  
2-6 stock company, county mutual insurance company, Lloyd's plan, or  
2-7 other legal entity authorized to write personal automobile  
2-8 insurance or residential property insurance in this state. The  
2-9 term includes an affiliate, as described by Section 823.003(a) of  
2-10 this code, if that affiliate is authorized to write and is writing  
2-11 personal automobile insurance or residential property insurance in  
2-12 this state. The term does not include:

2-13 (A) the Texas Windstorm Insurance Association  
2-14 under Article 21.49 of this code;

2-15 (B) the FAIR Plan Association under Article  
2-16 21.49A of this code; or

2-17 (C) the Texas Automobile Insurance Plan  
2-18 Association under Article 21.81 of this code.

2-19 (6) "Line" means a type of insurance subject to this  
2-20 article.

2-21 (7) "Personal automobile insurance" means motor  
2-22 vehicle insurance coverage for the ownership, maintenance, or use  
2-23 of a private passenger, utility, or miscellaneous type motor  
2-24 vehicle, including a motor home, mobile home, trailer, or  
2-25 recreational vehicle, that is:

2-26 (A) owned or leased by an individual or  
2-27 individuals; and

2-28 (B) not primarily used for the delivery of goods,  
2-29 materials, or services, other than for use in farm or ranch  
2-30 operations.

2-31 (8) "Rate" means the cost of insurance per exposure  
2-32 unit, whether expressed as a single number or as a prospective loss  
2-33 cost, with an adjustment to account for the treatment of expenses,  
2-34 profit, and individual insurer variation in loss experience, and  
2-35 before any application of individual risk variations based on loss  
2-36 or expense considerations.

2-37 (9) "Rating manual" means a publication or schedule  
2-38 that lists rules, rating factors, classifications, territory codes  
2-39 and descriptions, rates, premiums, and other similar information  
2-40 used by an insurer to determine the applicable premium charged an  
2-41 insured for personal automobile insurance or residential property  
2-42 insurance.

2-43 (10) "Residential property insurance" means insurance  
2-44 coverage against loss to residential real property at a fixed  
2-45 location or tangible personal property provided in a homeowners  
2-46 policy, which includes a tenant policy, a condominium owners  
2-47 policy, or a residential fire and allied lines policy.

2-48 (11) "Supplementary rating information" means any  
2-49 manual, rating schedule, plan of rules, rating rules,  
2-50 classification systems, territory codes and descriptions, rating  
2-51 plans, discount and surcharge programs, and other similar  
2-52 information used by the insurer to determine the applicable premium  
2-53 for an insured. The term includes factors and relativities,  
2-54 including increased limits factors, classification relativities,  
2-55 deductible relativities, minimum premiums, and other similar  
2-56 factors.

2-57 (12) "Supporting information" means:

2-58 (A) the experience and judgment of the filer and  
2-59 the experience or information of advisory organizations or other  
2-60 insurers relied on by the filer;

2-61 (B) the interpretation of any other information  
2-62 relied on by the filer;

2-63 (C) descriptions of methods used in making the  
2-64 rates; and

2-65 (D) any other information required by the  
2-66 commissioner by rule to be filed.

2-67 Sec. 3. RATE STANDARDS. (a) An insurer shall set rates for  
2-68 each line in accordance with this section.

2-69 (b) In setting rates, an insurer shall consider:

- 3-1 (1) past and prospective loss experience inside this
- 3-2 state, and outside this state if the state data are not credible;
- 3-3 (2) the peculiar hazards and experiences of individual
- 3-4 risks, past and prospective, inside and outside this state;
- 3-5 (3) the insurer's historical premium, exposure, loss,
- 3-6 and expense experience;
- 3-7 (4) catastrophe hazards within this state;
- 3-8 (5) operating expenses, excluding disallowed
- 3-9 expenses;
- 3-10 (6) investment income;
- 3-11 (7) a reasonable margin for profit; and
- 3-12 (8) any other relevant factors inside and outside this
- 3-13 state.

3-14 (c) An insurer may:

- 3-15 (1) group risks by classification for the
- 3-16 establishment of rates and minimum premiums; and
- 3-17 (2) modify classification rates to produce rates for
- 3-18 individual risks in accordance with rating plans that establish
- 3-19 standards for measuring variations in those risks on the basis of
- 3-20 any factor listed in Subsection (b) of this section.

3-21 (d) Rates established under this section may not be

3-22 excessive, inadequate, unreasonable, or unfairly discriminatory

3-23 for the risks to which they apply.

3-24 (e) In setting rates applicable to policyholders in this

3-25 state, an insurer shall use its own historical premium and loss

3-26 data, as well as its own data for expenses and for profit and

3-27 contingency factors. The commissioner may require an audit of the

3-28 insurer's historical premium and loss data. The insurer may

3-29 separately supplement its own historical premium and loss data with

3-30 industry-wide historical premium and loss data for this state as

3-31 necessary. The commissioner by rule may establish requirements for

3-32 reporting historical premium and loss data under this subsection.

3-33 Sec. 4. RATE FILINGS. (a) An insurer shall file with the

3-34 department all rates, supplementary rating information, reasonable

3-35 and pertinent supporting information, and all applicable rating

3-36 manuals for risks written in this state. The insurer shall include

3-37 in the filing any statistics or other information to support the

3-38 rates to be used by the insurer and as required by the commissioner

3-39 by rule, including information necessary to evidence that the

3-40 computation of the rate does not include disallowed expenses. An

3-41 insurer shall include in the filing all information concerning

3-42 policy fees, service fees, and other fees that are charged or

3-43 collected by the insurer under Article 21.35B of this code.

3-44 (b) The commissioner by rule shall determine:

- 3-45 (1) which insurers constitute "small insurers" for
- 3-46 purposes of this article; and
- 3-47 (2) what a small insurer must file to constitute a
- 3-48 filing sufficient for the small insurer to comply with the filing
- 3-49 requirements adopted under this article.

3-50 Sec. 5. PRIOR APPROVAL REQUIRED. (a) An insurer may not

3-51 use a rate until the rate has been filed with the department and

3-52 approved by the commissioner as provided by this section. For

3-53 purposes of this section, a rate is filed with the department on the

3-54 date the rate filing is received by the department.

3-55 (b) Not later than the 30th day after the date the rate is

3-56 filed with the department, the commissioner shall:

- 3-57 (1) approve the rate if the commissioner determines
- 3-58 that the rate complies with the requirements of this article; or
- 3-59 (2) disapprove the rate if the commissioner determines
- 3-60 that the rate does not comply with the requirements of this article.

3-61 (c) If the commissioner approves a rate filing, the

3-62 commissioner shall provide written or electronic notification of

3-63 the approval to the insurer. On receipt of the notice of the

3-64 commissioner's approval of a rate, the insurer may use the rate.

3-65 (d) Except as provided by Subsection (e) of this section or

3-66 Section 9 of this article, if the rate has not been approved or

3-67 disapproved by the commissioner before the expiration of the 30-day

3-68 period described by Subsection (b) of this section, the rate is

3-69 deemed approved and the insurer may use the rate.

4-1           (e) The commissioner may extend the period for approval or  
 4-2 disapproval of a rate filing for an additional 30-day period on the  
 4-3 expiration of the 30-day period described by Subsection (b) of this  
 4-4 section. If the rate has not been approved or disapproved by the  
 4-5 commissioner before the expiration of the additional 30-day period  
 4-6 described in this subsection, the rate is deemed approved and the  
 4-7 insurer may use the rate. The commissioner may not extend the  
 4-8 period for approval or disapproval of a rate filing beyond the  
 4-9 additional 30-day period described in this subsection.

4-10           (f) If the department has requested additional information  
 4-11 from the insurer during the first 30-day review period provided  
 4-12 under Subsection (b) of this section or under the second 30-day  
 4-13 review period provided under Subsection (e) of this section, the  
 4-14 period of time between the date of the department's submission of  
 4-15 the request for additional information to the insurer and the date  
 4-16 of the receipt of the additional information by the department from  
 4-17 the insurer shall not be counted in the days to determine what  
 4-18 constitutes the first 30-day review period or the second 30-day  
 4-19 review period. For purposes of this subsection, the date of the  
 4-20 department's submission of the request for additional information  
 4-21 is the date of the email or telephone call or postmarked date on the  
 4-22 letter pertaining to the request for additional information.

4-23           (g) From the date of the filing of the rate with the  
 4-24 commissioner to the effective date of the new rate, the insurer's  
 4-25 previously filed rate that is in effect as provided in this article  
 4-26 shall remain in effect.

4-27           Sec. 6. DISAPPROVAL; WITHDRAWAL OF APPROVAL. (a) The  
 4-28 commissioner shall disapprove a rate filed under this article if  
 4-29 the commissioner determines that the rate does not meet the  
 4-30 requirements of this article. The commissioner may consider the  
 4-31 extent and nature of market competition in the personal automobile  
 4-32 insurance and residential property insurance markets and the  
 4-33 availability or lack of availability of personal automobile  
 4-34 insurance and residential property insurance in determining  
 4-35 whether to disapprove any rates filed under this article.

4-36           (b) If the commissioner disapproves a rate filing before the  
 4-37 30th day after the date of the filing of the rate with the  
 4-38 department, as provided in Section 5(b)(2) of this article and  
 4-39 Subsection (e) of this section, or before the expiration of the  
 4-40 additional 30-day period as provided in Section 5(e) of this  
 4-41 article and Subsection (e) of this section, the commissioner shall  
 4-42 issue an order specifying in what respects the rate filing fails to  
 4-43 meet the requirements of this article. If the insurer has filed all  
 4-44 of the information required to be filed under Section 4 of this  
 4-45 article, the commissioner's order shall include the rates and terms  
 4-46 which the commissioner would approve for use by the insurer. The  
 4-47 filer is entitled to a hearing on written request to the  
 4-48 commissioner not later than the 30th day after the effective date of  
 4-49 the disapproval order.

4-50           (c) If the commissioner withdraws approval of a rate that is  
 4-51 in effect, the commissioner shall notify in writing the insurer  
 4-52 that made the filing and may issue a withdrawal of approval order  
 4-53 only after a hearing held not sooner than the 20th day after the  
 4-54 date of the written notice. The order must be issued not later than  
 4-55 the 15th day after the close of the hearing and must specify how the  
 4-56 rate fails to meet the requirements of this article. The order must  
 4-57 state the future date on which the further use of the disapproved  
 4-58 rate is prohibited and, if applicable, specify the interim rate as  
 4-59 provided in Subsection (d) of this section.

4-60           (d) If an insurer has no legally effective rate because of  
 4-61 an order withdrawing the approval of rates that are in effect, the  
 4-62 commissioner may specify an interim rate at the time the order is  
 4-63 issued. The interim rate may be modified by the commissioner on the  
 4-64 commissioner's own motion or on motion by the insurer. The interim  
 4-65 rate or any modification of that rate shall take effect on the date  
 4-66 specified in the commissioner's order.

4-67           (e) A commissioner's order disapproving a rate or  
 4-68 withdrawing the previous approval of a rate, and any notice of the  
 4-69 commissioner's intent to withdraw a previous approval, must state

5-1 the grounds for the disapproval or for the withdrawal of previous  
 5-2 approval in sufficient detail to reasonably inform the filer of the  
 5-3 grounds.

5-4 (f) An insurer may not use a rate in this state after  
 5-5 disapproval or withdrawal of approval of the rate by the  
 5-6 commissioner, except as provided by Section 13(b) of this article.

5-7 Sec. 7. SUPERVISION REQUIREMENT. If the commissioner  
 5-8 determines after a hearing that an insurer's rates require  
 5-9 supervision because of the insurer's financial condition or the  
 5-10 insurer's rating practices, the commissioner may require the  
 5-11 insurer to file with the commissioner all rates, supplementary  
 5-12 rating information, and any supporting information prescribed by  
 5-13 the commissioner.

5-14 Sec. 8. PUBLIC INFORMATION. Each rate filing and any  
 5-15 supporting information filed under this article are subject to  
 5-16 disclosure under Chapter 552, Government Code, as of the date the  
 5-17 filing is received by the commissioner.

5-18 Sec. 9. RIGHTS OF INSUREDS, PUBLIC INSURANCE COUNSEL, AND  
 5-19 OTHERS. An insured, the public insurance counsel, and any other  
 5-20 interested person may make a written application to the  
 5-21 commissioner not later than the 20th day after the date of a rate  
 5-22 filing under Section 5 of this article requesting a hearing on the  
 5-23 rate filing. The application must specify the grounds on which the  
 5-24 applicant is requesting the hearing. If the commissioner finds  
 5-25 that the application is made in good faith and that the applicant  
 5-26 establishes reasonable grounds to justify holding the hearing, the  
 5-27 commissioner shall conduct a hearing under Chapter 2001, Government  
 5-28 Code. After that hearing, the commissioner has 30 days to  
 5-29 disapprove the filing under Section 6 of this article, or it is  
 5-30 deemed approved.

5-31 Sec. 10. QUARTERLY LEGISLATIVE REPORT. (a) Each insurer  
 5-32 subject to this article shall file with the commissioner on a  
 5-33 quarterly basis information relating to changes in losses,  
 5-34 premiums, and market share.

5-35 (b) The commissioner shall report on a quarterly basis to  
 5-36 the governor, the lieutenant governor, and the speaker of the house  
 5-37 of representatives on the information provided by the insurers'  
 5-38 reports, summary information obtained from market conduct  
 5-39 examinations and analyses to the extent such information is not  
 5-40 confidential by law, and consumer complaints received by the  
 5-41 department.

5-42 Sec. 11. RATE HEARINGS; ADMINISTRATIVE PROCEDURES. Chapter  
 5-43 2001, Government Code, applies to all hearings on rates conducted  
 5-44 under this article. To the extent of any conflict between this  
 5-45 article and Chapter 2001, Government Code, this article prevails.

5-46 Sec. 12. APPEAL. An insurer, the public insurance counsel,  
 5-47 or an interested person described by Section 9 of this article  
 5-48 aggrieved by an order of the commissioner issued under this article  
 5-49 may, not later than the 30th day after the date the commissioner  
 5-50 issued the order, appeal the order in accordance with Subchapter D,  
 5-51 Chapter 36, of this code.

5-52 Sec. 13. JUDICIAL REVIEW. (a) Not later than the 10th day  
 5-53 after the date of receipt of the commissioner's order under Section  
 5-54 6(c) of this article, an insurer may file a petition for judicial  
 5-55 review in a district court in Travis County. The standard of review  
 5-56 of the commissioner's order is substantial evidence.

5-57 (b) During the pendency of the appeal, an insurer may charge  
 5-58 either its existing rates or the rates as ordered by the  
 5-59 commissioner.

5-60 Sec. 14. REFUND REQUIRED. If on final appeal the court  
 5-61 upholds the commissioner's determination as to rates, the insurer  
 5-62 shall refund the difference in overcharged premium to each  
 5-63 policyholder, plus interest. The interest rate is the prime rate  
 5-64 plus one percent as published in *The Wall Street Journal* on the  
 5-65 first day of each calendar year that is not a Saturday, Sunday, or  
 5-66 legal holiday.

5-67 Sec. 15. RULES. The commissioner shall adopt rules as  
 5-68 necessary to implement this article.

PART B. TRANSITION

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

ARTICLE 2. POLICY FORMS AND ENDORSEMENTS

PART A. FORM FILINGS

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

SUBCHAPTER R. POLICY FORMS FOR CERTAIN LINES

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

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

Sec. 2. DEFINITIONS. In this article:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7-1 (e) If the commissioner approves a form, the commissioner  
 7-2 shall provide written or electronic notification of the approval to  
 7-3 the insurer. On receipt of the notice of the commissioner's  
 7-4 approval of a form, the insurer may use the form.

7-5 (f) If the form has not been approved or disapproved by the  
 7-6 commissioner before the expiration of the 60-day period described  
 7-7 by Subsection (d) of this section, the form is deemed approved and  
 7-8 the insurer may use the form. The commissioner may not extend the  
 7-9 60-day period for approval or disapproval of a form.

7-10 (g) If the department has requested additional information  
 7-11 from the insurer during the 60-day review period provided under  
 7-12 Subsection (d) of this section, the period of time between the date  
 7-13 of the department's submission of the request for additional  
 7-14 information to the insurer and the date of the receipt of the  
 7-15 additional information by the department from the insurer shall not  
 7-16 be counted in the days to determine what constitutes the 60-day  
 7-17 review period. For purposes of this subsection, the date of the  
 7-18 department's submission of the request for additional information  
 7-19 is the date of the email or telephone call or postmarked date on the  
 7-20 letter pertaining to the request for additional information.

7-21 Sec. 4. REQUIREMENTS FOR FORMS; PLAIN LANGUAGE REQUIREMENT.

7-22 (a) Each form filed under this article must comply with applicable  
 7-23 state and federal law.

7-24 (b) Each form for a policy of personal automobile insurance  
 7-25 must provide the coverages mandated under Articles 5.06-1 and  
 7-26 5.06-3 of this code unless the coverages are rejected by the named  
 7-27 insured in the manner provided by those articles.

7-28 (c) A form may not be used if it is not in plain language.  
 7-29 For the purposes of this section, a form is written in plain  
 7-30 language if it achieves the minimum score established by the  
 7-31 commissioner on the Flesch reading ease test or an equivalent test  
 7-32 selected by the commissioner or, at the option of the commissioner,  
 7-33 if it conforms to the language requirements in a National  
 7-34 Association of Insurance Commissioners model act relating to plain  
 7-35 language. This section does not apply to policy language that is  
 7-36 mandated by state or federal law.

7-37 Sec. 5. PERSONAL AUTOMOBILE INSURANCE. (a) A contract or  
 7-38 agreement that is not written into the application for insurance  
 7-39 coverage and the personal automobile insurance policy:

7-40 (1) is void and of no effect; and

7-41 (2) violates this article and Subchapter A of this  
 7-42 chapter.

7-43 (b) A contract or agreement described by Subsection (a) of  
 7-44 this section constitutes grounds for the revocation of the  
 7-45 certificate of authority of an insurer to write personal automobile  
 7-46 insurance in this state.

7-47 Sec. 6. PUBLIC INFORMATION. Each form filing and any  
 7-48 supporting information filed under this article are subject to  
 7-49 Chapter 552, Government Code, as of the date the filing is received  
 7-50 by the department.

7-51 Sec. 7. DISAPPROVAL; WITHDRAWAL OF APPROVAL. (a) The  
 7-52 commissioner may disapprove a form filed under this article or  
 7-53 withdraw any previous approval of a form filed under this article if  
 7-54 the form:

7-55 (1) violates or does not comply with this code or a  
 7-56 valid rule duly adopted by the commissioner or is otherwise  
 7-57 contrary to law; or

7-58 (2) contains provisions or has any titles or headings  
 7-59 that are unjust, encourage misrepresentation, are deceptive, or  
 7-60 violate public policy.

7-61 (b) If the commissioner disapproves a filing before the 60th  
 7-62 day after the date of the filing of the form with the department,  
 7-63 the commissioner shall issue an order specifying in what respects  
 7-64 the form fails to meet the requirements of this article. The filer  
 7-65 is entitled to a hearing on written request made to the commissioner  
 7-66 not later than the 30th day after the effective date of the  
 7-67 disapproval order.

7-68 (c) If the commissioner withdraws approval of a form that is  
 7-69 in effect, the commissioner shall notify in writing the insurer

8-1 that made the filing, and may issue a withdrawal of approval order  
 8-2 only after a hearing held not sooner than the 20th day after the  
 8-3 date of the written notice. The order must be issued not later than  
 8-4 the 15th day after the close of the hearing and must specify how the  
 8-5 form fails to meet the requirements of this article. The order must  
 8-6 state the date on which the further use of the form is prohibited.

8-7 (d) A commissioner's order disapproving a form or  
 8-8 withdrawing the previous approval of a form, and any notice of the  
 8-9 commissioner's intent to withdraw a previous approval, must state  
 8-10 the grounds for the disapproval or withdrawal of previous approval  
 8-11 in sufficient detail to reasonably inform the filer of the grounds.

8-12 (e) An insurer may not use a form in this state after  
 8-13 disapproval or withdrawal of approval of the form by the  
 8-14 commissioner.

8-15 Sec. 8. PUBLIC INSURANCE COUNSEL. Notwithstanding Article  
 8-16 1.35A of this code, the office of public insurance counsel may  
 8-17 submit written comments to the commissioner and otherwise  
 8-18 participate regarding individual company filings made under this  
 8-19 article.

8-20 Sec. 9. RULEMAKING. The commissioner may adopt reasonable  
 8-21 and necessary rules to implement this article.

#### 8-22 PART B. TRANSITION

8-23 SECTION 2.02. The commissioner of insurance shall adopt  
 8-24 rules necessary to implement Article 5.143, Insurance Code, as  
 8-25 added by this article, not later than the 120th day after the  
 8-26 effective date of this Act.

8-27 SECTION 2.03. In the initial filing of forms under Article  
 8-28 5.143, Insurance Code, as added by this article, the commissioner  
 8-29 of insurance may determine a schedule of staggered filings for  
 8-30 insurers required to make filings under that article. The  
 8-31 commissioner shall notify the insurers of the schedule not later  
 8-32 than the 10th day after the effective date of this Act. The period  
 8-33 for staggered filings under this section may not exceed 120 days  
 8-34 after the effective date of this Act.

### 8-35 ARTICLE 3. USE OF CREDIT SCORING

#### 8-36 PART A. CREDIT SCORING

8-37 SECTION 3.01. Subchapter B, Chapter 21, Insurance Code, is  
 8-38 amended by adding Article 21.21-10 to read as follows:

8-39 Art. 21.21-10. CREDIT SCORING BY INSURERS OF RESIDENTIAL  
 8-40 PROPERTY AND PERSONAL AUTOMOBILES; SANCTIONS

8-41 Sec. 1. DEFINITIONS. In this article:

8-42 (1) "Adverse action" has the meaning assigned by  
 8-43 Section 603(k), Fair Credit Reporting Act (15 U.S.C. Section  
 8-44 1681a), as amended.

8-45 (2) "Credit information" means any information by a  
 8-46 consumer reporting agency bearing on a consumer's credit  
 8-47 worthiness, credit standing, credit capacity, character, general  
 8-48 reputation, personal characteristics, or mode of living that is  
 8-49 used or expected to be used or collected in whole or in part for the  
 8-50 purpose of serving as a factor in establishing the consumer's  
 8-51 eligibility for credit or insurance.

8-52 (3) "Insurance credit score" means a numerical, alpha,  
 8-53 or alphanumeric representation of the insurance risk an  
 8-54 individual presents using some or all of the individual's  
 8-55 attributes derived from a credit report or credit information in a  
 8-56 formula to assess insurance risk on an actuarial or statistical  
 8-57 basis. The term includes "credit score," "credit scoring," and  
 8-58 "insurance score."

8-59 (4) "Insurance credit score model" means the  
 8-60 methodology by which an individual's insurance credit score is  
 8-61 determined.

8-62 (5) "Insurer" means an insurance company, reciprocal  
 8-63 or interinsurance exchange, mutual insurance company, farm mutual  
 8-64 insurance company, capital stock company, county mutual insurance  
 8-65 company, Lloyd's plan, surplus lines insurer, or other legal entity  
 8-66 engaged in the business of personal automobile insurance or  
 8-67 residential property insurance in this state. The term includes:

8-68 (A) an affiliate as described by Section 2,  
 8-69 Article 21.49-1 of this code or Section 823.003(a) of this code if



9-1 that affiliate is authorized to write and is writing personal  
 9-2 automobile insurance or residential property insurance in this  
 9-3 state;

9-4 (B) the Texas Windstorm Insurance Association  
 9-5 created and operated under Article 21.49 of this code;

9-6 (C) the FAIR Plan Association under Article  
 9-7 21.49A of this code; and

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

9-10 (6) "Personal automobile insurance" means motor  
 9-11 vehicle insurance coverage for the ownership, maintenance, or use  
 9-12 of a private passenger, utility, or miscellaneous type motor  
 9-13 vehicle, including a motor home, mobile home, trailer, or  
 9-14 recreational vehicle, that is:

9-15 (A) owned or leased by an individual or  
 9-16 individuals; and

9-17 (B) not primarily used for the delivery of goods,  
 9-18 materials, or services, other than for use in farm or ranch  
 9-19 operations.

9-20 (7) "Residential property insurance" means insurance  
 9-21 coverage against loss to residential real property at a fixed  
 9-22 location or tangible personal property provided in a homeowners  
 9-23 policy, which includes a tenant policy, a condominium owners  
 9-24 policy, or a residential fire and allied lines policy.

9-25 Sec. 2. USE OF CREDIT INFORMATION BY INSURER. An insurer  
 9-26 that uses credit information in whole or in part in connection with  
 9-27 a determination regarding any of the following must comply with the  
 9-28 requirements of this article:

9-29 (1) whether to issue a policy;

9-30 (2) the amount and terms of coverage in the policy;

9-31 (3) the duration of the policy;

9-32 (4) the rates and fees to be charged in the policy;

9-33 (5) whether to cancel a policy; or

9-34 (6) whether to renew a policy.

9-35 Sec. 3. RESTRICTIONS ON THE USE OF CREDIT INFORMATION.

9-36 (a) An insurer may not make a determination based in whole or in  
 9-37 part on a credit score that includes:

9-38 (1) disputed credit information that is the subject of  
 9-39 a pending dispute;

9-40 (2) medical bill collection information;

9-41 (3) the number of insurance inquiries or  
 9-42 non-consumer-initiated credit inquiries; or

9-43 (4) the person's total available line of credit,  
 9-44 except that the insurer may consider the total amount of  
 9-45 outstanding debt in relation to the total available line of credit.

9-46 (b) An insurer may not make a determination based in whole  
 9-47 or in part on the fact that a person has little or no credit history.

9-48 (c) An insurer may not make a determination based in whole  
 9-49 or in part on the fact that the insurer is unable to determine a  
 9-50 person's credit score, if the insurer has received complete and  
 9-51 accurate information from the person.

9-52 (d) An insurer may not make a determination based in whole  
 9-53 or in part on a person's ownership or possession of a particular  
 9-54 type of credit card, charge card, or debit card.

9-55 (e) At the request of an insured or an applicant for  
 9-56 insurance, an insurer shall rerun a credit check if a previous  
 9-57 credit check on an insured or an applicant for insurance provided  
 9-58 incorrect credit information and shall recalculate the credit score  
 9-59 if the credit information changes.

9-60 (f) An insurer may not reject an application for, cancel, or  
 9-61 refuse to renew, or determine the rate and fees to be charged for a  
 9-62 personal automobile insurance policy or a residential property  
 9-63 insurance policy predominately on the basis of a credit score. The  
 9-64 commissioner by rule shall define the term "predominately."

9-65 Sec. 4. IMPROPER USES OF CREDIT INFORMATION AND SCORING.

9-66 (a) An insurer may not use credit information that is arbitrary,  
 9-67 capricious, or unfairly discriminatory.

9-68 (b) An insurer may not use insurance credit scoring or an  
 9-69 insurance credit score model or methodology that incorporates the

10-1 race, color, religion, or national origin of an insured or an  
 10-2 applicant for insurance.

10-3 (c) An insurer may not use insurance credit scoring or an  
 10-4 insurance credit score model or methodology that incorporates the  
 10-5 gender of an insured or an applicant for insurance.

10-6 (d) An insurer may not use insurance inquiries or  
 10-7 non-consumer-initiated credit inquiries as part of the insurance  
 10-8 credit scoring process.

10-9 Sec. 5. DISCLOSURE REQUIREMENTS. (a) If an insurance  
 10-10 credit score results in or contributes to an adverse action, the  
 10-11 insurer shall fully explain to the insured or applicant each  
 10-12 specific item or factor which resulted in or contributed to the  
 10-13 adverse action and the weight given to each item or factor. The  
 10-14 insurer shall provide such explanation to the insured or applicant  
 10-15 at or near the time the adverse action is taken or as soon as  
 10-16 practicable thereafter.

10-17 (b) Contracting with a vendor to develop insurance credit  
 10-18 scores does not relieve an insurer of its duties under this article.  
 10-19 A contract between an insurer and a vendor must specify how the  
 10-20 information required by this section will be made available to the  
 10-21 insured or the applicant.

10-22 (c) An insured or applicant may not be charged a fee for the  
 10-23 information.

10-24 (d) An insurer shall require its agents to disclose to its  
 10-25 customers whether credit information will be obtained on the  
 10-26 applicant or insured or on any other member or members of the  
 10-27 applicant's or insured's household and used as part of the insurance  
 10-28 credit scoring process. If credit information is obtained or used  
 10-29 on the applicant or insured, or on any member of the applicant's or  
 10-30 insured's household, the insurer shall disclose to the applicant  
 10-31 the name of each person on whom credit information was obtained or  
 10-32 used.

10-33 Sec. 6. FILING OF CREDIT SCORING MODELS. An insurer that  
 10-34 uses insurance credit scoring in whole or in part in deciding  
 10-35 whether to take any action described by this article shall file with  
 10-36 the commissioner the insurance credit score models or methodologies  
 10-37 for residential property insurance and personal automobile  
 10-38 insurance used by the insurer. If an insurer contracts with a  
 10-39 vendor to develop insurance credit scores, the insurer shall file  
 10-40 the vendor's credit scoring models or methodologies with the  
 10-41 commissioner.

10-42 Sec. 7. PUBLIC INFORMATION. A credit scoring model filed  
 10-43 with the commissioner for purposes of compliance with this article  
 10-44 is subject to Chapter 552, Government Code.

10-45 Sec. 8. RIGHT TO APPEAL. (a) An insurer shall reconsider  
 10-46 an adverse action by the insurer that has been appealed by an  
 10-47 insured or an applicant for insurance.

10-48 (b) An appeal may be filed under this section on the basis  
 10-49 of:

10-50 (1) catastrophic illness or injury;  
 10-51 (2) temporary loss of employment;  
 10-52 (3) death of an immediate family member; or  
 10-53 (4) any other grounds as determined by the  
 10-54 commissioner by rule as provided by Section 9 of this article.

10-55 (c) In considering an appeal, the insurer shall make  
 10-56 reasonable exceptions for credit scores that are adversely affected  
 10-57 by any of the factors specified under Subsection (b) of this  
 10-58 section.

10-59 (d) An insurer shall implement a procedure for appeals that  
 10-60 conforms with rules for appeals adopted by the commissioner under  
 10-61 Section 9 of this article.

10-62 Sec. 9. RULES; PROCEDURES. (a) The commissioner shall  
 10-63 adopt rules governing the procedure for appeals under Section 8 of  
 10-64 this article, including:

10-65 (1) rules regarding:  
 10-66 (A) the time during which an insured or an  
 10-67 applicant for insurance has the right to file an appeal;  
 10-68 (B) the means of notification of the appeals  
 10-69 process;

11-1 (C) the grounds for an appeal, which may include  
11-2 additional grounds for appeal and other exceptions as determined by  
11-3 the commissioner;

11-4 (D) provisions for reasonable, fair, and  
11-5 nondiscriminatory means of review and determination of an appeal;

11-6 (E) the time frame for the appeals decision; and

11-7 (F) the means of notification of the appeals  
11-8 decision; and

11-9 (2) any other rules the commissioner determines are  
11-10 reasonable and necessary to implement the appeals process under  
11-11 this section and Section 8 of this article.

11-12 (b) The commissioner shall adopt any other rules as  
11-13 necessary to implement the provisions of this article.

11-14 Sec. 10. SALE OF POLICY TERM INFORMATION BY CONSUMER  
11-15 REPORTING AGENCY PROHIBITED. (a) A consumer reporting agency may  
11-16 not provide or sell data or lists that include any information that,  
11-17 in whole or in part, was submitted in conjunction with an insurance  
11-18 inquiry about a consumer's credit information or a request for a  
11-19 credit report or insurance score, including:

11-20 (1) the expiration dates of an insurance policy or any  
11-21 other information that may identify periods during which a  
11-22 consumer's insurance may expire; and

11-23 (2) the terms and conditions of the consumer's  
11-24 insurance coverage.

11-25 (b) The restriction under Subsection (a) of this section  
11-26 does not apply to data or lists that the consumer reporting agency  
11-27 provides to:

11-28 (1) the insurance agent from whom information was  
11-29 received;

11-30 (2) the insurer on whose behalf the agent acted; or

11-31 (3) the insurer's affiliates.

11-32 (c) This section may not be construed to restrict the  
11-33 ability of an insurer to obtain a claims history report or a report  
11-34 regarding a motor vehicle.

11-35 Sec. 11. INDEMNIFICATION. (a) An insurer shall indemnify,  
11-36 defend, and hold its agent harmless from and against all liability,  
11-37 fees, and costs that arise out of or relate to the actions, errors,  
11-38 or omissions of an agent who obtains or uses credit information or  
11-39 insurance scores for the insurer if the agent follows the  
11-40 instructions of or procedures established by the insurer and  
11-41 complies with any applicable law or rule.

11-42 (b) This section may not be construed to establish a cause  
11-43 of action that does not exist in the absence of this section.

11-44 Sec. 12. SANCTIONS. If the commissioner determines that an  
11-45 insurer has violated any provision of this article, the insurer is  
11-46 subject, after notice and opportunity for hearing, to sanctions as  
11-47 provided by Chapters 82 and 84 of this code.

11-48 PART B. TRANSITION

11-49 SECTION 3.02. Not later than the 120th day after the  
11-50 effective date of this Act, the commissioner of insurance shall  
11-51 adopt rules governing the procedures for appeal as provided by  
11-52 Subsection (a), Section 9, Article 21.21-10, Insurance Code, as  
11-53 added by this article, and any other rules as necessary to implement  
11-54 the provisions of Article 21.21-10, as provided by Subsection (b),  
11-55 Section 9, Article 21.21-10, Insurance Code, as added by this  
11-56 article.

11-57 SECTION 3.03. An insurer that is using an insurance credit  
11-58 score system on the effective date of this Act must file the  
11-59 insurance credit scoring models described by Section 6, Article  
11-60 21.21-10, Insurance Code, as added by this article, with the  
11-61 commissioner of insurance not later than the 30th day after the  
11-62 effective date of this Act. An insurer that uses an insurance  
11-63 credit score system after the effective date of this Act must file  
11-64 the insurer's insurance credit scoring models with the commissioner  
11-65 of insurance before using those models.

11-66 SECTION 3.04. (a) This article applies only to a  
11-67 residential property or personal automobile insurance policy:

11-68 (1) that is delivered, issued for delivery, or renewed  
11-69 on or after the effective date of this Act;

12-1 (2) the application for which is submitted on or after  
12-2 the effective date of this Act; or

12-3 (3) that is subject to determination of denial,  
12-4 cancellation, or nonrenewal on or after the effective date of this  
12-5 Act.

12-6 (b) A residential property or personal automobile insurance  
12-7 policy delivered, issued for delivery, or renewed before the  
12-8 effective date of this Act, or the application for which is  
12-9 submitted before the effective date of this Act, or that is subject  
12-10 to determination of denial, cancellation, or nonrenewal before the  
12-11 effective date of this Act, is governed by the law as it existed  
12-12 immediately before the effective date of this Act, and that law is  
12-13 continued in effect for that purpose.

12-14 ARTICLE 4. INITIAL RATE FILINGS; RATE REDUCTION

12-15 SECTION 4.01. Subchapter C, Chapter 5, Insurance Code, is  
12-16 amended by adding Articles 5.26-1 and 5.26-2 to read as follows:

12-17 Art. 5.26-1. RESIDENTIAL PROPERTY INSURANCE INITIAL RATE  
12-18 FILINGS; RATE REDUCTION

12-19 Sec. 1. APPLICATION; DEFINITIONS. (a) This article  
12-20 applies only to residential property insurance.

12-21 (b) The definitions adopted under Article 5.142 of this code  
12-22 apply to this article.

12-23 Sec. 2. INITIAL RATE FILING. (a) Not later than the 10th  
12-24 day after the effective date of this article, each insurer subject  
12-25 to Article 5.142 of this code must file the insurer's rates,  
12-26 supporting information, and supplementary rating information with  
12-27 the commissioner. The insurer may notify the department that the  
12-28 insurer is using the rate filing submitted under Article 5.141 of  
12-29 this code to comply with the requirements of this article, or the  
12-30 insurer may file a completely new rate in accordance with the  
12-31 provisions of Section 4, Article 5.142 of this code.

12-32 (b) The department may approve the rate filed by an insurer  
12-33 under Subsection (a) of this section or modify a filed rate not  
12-34 later than the 20th day after the effective date of this article for  
12-35 each insurer with \$10 million or more in direct written residential  
12-36 property insurance premium in this state during 2002 and not later  
12-37 than the 80th day after the effective date of this article for each  
12-38 insurer with less than \$10 million in direct written residential  
12-39 property insurance premium. An approved or modified rate under  
12-40 this subsection must be just, reasonable, adequate, not excessive,  
12-41 and not unfairly discriminatory for the risks to which it applies.  
12-42 The department has exclusive jurisdiction to determine a rate under  
12-43 this subsection. The department shall notify the insurer of the  
12-44 applicable rate.

12-45 Sec. 3. APPEAL TO COMMISSIONER. Not later than the 10th day  
12-46 after the date of receipt by the insurer of notification from the  
12-47 department of rates determined by the department under Section 2(b)  
12-48 of this article, an insurer may appeal the department's decision to  
12-49 the commissioner.

12-50 Sec. 4. HEARING. Not later than the 30th day after the date  
12-51 of receipt of notification of an insurer's appeal under Section 3 of  
12-52 this article, the commissioner shall conduct a hearing and issue an  
12-53 order on the insurer's appeal. The burden of proof is on the  
12-54 insurer to show, by clear and convincing evidence, that the rate  
12-55 reduction specified by the department would produce inadequate  
12-56 rates. Notwithstanding any other provision of this code or the  
12-57 Government Code, the hearing shall not be conducted by the State  
12-58 Office of Administrative Hearings, but directly by the  
12-59 commissioner. The commissioner, by order, may affirm the rate  
12-60 reduction, grant a lesser rate reduction, or order a greater rate  
12-61 reduction than the rate reduction imposed under Section 2(b) of  
12-62 this article.

12-63 Sec. 5. JUDICIAL REVIEW. (a) Not later than the 10th day  
12-64 after the date of receipt of the commissioner's order under Section  
12-65 4 of this article, an insurer may file a petition for judicial  
12-66 review in a district court of Travis County. The standard of review  
12-67 of the commissioner's order is substantial evidence.

12-68 (b) During the pendency of the appeal, an insurer may charge  
12-69 either its existing rates or the rates as ordered by the

13-1 commissioner.

13-2 Sec. 6. REFUND REQUIRED. If on final appeal the court  
 13-3 upholds the commissioner's determination that the insurer's rates  
 13-4 are excessive, the insurer shall refund the difference in  
 13-5 overcharged premium to each policyholder, plus interest. The  
 13-6 interest rate is the prime rate plus one percent as published in *The*  
 13-7 *Wall Street Journal* on the first day of each calendar year that is  
 13-8 not a Saturday, Sunday, or legal holiday.

13-9 Art. 5.26-2. PERSONAL AUTOMOBILE INSURANCE INITIAL RATE  
 13-10 FILINGS

13-11 Sec. 1. APPLICATION; DEFINITIONS. (a) This article  
 13-12 applies only to personal automobile insurance.

13-13 (b) The definitions adopted under Article 5.142 of this code  
 13-14 apply to this article.

13-15 Sec. 2. (a) An insurer writing personal automobile  
 13-16 insurance in this state must file its rates for that insurance  
 13-17 coverage with the department in accordance with a schedule  
 13-18 determined by the commissioner.

13-19 (b) Rates filed under this section are subject to Article  
 13-20 5.142 of this code.

13-21 ARTICLE 5. REGULATION OF UNDERWRITING GUIDELINES

13-22 SECTION 5.01. Subchapter A, Chapter 38, Insurance Code, is  
 13-23 amended by amending Section 38.002 and adding Section 38.003 to  
 13-24 read as follows:

13-25 Sec. 38.002. UNDERWRITING GUIDELINES FOR PERSONAL  
 13-26 AUTOMOBILE AND RESIDENTIAL PROPERTY INSURANCE; FILING;  
 13-27 CONFIDENTIALITY. (a) In this section:

13-28 (1) "Insurer" means an insurance company, reciprocal  
 13-29 or interinsurance exchange, mutual insurance company, farm mutual  
 13-30 insurance company, capital stock company, county mutual insurance  
 13-31 company, Lloyd's plan, a surplus lines insurer, or other legal  
 13-32 entity engaged in the business of personal automobile insurance or  
 13-33 residential property insurance in this state. The term includes:

13-34 (A) an affiliate as described by Section 2,  
 13-35 Article 21.49-1, or Section 823.003(a) if that affiliate is  
 13-36 authorized to write and is writing personal automobile insurance or  
 13-37 residential property insurance in this state;

13-38 (B) the Texas Windstorm Insurance Association  
 13-39 created and operated under Article 21.49;

13-40 (C) the FAIR Plan Association under Article  
 13-41 21.49A; and

13-42 (D) the Texas Automobile Insurance Plan  
 13-43 Association under Article 21.81.

13-44 (2) "Personal automobile insurance" means motor  
 13-45 vehicle insurance coverage for the ownership, maintenance, or use  
 13-46 of a private passenger, utility, or miscellaneous type motor  
 13-47 vehicle, including a motor home, mobile home, trailer, or  
 13-48 recreational vehicle, that is:

13-49 (A) owned or leased by an individual or  
 13-50 individuals; and

13-51 (B) not primarily used for the delivery of goods,  
 13-52 materials, or services, other than for use in farm or ranch  
 13-53 operations.

13-54 (3) "Residential property insurance" means insurance  
 13-55 coverage against loss to residential real property at a fixed  
 13-56 location or tangible personal property provided in a homeowners  
 13-57 policy, which includes a tenant policy, a condominium owners  
 13-58 policy, or a residential fire and allied lines policy.

13-59 (4) "Underwriting guideline" means a rule, standard,  
 13-60 guideline, or practice, whether written, oral, or electronic, that  
 13-61 is used by an insurer or its agent to decide whether to accept or  
 13-62 reject an application for coverage under a personal automobile  
 13-63 insurance policy or residential property insurance policy or to  
 13-64 determine how to classify those risks that are accepted for the  
 13-65 purpose of determining a rate.

13-66 (b) Each insurer shall file with the department a copy of  
 13-67 the insurer's underwriting guidelines. The insurer shall update  
 13-68 its filing each time the underwriting guidelines are changed. If a  
 13-69 group of insurers files one set of underwriting guidelines for the

14-1 group, they shall identify which underwriting guidelines apply to  
14-2 each company in the group.

14-3 (c) The office of public insurance counsel may obtain a copy  
14-4 of each insurer's underwriting guidelines.

14-5 (d) Underwriting guidelines must be sound, actuarially  
14-6 justified, or otherwise substantially commensurate with the  
14-7 contemplated risk. Underwriting guidelines may not be unfairly  
14-8 discriminatory.

14-9 (e) The underwriting guidelines are subject to Chapter 552,  
14-10 Government Code.

14-11 Sec. 38.003. UNDERWRITING GUIDELINES FOR OTHER LINES;  
14-12 CONFIDENTIALITY. (a) This section applies to all underwriting  
14-13 guidelines that are not subject to Section 38.002.

14-14 (b) For purposes of this section, "insurer" means a  
14-15 reciprocal or interinsurance exchange, mutual insurance company,  
14-16 farm mutual insurance company, capital stock company, county mutual  
14-17 insurance company, Lloyd's plan, surplus lines insurer, life,  
14-18 accident, or health or casualty insurance company, health  
14-19 maintenance organization, mutual life insurance company, mutual  
14-20 insurance company other than life, mutual, or natural premium life  
14-21 insurance company, general casualty company, fraternal benefit  
14-22 society, group hospital service company, or other legal entity  
14-23 engaged in the business of insurance in this state. The term  
14-24 includes an affiliate as described by Section 2, Article 21.49-1,  
14-25 or Section 823.003(a) if that affiliate is authorized to write and  
14-26 is writing insurance in this state.

14-27 (c) The department or the office of public insurance counsel  
14-28 may obtain a copy of an insurer's underwriting guidelines.

14-29 (d) [~~(b)~~] Underwriting guidelines are confidential, and the  
14-30 department or the office of public insurance counsel may not make  
14-31 the guidelines available to the public.

14-32 (e) [~~(c)~~] The department or the office of public insurance  
14-33 counsel may disclose to the public a summary of an insurer's  
14-34 underwriting guidelines in a manner that does not directly or  
14-35 indirectly identify the insurer.

14-36 (f) [~~(d)~~] When underwriting guidelines are furnished to the  
14-37 department or the office of public insurance counsel, only a person  
14-38 within the department or the office of public insurance counsel  
14-39 with a need to know may have access to the guidelines. The  
14-40 department and the office of public insurance counsel shall  
14-41 establish internal control systems to limit access to the  
14-42 guidelines and shall keep records of the access provided.

14-43 (g) [~~(e)~~] This section does not preclude the use of  
14-44 underwriting guidelines as evidence in prosecuting a violation of  
14-45 this code. Each copy of an insurer's underwriting guidelines that  
14-46 is used in prosecuting a violation is presumed to be confidential  
14-47 and is subject to a protective order until all appeals of the case  
14-48 have been exhausted. If an insurer is found, after the exhaustion  
14-49 of all appeals, to have violated this code, a copy of the  
14-50 underwriting guidelines used as evidence of the violation is no  
14-51 longer presumed to be confidential.

14-52 (h) [~~(f)~~] A violation of this section is a violation of  
14-53 Chapter 552, Government Code.

14-54 ARTICLE 6. WITHDRAWAL REQUIREMENTS

14-55 SECTION 6.01. (a) Section 827.001, Insurance Code, as  
14-56 effective June 1, 2003, is amended to read as follows:

14-57 Sec. 827.001. DEFINITIONS [~~DEFINITION~~]. In this chapter:

14-58 (1) "Affiliate" has the meaning described by Section  
14-59 823.003(a) if that affiliate is authorized to write and is writing  
14-60 insurance in this state.

14-61 (2) "Insurer" means an insurance company or other  
14-62 legal entity authorized to engage in the business of insurance in  
14-63 this state, including a reciprocal or interinsurance exchange, a  
14-64 Lloyd's plan, a county mutual insurance company, and a farm mutual  
14-65 insurance company. The term does not include an eligible surplus  
14-66 lines insurer regulated under Chapter 981.

14-67 (3) "Rating[~~, "rating~~] territory" means a rating  
14-68 territory established by the department.

14-69 (b) Subsection (a), Article 21.49-2C, Insurance Code, as

15-1 effective until June 1, 2003, is amended by adding Subdivisions (4)  
15-2 and (5) to read as follows:

15-3 (4) "Affiliate" has the meaning described by Section  
15-4 2, Article 21.49-1 of this code if that affiliate is authorized to  
15-5 write and is writing personal automobile insurance or residential  
15-6 property insurance in this state.

15-7 (5) "Insurer" means an insurance company or other  
15-8 legal entity authorized to engage in the business of insurance in  
15-9 this state, including a reciprocal or interinsurance exchange, a  
15-10 Lloyd's plan, a county mutual insurance company, and a farm mutual  
15-11 insurance company. The term does not include an eligible surplus  
15-12 lines insurer regulated under Article 1.14-2 of this code.

15-13 SECTION 6.02. (a) Section 827.002, Insurance Code, as  
15-14 effective June 1, 2003, is amended to read as follows:

15-15 Sec. 827.002. EXEMPTION. This chapter does not apply to a  
15-16 transfer of business from an insurer to a company that:

15-17 (1) is under common ownership with the insurer; ~~and~~  
15-18 (2) is authorized to engage in the business of  
15-19 insurance in this state; and

15-20 (3) is not a reciprocal or interinsurance exchange, a  
15-21 Lloyd's plan, a county mutual insurance company, or a farm mutual  
15-22 insurance company.

15-23 (b) Subsection (b), Article 21.49-2C, Insurance Code, as  
15-24 effective until June 1, 2003, is amended to read as follows:

15-25 (b) This article does not apply to the transfer of the  
15-26 business from an insurer to a company that is under common  
15-27 ownership, is admitted to do business in this state, and is not a  
15-28 reciprocal or interinsurance exchange, a Lloyd's plan, a county  
15-29 mutual insurance company, or a farm mutual insurance company.

15-30 SECTION 6.03. (a) Section 827.003, Insurance Code, as  
15-31 effective June 1, 2003, is amended to read as follows:

15-32 Sec. 827.003. WITHDRAWAL PLAN REQUIRED. An ~~authorized~~  
15-33 insurer shall file with the commissioner a plan for orderly  
15-34 withdrawal if the insurer proposes to:

15-35 (1) withdraw from writing a line of insurance in this  
15-36 state or reduce the insurer's total annual premium volume by 75  
15-37 percent or more; or

15-38 (2) reduce, in a rating territory, the insurer's total  
15-39 annual premium volume in a ~~personal~~ line of personal automobile  
15-40 ~~[motor vehicle comprehensive]~~ or residential property insurance by  
15-41 50 percent or more.

15-42 (b) Subsections (a) and (g), Article 21.49-2C, Insurance  
15-43 Code, as effective until June 1, 2003, are amended to read as  
15-44 follows:

15-45 (a)(1) An ~~authorized~~ insurer shall file with the  
15-46 commissioner a plan for orderly withdrawal if the insurer proposes  
15-47 to withdraw from writing a line of insurance in this state or to  
15-48 reduce its total annual premium volume by 75 percent or more or  
15-49 proposes, in a ~~personal~~ line of personal automobile ~~[motor~~  
15-50 ~~vehicle comprehensive]~~ or residential property insurance, to  
15-51 reduce its total annual premium volume in a rating territory by 50  
15-52 percent or more. The insurer's plan shall be constructed to protect  
15-53 the interests of the people of this state and shall indicate the  
15-54 date it intends to begin and complete its withdrawal plan and must  
15-55 contain provisions for:

15-56 (A) meeting the insurer's contractual  
15-57 obligations;

15-58 (B) providing service to its Texas policyholders  
15-59 and claimants; and

15-60 (C) meeting any applicable statutory  
15-61 obligations, such as the payment of assessments to the guaranty  
15-62 fund and participation in any assigned risk plans or joint  
15-63 underwriting arrangements.

15-64 (2) If within six months after a catastrophic event of  
15-65 natural origin an insurer, in response to such catastrophic event,  
15-66 wishes to restrict its writing of new business in a ~~personal~~ line  
15-67 of personal automobile ~~[comprehensive motor vehicle]~~ or  
15-68 residential property insurance in a rating territory, it shall  
15-69 prepare and file a plan as to such proposed plan of restriction with

16-1 the commissioner for the commissioner's review and approval, unless  
 16-2 the commissioner finds that any line of insurance described in the  
 16-3 filed withdrawal plan is not offered in the state in a quantity or  
 16-4 manner adequate to cover the risks or protect the interests of the  
 16-5 citizens or potential policyholders of the state in consideration  
 16-6 of the impact of the catastrophic event. If the commissioner makes  
 16-7 this finding, then the commissioner may order the date that the  
 16-8 withdrawal begins and may modify, restrict, or limit the withdrawal  
 16-9 in any manner the commissioner decides, in the discretion of the  
 16-10 commissioner [~~comment. Approval of such plan is not required and~~  
 16-11 ~~the insurer may institute such plan 15 days after filing~~]. However,  
 16-12 in the event of a conflict between Subsections (a)(1) and (a)(2),  
 16-13 where not accepting new business may result in a withdrawal as  
 16-14 defined in Subsection (a)(1), Subsection (a)(1) controls.

16-15 (3) "Rating territory" means a rating territory  
 16-16 established by the Texas Department of Insurance.

16-17 (4) "Insurer" means an insurance company or other  
 16-18 legal entity authorized to engage in the business of insurance in  
 16-19 this state, including a reciprocal or interinsurance exchange, a  
 16-20 Lloyd's plan, a county mutual insurance company, and a farm mutual  
 16-21 insurance company. The term does not include an eligible surplus  
 16-22 lines insurer regulated under Article 1.14-2 of this code.

16-23 (g) The commissioner may impose a moratorium of up to two  
 16-24 years on the approval of plans for withdrawal or implementation of  
 16-25 plans to restrict the writing of new business pursuant to  
 16-26 Subsection (a)(2) of this section, including those such plans  
 16-27 implemented subsequent to the commissioner's publishing of notice  
 16-28 of intention to impose a moratorium regarding the catastrophic  
 16-29 event related to such plans, and may renew the moratorium annually.  
 16-30 To impose or renew a moratorium, the commissioner must find after  
 16-31 notice and public hearing that a catastrophic event has occurred  
 16-32 and that as a result of the event, the relevant line of insurance is  
 16-33 not reasonably expected to be available to a substantial number of  
 16-34 policyholders or potential policyholders in this state, or in the  
 16-35 case of [~~personal~~] lines of personal automobile [~~motor vehicle~~  
 16-36 ~~comprehensive~~] or residential property insurance, in a rating  
 16-37 territory. Such notice and hearing shall be governed by provisions  
 16-38 of Chapter 2001, Government Code, related to contested cases and of  
 16-39 Subsection (b), Article 1.33B, Insurance Code. The commissioner  
 16-40 shall, by rule, establish reasonable criteria for applying the  
 16-41 above set forth standards for determining whether to impose a  
 16-42 moratorium. The commissioner may limit a moratorium on withdrawal  
 16-43 from or reduction in personal lines insurance to certain  
 16-44 geographical areas of this state.

16-45 SECTION 6.04. (a) Section 827.005, Insurance Code, as  
 16-46 effective June 1, 2003, is amended to read as follows:

16-47 Sec. 827.005. APPROVAL OF WITHDRAWAL PLAN REQUIRED.  
 16-48 (a) The commissioner shall approve a withdrawal plan that  
 16-49 adequately provides for meeting the requirements prescribed by  
 16-50 Section 827.004(3), unless the commissioner finds that any line of  
 16-51 insurance described in the filed withdrawal plan is not offered in  
 16-52 the state in a quantity or manner adequate to cover the risks or  
 16-53 protect the interests of the citizens or potential policyholders of  
 16-54 the state. If the commissioner makes such a finding, then the  
 16-55 commissioner may order the date that the withdrawal begins and may  
 16-56 modify, restrict, or limit the withdrawal in any manner the  
 16-57 commissioner decides, in the discretion of the commissioner.

16-58 (b) A withdrawal plan is deemed approved if the  
 16-59 commissioner:

16-60 (1) does not hold a hearing on the plan before the 61st  
 16-61 [~~31st~~] day after the date the plan is filed with the commissioner;  
 16-62 or

16-63 (2) does not deny approval before the 61st [~~31st~~] day  
 16-64 after the date a hearing on the plan is held.

16-65 (b) Subsections (e) and (f), Article 21.49-2C, Insurance  
 16-66 Code, as effective until June 1, 2003, are amended to read as  
 16-67 follows:

16-68 (e)(1) The commissioner shall approve the plan if it  
 16-69 adequately provides for:



17-1 (A) [~~(1)~~] meeting the insurer's contractual  
17-2 obligations;

17-3 (B) [~~(2)~~] providing service to its Texas  
17-4 policyholders and claimants; and

17-5 (C) [~~(3)~~] meeting any applicable statutory  
17-6 obligations, such as the payment of assessments to the guaranty  
17-7 fund and participation in any assigned risk plans or joint  
17-8 underwriting arrangements.

17-9 (2) Notwithstanding the provisions of Subdivision  
17-10 (1), if the commissioner finds that any line of insurance described  
17-11 in the filed withdrawal plan is not offered in the state in a  
17-12 quantity or manner adequate to cover the risks or protect the  
17-13 interests of the citizens or potential policyholders of the state  
17-14 then the commissioner may order the date that the withdrawal begins  
17-15 and may modify, restrict, or limit the withdrawal in any manner the  
17-16 commissioner decides, in the discretion of the commissioner.

17-17 (f) The withdrawal plan shall be deemed approved if the  
17-18 commissioner has not held a hearing before the 61st day [~~within 30~~  
17-19 ~~days~~] after the plan is filed with the commissioner or has not  
17-20 denied approval before the 61st day [~~within 30 days~~] after the  
17-21 hearing. An insurer that withdraws from writing insurance in this  
17-22 state or that reduces its total annual premium volume by 75 percent  
17-23 or more in any year without receiving the commissioner's approval  
17-24 is subject to the civil penalties under Article 1.10 of this code.

17-25 SECTION 6.05. Section 827.008, Insurance Code, as effective  
17-26 June 1, 2003, is amended to read as follows:

17-27 Sec. 827.008. RESTRICTION PLAN. (a) Before an insurer, in  
17-28 response to a catastrophic natural event that occurred during the  
17-29 preceding six months, may restrict writing new business in a rating  
17-30 territory in a [~~personal~~] line of personal automobile  
17-31 [~~comprehensive motor vehicle~~] or residential property insurance,  
17-32 the insurer must file a proposed restriction plan with the  
17-33 commissioner for the commissioner's review and approval, unless the  
17-34 commissioner finds that any line of insurance described in the  
17-35 filed withdrawal plan is not offered in the state in a quantity or  
17-36 manner adequate to cover the risks or protect the interests of the  
17-37 citizens or potential policyholders of the state in consideration  
17-38 of the impact of the catastrophic event. If the commissioner makes  
17-39 this finding, then the commissioner may order the date that the  
17-40 withdrawal begins and may modify, restrict, or limit the withdrawal  
17-41 in any manner the commissioner decides, in the discretion of the  
17-42 commissioner [~~comment~~].

17-43 (b) ~~A [The commissioner's approval of a restriction plan~~  
17-44 ~~filed under Subsection (a) is not required. An insurer that files a~~  
17-45 ~~restriction plan may institute the plan on or after the 15th day~~  
17-46 ~~after the date the plan is filed.~~

17-47 [~~(c) Notwithstanding Subsection (b), a~~] withdrawal plan  
17-48 must be filed and approved under Sections 827.003 and 827.004 if an  
17-49 insurer's decision not to accept new business in a [~~personal~~] line  
17-50 of personal automobile [~~comprehensive motor vehicle~~] or  
17-51 residential property insurance results in a reduction of the  
17-52 insurer's total annual premium volume by 50 percent or more.

17-53 SECTION 6.06. Subsection (d), Section 827.010, Insurance  
17-54 Code, as effective June 1, 2003, is amended to read as follows:

17-55 (d) To impose or renew a moratorium under this section, the  
17-56 commissioner must determine, after notice and hearing, that a  
17-57 catastrophic event has occurred and that as a result of that event a  
17-58 particular line of insurance is not reasonably expected to be  
17-59 available to a substantial number of policyholders or potential  
17-60 policyholders in this state or, in the case of [~~personal~~] lines of  
17-61 personal automobile [~~motor vehicle comprehensive~~] or residential  
17-62 property insurance, in a rating territory.

17-63 SECTION 6.07. Subsections (a) and (b), Article 21.11-1,  
17-64 Insurance Code, are amended to read as follows:

17-65 (a) After an agency contract has been in effect for a period  
17-66 of two years an insurance company writing fire and casualty  
17-67 insurance in this state, specifically including a reciprocal or  
17-68 interinsurance exchange, mutual insurance company, capital stock  
17-69 company, county mutual insurance company, association, or Lloyd's

18-1 plan company, may not terminate or suspend an agency contract or  
 18-2 terminate one or more lines of insurance included within the agency  
 18-3 contract with any appointed agent unless the company gives the  
 18-4 agent notice in writing of the termination or suspension at least  
 18-5 six months in advance. As used in this article, "suspend" means the  
 18-6 temporary cessation of business relations and refusal to accept  
 18-7 insurance contracts [~~contract~~] submitted by the agent and shall not  
 18-8 include situations in which business is suspended immediately  
 18-9 following a natural disaster.

18-10 (b) The company shall renew all contracts or lines of  
 18-11 insurance included within the agency contract for fire and casualty  
 18-12 insurance for the agent during a period of six months from the  
 18-13 effective date of the termination or suspension, but in the event  
 18-14 any risk shall not meet current underwriting standards of the  
 18-15 company, the company may decline its renewal, provided that the  
 18-16 company shall give the agent not less than 60 days' notice of its  
 18-17 intention not to renew the contract or line of insurance. The  
 18-18 company's written underwriting standards shall be provided to its  
 18-19 agents who have been terminated at the same time the company first  
 18-20 notifies the agent of the company's intention to terminate the  
 18-21 agent's contract or a line of insurance. The written underwriting  
 18-22 standards that the insurer furnishes to its terminated agents must  
 18-23 conform to the same underwriting standards that were in effect for  
 18-24 that agent before the company's decision to terminate or suspend  
 18-25 the agent's contract or a line of insurance. Notwithstanding the  
 18-26 provisions of this section, an insurance company may furnish  
 18-27 different underwriting standards to different agents of the  
 18-28 company, so long as such underwriting standards are not used in ways  
 18-29 that intentionally or otherwise serve to prevent or discourage the  
 18-30 renewal of the insurance policies of terminated agents. An  
 18-31 insurance company that is renewing contracts or lines of insurance  
 18-32 under this subsection shall pay to the terminated agent commissions  
 18-33 for those renewals according to the same commission schedule that  
 18-34 was in effect for that agent before the company's decision to  
 18-35 terminate the agency contract or line of insurance. A terminated  
 18-36 agent must be allowed to pay to the company all sums due according  
 18-37 to the same accounts current payment terms that are in effect for  
 18-38 agents of the company who have not been terminated. An insurance  
 18-39 company that is renewing contracts or lines of insurance under this  
 18-40 subsection may not require a terminated agent to convert from  
 18-41 agency billing to company billing during the termination period  
 18-42 unless that agent agrees to such conversion in writing.

18-43 SECTION 6.08. Subsection (a), Article 17.22, Insurance  
 18-44 Code, is amended to read as follows:

18-45 (a) County mutual insurance companies shall be exempt from  
 18-46 the operation of all insurance laws of this state, except such laws  
 18-47 as are made applicable by their specific terms or as in this Chapter  
 18-48 specifically provided. In addition to such other Articles as may be  
 18-49 made to apply by other Articles of this Code, county mutual  
 18-50 insurance companies shall be subject to:

18-51 (1) Subdivision 7 of Article 1.10 of this Code; and  
 18-52 (2) Articles 1.15, 1.15A, 1.16, 1.24, 2.04, 2.05, 2.08,  
 18-53 2.10, 4.10, 5.12, 5.37, 5.38, 5.39, 5.40, 5.49, 21.21, 21.21-1, and  
 18-54 21.49 of this Code.

18-55 SECTION 6.09. Subsection (b), Article 18.23, Insurance  
 18-56 Code, is amended to read as follows:

18-57 (b) In addition to such Articles as may be made to apply by  
 18-58 other Articles of this Chapter, underwriters at a Lloyds' shall not  
 18-59 be exempt from and shall be subject to Articles 1.15A, 2.20, 5.35,  
 18-60 5.38, 5.39, 5.40, 5.49, 21.21, 21.11-1, and 21.49-8 of this Code.

18-61 SECTION 6.10. (a) This article applies only to a reduction  
 18-62 or withdrawal of a line of insurance by an insurer on or after the  
 18-63 effective date of this Act. A reduction or withdrawal of a line of  
 18-64 insurance by an insurer before the effective date of this Act is  
 18-65 governed by the law as it existed immediately before the effective  
 18-66 date of this Act, and that law is continued in effect for that  
 18-67 purpose.

18-68 (b) The change in law made by this article to Article  
 18-69 21.49-2C, Insurance Code, shall not be construed as affecting the

19-1 repeal of that article by Chapter 1419, Acts of the 77th  
19-2 Legislature, Regular Session, 2001.

19-3 ARTICLE 7. CONFORMING AMENDMENTS; REPEALER

19-4 SECTION 7.01. Subsection (f), Article 5.01, Insurance Code,  
19-5 is amended to read as follows:

19-6 (f) Notwithstanding Subsections (a) through (d) of this  
19-7 article, on and after the effective date of Subchapter Q of this  
19-8 chapter [March 1, 1992], rates for personal automobile insurance in  
19-9 this state are determined as provided by that subchapter, and rates  
19-10 for commercial automobile [motor vehicle] insurance in this state  
19-11 are determined as provided by Article 5.13-2 [the flexible rating  
19-12 program adopted under Subchapter M] of this code [chapter].

19-13 SECTION 7.02. Section 4, Article 5.01C, Insurance Code, is  
19-14 amended to read as follows:

19-15 Sec. 4. FORMS. An insurer selling short-term liability  
19-16 insurance policies under this article must use the policy forms  
19-17 adopted by the commissioner under Article 5.06 of this code or filed  
19-18 and approved as provided by Article 5.143 of this code [unless the  
19-19 insurer is exempt from using those forms].

19-20 SECTION 7.03. Subsection (b), Article 5.01-2, Insurance  
19-21 Code, as effective until June 1, 2003, is amended to read as  
19-22 follows:

19-23 (b) On and after the effective date of Subchapter Q of this  
19-24 chapter [March 1, 1992], rates for personal automobile [motor  
19-25 vehicle] insurance written by a Lloyd's plan insurer or a  
19-26 reciprocal or interinsurance exchange are determined as provided by  
19-27 [the flexible rating program adopted under] Subchapter Q [M] of  
19-28 this chapter.

19-29 SECTION 7.04. Section 4, Article 5.01-4, Insurance Code, is  
19-30 amended to read as follows:

19-31 Sec. 4. APPLICABILITY OF CERTAIN LAWS. (a) In reporting  
19-32 incurred losses and earned premiums as required under this  
19-33 [subchapter, Subchapter M of this chapter, or Chapter 17 of this]  
19-34 code, an insurer shall separately report experience based on use of  
19-35 the mile-based rating plan and the time-based rating plan.

19-36 (b) The classifications used by an insurer for motor  
19-37 vehicles insured under the mile-based rating plan are exempt from  
19-38 the provisions of this subchapter other than this article [and  
19-39 Subchapter M of this chapter].

19-40 SECTION 7.05. Subsection (g), Article 5.03, Insurance Code,  
19-41 is amended to read as follows:

19-42 (g) Notwithstanding Sections (a) through (e) of this  
19-43 article, on and after the effective date of Subchapter Q of this  
19-44 chapter [March 1, 1992], rates for personal automobile insurance in  
19-45 this state are determined as provided by that subchapter, and rates  
19-46 for commercial automobile insurance in this state [motor vehicles]  
19-47 are determined as provided by Article 5.13-2 [Subchapter M] of this  
19-48 code [chapter].

19-49 SECTION 7.06. Subsections (b) and (c), Section 2, Article  
19-50 5.03-2, Insurance Code, are amended to read as follows:

19-51 (b) An insurer shall, on receipt of written verification  
19-52 from the insured that the insured motorbicycle is equipped with a  
19-53 qualifying antitheft device, grant a discount in the premiums  
19-54 charged for comprehensive insurance for a motorcycle or  
19-55 motorbicycle in an amount greater than a Category I or Category II  
19-56 discount if the department [State Board of Insurance], by rule,  
19-57 authorizes additional discounts based on the installation of  
19-58 additional antitheft devices that are designed for use on  
19-59 motorcycles or motorbicycles.

19-60 (c) The discounts under this article shall be set by the  
19-61 department based on sound actuarial principles [State Board of  
19-62 Insurance].

19-63 SECTION 7.07. Subsection (c), Section 2, Article 5.03-3,  
19-64 Insurance Code, is amended to read as follows:

19-65 (c) The commissioner by rule shall set, based on sound  
19-66 actuarial principles, the amount of the discounts applicable under  
19-67 this article and may adopt other rules necessary for the  
19-68 implementation of this article.

19-69 SECTION 7.08. Subsection (a), Article 5.03-4, Insurance

20-1 Code, is amended to read as follows:

20-2 (a) The commissioner shall by rule set, based on sound  
 20-3 actuarial principles, a [require a five percent premium] discount  
 20-4 applicable to a personal motor vehicle insurance policy for  
 20-5 completion of a drug and alcohol driving awareness program that has  
 20-6 been approved by the Texas Education Agency under the Texas Driver  
 20-7 and Traffic Safety Education Act (Article 4413(29c), Vernon's Texas  
 20-8 Civil Statutes).

20-9 SECTION 7.09. Subsection (f), Section 2, Article 5.03-5,  
 20-10 Insurance Code, is amended to read as follows:

20-11 (f) The commissioner by rule shall set, based on sound  
 20-12 actuarial principles, the amount of the discount applicable under  
 20-13 this article and may adopt other rules necessary for the  
 20-14 implementation of this article, including rules identifying youth  
 20-15 groups whose members are eligible for a discount under this  
 20-16 article.

20-17 SECTION 7.10. Subsection (c), Article 5.04, Insurance Code,  
 20-18 is amended to read as follows:

20-19 (c) Notwithstanding Subsections (a) and (b) of this  
 20-20 article, on and after the effective date of Subchapter Q of this  
 20-21 chapter [March 1, 1992], rates for personal automobile insurance in  
 20-22 this state are determined as provided by that subchapter, and rates  
 20-23 for commercial automobile insurance in this state [motor vehicles]  
 20-24 are determined as provided by Article 5.13-2 [Subchapter M] of this  
 20-25 code [chapter].

20-26 SECTION 7.11. Article 5.06, Insurance Code, is amended by  
 20-27 adding Subsection (12) to read as follows:

20-28 (12) Notwithstanding Subsections (1)-(8) of this article,  
 20-29 policy forms and endorsements for personal automobile insurance in  
 20-30 this state are regulated as provided by Article 5.143 of this code.  
 20-31 An insurer may continue to use the policy forms and endorsements  
 20-32 adopted or approved by the commissioner under this article that the  
 20-33 insurer used immediately before the effective date of Article 5.143  
 20-34 of this code on notification to the commissioner in writing that the  
 20-35 policy forms and endorsements will continue to be used.

20-36 SECTION 7.12. Subsection (2), Article 5.06-1, Insurance  
 20-37 Code, is amended to read as follows:

20-38 (2) For the purpose of these coverages: (a) the term  
 20-39 "uninsured motor vehicle" shall, subject to the terms and  
 20-40 conditions of such coverage, be deemed to include an insured motor  
 20-41 vehicle where the liability insurer thereof is unable to make  
 20-42 payment with respect to the legal liability of its insured within  
 20-43 the limits specified therein because of insolvency.

20-44 (b) The term "underinsured motor vehicle" means an  
 20-45 insured motor vehicle on which there is valid and collectible  
 20-46 liability insurance coverage with limits of liability for the owner  
 20-47 or operator which were originally lower than, or have been reduced  
 20-48 by payment of claims arising from the same accident to, an amount  
 20-49 less than the limit of liability stated in the underinsured  
 20-50 coverage of the insured's policy.

20-51 (c) The commissioner [Board] may, in the policy forms  
 20-52 adopted under Article 5.06 of this code, define "uninsured motor  
 20-53 vehicle" to exclude certain motor vehicles whose operators are in  
 20-54 fact uninsured. The commissioner may in the policy forms filed and  
 20-55 approved under Article 5.143 of this code allow the term "uninsured  
 20-56 motor vehicle" to be defined to exclude certain motor vehicles  
 20-57 whose operators are in fact uninsured.

20-58 (d) The portion of a policy form adopted under Article  
 20-59 5.06 of this code or filed and approved under Article 5.143 of this  
 20-60 code to provide coverage under this article shall include  
 20-61 provisions that, regardless of the number of persons insured,  
 20-62 policies or bonds applicable, vehicles involved, or claims made,  
 20-63 the total aggregate limit of liability to any one person who  
 20-64 sustains bodily injury or property damage as the result of any one  
 20-65 occurrence shall not exceed the limit of liability for these  
 20-66 coverages as stated in the policy and the total aggregate limit of  
 20-67 liability to all claimants, if more than one, shall not exceed the  
 20-68 total limit of liability per occurrence as stated in the policy; and  
 20-69 shall provide for the exclusion of the recovery of damages for

21-1 bodily injury or property damage or both resulting from the  
 21-2 intentional acts of the insured. The portion of a policy form  
 21-3 adopted under Article 5.06 of this code or filed and approved under  
 21-4 Article 5.143 of this code to provide coverage under this article  
 21-5 shall require that in order for the insured to recover under the  
 21-6 uninsured motorist coverages where the owner or operator of any  
 21-7 motor vehicle which causes bodily injury or property damage to the  
 21-8 insured is unknown, actual physical contact must have occurred  
 21-9 between the motor vehicle owned or operated by such unknown person  
 21-10 and the person or property of the insured.

21-11 SECTION 7.13. Article 5.06-6, Insurance Code, is amended to  
 21-12 read as follows:

21-13 Art. 5.06-6. COVERAGES FOR SPOUSES AND FORMER SPOUSES. A  
 21-14 personal automobile policy or any similar policy form adopted or  
 21-15 approved by the commissioner [~~State Board of Insurance~~] under  
 21-16 Article 5.06 of this code or filed and approved under Article 5.143  
 21-17 of this code that covers liability arising out of ownership,  
 21-18 maintenance, or use of a motor vehicle of a spouse, who is otherwise  
 21-19 insured by the policy, shall contain a provision to continue  
 21-20 coverage for the spouse during a period of separation in  
 21-21 contemplation of divorce.

21-22 SECTION 7.14. Subsection (c), Article 5.09, Insurance Code,  
 21-23 is amended to read as follows:

21-24 (c) Notwithstanding Subsection (a) of this article, on and  
 21-25 after the effective date of Subchapter Q of this chapter [~~March 1,~~  
 21-26 ~~1992~~], rates for personal automobile insurance in this state are  
 21-27 determined as provided by that subchapter, and rates for commercial  
 21-28 automobile insurance in this state [~~motor vehicles~~] are determined  
 21-29 as provided by Article 5.13-2 [~~Subchapter M~~] of this code  
 21-30 [~~chapter~~].

21-31 SECTION 7.15. Subsection (c), Article 5.11, Insurance Code,  
 21-32 is amended to read as follows:

21-33 (c) Notwithstanding Subsections (a) and (b) of this  
 21-34 article, on and after the effective date of Subchapter Q of this  
 21-35 chapter [~~March 1, 1992~~], rates for personal automobile insurance in  
 21-36 this state are determined as provided by that subchapter, and rates  
 21-37 for commercial automobile insurance in this state [~~motor vehicles~~]  
 21-38 are determined as provided by Article 5.13-2 [~~Subchapter M~~] of this  
 21-39 code [~~chapter~~].

21-40 SECTION 7.16. Article 5.13, Insurance Code, is amended to  
 21-41 read as follows:

21-42 Art. 5.13. SCOPE OF SUBCHAPTER [~~SUB-CHAPTER~~]. (a) This  
 21-43 subchapter [~~Sub-chapter~~] applies to every insurance company,  
 21-44 corporation, interinsurance exchange, mutual, reciprocal,  
 21-45 association, Lloyd's plan, [~~Lloyds~~] or other organization or  
 21-46 insurer writing any of the characters of insurance business herein  
 21-47 set forth, hereinafter called "Insurer"; provided that nothing in  
 21-48 this entire subchapter [~~Sub-chapter~~] shall [~~ever~~] be construed to  
 21-49 apply to any county or farm mutual insurance company or  
 21-50 association, as regulated under Chapters 16 and 17 of this code,  
 21-51 except that Section 8, Article 5.13-2 of this code, shall apply to a  
 21-52 county mutual insurance company with respect to commercial  
 21-53 automobile insurance [~~Code~~].

21-54 (b) This subchapter [~~Sub-chapter~~] applies to the writing of  
 21-55 casualty insurance and the writing of fidelity, surety, and  
 21-56 guaranty bonds, on risks or operations in this State except as  
 21-57 herein stated.

21-58 (c) This subchapter [~~Sub-chapter~~] does not apply to the  
 21-59 writing of motor vehicle, life, health, accident, professional  
 21-60 liability, reinsurance, aircraft, fraternal benefit, fire,  
 21-61 lightning, tornado, windstorm, hail, smoke or smudge, cyclone,  
 21-62 earthquake, volcanic eruption, rain, frost and freeze, weather or  
 21-63 climatic conditions, excess or deficiency of moisture, flood, the  
 21-64 rising of the waters of the ocean or its tributaries, bombardment,  
 21-65 invasion, insurrection, riot, civil war or commotion, military or  
 21-66 usurped power, any order of a civil authority made to prevent the  
 21-67 spread of a conflagration, epidemic or catastrophe, vandalism or  
 21-68 malicious mischief, strike or lockout, water or other fluid or  
 21-69 substance, resulting from the breakage or leakage of sprinklers,

22-1 pumps, or other apparatus erected for extinguishing fires, water  
 22-2 pipes or other conduits or containers, or resulting from casual  
 22-3 water entering through leaks or opening in buildings or by seepage  
 22-4 through building walls, including insurance against accidental  
 22-5 injury of such sprinklers, pumps, fire apparatus, conduits or  
 22-6 container, workers' [~~workmen's~~] compensation, inland marine, ocean  
 22-7 marine, marine, or title insurance; nor does this subchapter  
 22-8 [~~Sub-chapter~~] apply to the writing of explosion insurance, except  
 22-9 insurance against loss from injury to person or property which  
 22-10 results accidentally from steam boilers, heaters or pressure  
 22-11 vessels, electrical devices, engines and all machinery and  
 22-12 appliances used in connection therewith or operation thereby.

22-13 (d) This subchapter [~~Sub-chapter~~] shall not be construed as  
 22-14 limiting in any manner the types or classes of insurance which may  
 22-15 be written by the several types of insurers under appropriate  
 22-16 statutes or their charters or permits.

22-17 (e) The regulatory power herein conferred is vested in the  
 22-18 commissioner [~~Board of Insurance Commissioners of the State of~~  
 22-19 ~~Texas. Within the Board, the Casualty Insurance Commissioner~~  
 22-20 ~~shall have primary supervision of regulation herein provided,~~  
 22-21 ~~subject however to the final authority of the entire Board~~].

22-22 SECTION 7.17. The heading to Article 5.13-2, Insurance  
 22-23 Code, is amended to read as follows:

22-24 Art. 5.13-2. RATES FOR GENERAL LIABILITY, COMMERCIAL  
 22-25 AUTOMOBILE, AND COMMERCIAL PROPERTY INSURANCE COVERAGE

22-26 SECTION 7.18. Sections 1 and 2, Article 5.13-2, Insurance  
 22-27 Code, are amended to read as follows:

22-28 Sec. 1. PURPOSE. This article governs the regulation of  
 22-29 general liability, commercial automobile, commercial property,  
 22-30 which shall include farm and ranch owners and farm and ranch  
 22-31 policies, all commercial casualty, and medical professional  
 22-32 liability insurance rates and forms. It does not govern  
 22-33 [~~automobile,~~] fidelity, surety, or guaranty bonds. The purposes of  
 22-34 this article are to:

22-35 (1) promote the public welfare by regulating insurance  
 22-36 rates to prohibit excessive, inadequate, or unfairly  
 22-37 discriminatory rates;

22-38 (2) promote availability of insurance;

22-39 (3) promote price competition among insurers to  
 22-40 provide rates and premiums that are responsive to competitive  
 22-41 market conditions;

22-42 (4) prohibit price-fixing agreements and other  
 22-43 anticompetitive behavior by insurers;

22-44 (5) regulate the insurance forms used for lines of  
 22-45 insurance subject to this article to ensure that they are not  
 22-46 unjust, unfair, inequitable, misleading, or deceptive; and

22-47 (6) provide regulatory procedures for the maintenance  
 22-48 of appropriate information reporting systems.

22-49 Sec. 2. SCOPE. This article applies to all lines of general  
 22-50 liability, commercial automobile, commercial property, all  
 22-51 commercial casualty, and medical professional liability insurance  
 22-52 written under policies or contracts of insurance issued by a  
 22-53 licensed insurer, other than a fidelity, surety, or guaranty bond  
 22-54 or an automobile insurance policy.

22-55 SECTION 7.19. Subdivision (2), Section 3, Article 5.13-2,  
 22-56 Insurance Code, is amended to read as follows:

22-57 (2) "Insurer" means an insurer to which Article 5.13  
 22-58 of this code applies, but does not include the Texas Windstorm  
 22-59 Insurance Association. However, the provisions of Sections 4, 5,  
 22-60 6, and 7 of this article shall not apply to Lloyd's plans or  
 22-61 reciprocals with respect to commercial property insurance. The  
 22-62 provisions of Section 8 of this article shall apply to county mutual  
 22-63 insurance companies with respect to commercial automobile  
 22-64 insurance.

22-65 SECTION 7.20. Subsection (b), Article 5.25, Insurance Code,  
 22-66 is amended to read as follows:

22-67 (b) Notwithstanding Subsection (a) of this article, on and  
 22-68 after the effective date of Subchapter Q of this chapter [March 1,  
 22-69 1992], rates for homeowners and residential fire and residential

23-1 allied lines insurance coverage under this subchapter are  
 23-2 determined as provided by Subchapter Q [M] of this chapter, and  
 23-3 rates for other lines of insurance subject to this subchapter are  
 23-4 determined as provided by Article 5.13-2 of this code. This  
 23-5 subsection does not affect the requirement for the commissioner to  
 23-6 conduct inspections of commercial property and prescribe a manual  
 23-7 of rules and rating schedules for commercial property under this  
 23-8 subchapter.

23-9 SECTION 7.21. Subsection (b), Article 5.25A, Insurance  
 23-10 Code, is amended to read as follows:

23-11 (b) Notwithstanding Subsection (a) of this article, on and  
 23-12 after the effective date of Subchapter Q of this chapter [~~March 1,~~  
 23-13 ~~1992~~], rates for homeowners and residential fire and residential  
 23-14 allied lines insurance coverage under this subchapter are  
 23-15 determined as provided by Subchapter Q [M] of this chapter, and  
 23-16 rates for other lines of insurance subject to this subchapter are  
 23-17 determined as provided by Article 5.13-2 of this code.

23-18 SECTION 7.22. Article 5.25-2, Insurance Code, is amended to  
 23-19 read as follows:

23-20 Art. 5.25-2. CITY FIRE LOSS LISTS

23-21 Sec. 1. In this article,

23-22 [~~(1)~~] "list" means the list of fire and lightning  
 23-23 losses in excess of \$100 paid under policy forms adopted or approved  
 23-24 by the commissioner [~~board~~] under Article 5.35 of this code or filed  
 23-25 and approved as provided by Article 5.143 of this code [~~subchapter~~]  
 23-26 in a particular city or town prepared by the department [~~State Board~~  
 23-27 ~~of Insurance~~] for distribution to the city or town[+]

23-28 [~~(2)~~] "~~board~~" means the ~~State Board of Insurance~~.

23-29 Sec. 2. (a) The department [~~board~~] shall compile for each  
 23-30 city or town in Texas a list of the insured fire losses paid under  
 23-31 policy forms adopted or approved by the commissioner [~~board~~] under  
 23-32 Article 5.35 of this code or filed and approved as provided by  
 23-33 Article 5.143 of this code [~~subchapter~~] in that city or town for the  
 23-34 preceding statistical year.

23-35 (b) The list shall include:

23-36 (1) the names of persons recovering losses under  
 23-37 policy forms adopted or approved by the commissioner [~~board~~] under  
 23-38 Article 5.35 of this code or filed and approved as provided by  
 23-39 Article 5.143 of this code [~~subchapter~~];

23-40 (2) the addresses or locations where the losses  
 23-41 occurred; and

23-42 (3) the amount paid by the insurance company on each  
 23-43 loss.

23-44 (c) The department [~~board~~] shall obtain the information to  
 23-45 make the lists from insurance company reports of individual losses  
 23-46 during the statistical year.

23-47 Sec. 3. Upon the request of any city or town, or its duly  
 23-48 authorized agent or fire marshal [~~marshall~~], the department [~~board~~]  
 23-49 shall provide that city or ~~and~~ town with a copy of the list for its  
 23-50 particular area.

23-51 Sec. 4. Each city or town shall investigate its list to  
 23-52 determine the losses actually occurring in its limits and shall  
 23-53 make a report to the department, [~~board~~] which report shall  
 23-54 include:

23-55 (1) a list of the losses that actually occurred in the  
 23-56 limits of the city or town;

23-57 (2) a list of any losses not occurring in the limits of  
 23-58 the city or town; and

23-59 (3) other evidence essential to establishing the  
 23-60 losses in the city or town.

23-61 Sec. 5. The department [~~board~~] shall make such changes or  
 23-62 corrections as to it shall seem appropriate in order to correct the  
 23-63 list of insured fire and lightning losses paid under policy forms  
 23-64 adopted or approved by the commissioner [~~board~~] under Article 5.35  
 23-65 of this code or filed and approved as provided by Article 5.143 of  
 23-66 this code [~~subchapter~~] in a particular city or town and said list of  
 23-67 losses, as changed or corrected, shall be used to determine the fire  
 23-68 record credit or debit for each particular city or town for the next  
 23-69 year.



24-1 Sec. 6. The commissioner [~~board~~] shall set and collect a  
 24-2 charge for compiling and providing a list of fire and lightning  
 24-3 losses paid under policy forms adopted or approved by the  
 24-4 commissioner [~~board~~] under Article 5.35 of this code or filed and  
 24-5 approved as provided by Article 5.143 of this code [~~subchapter~~] in a  
 24-6 particular city or town and as the commissioner [~~board~~] shall deem  
 24-7 appropriate to administer the fire record system.

24-8 Sec. 7. The department [~~board~~] is authorized to require  
 24-9 each and every city or town in the State of Texas and each and every  
 24-10 insurance company or carrier of every type and character whatsoever  
 24-11 doing business in the State of Texas to furnish to it a complete and  
 24-12 accurate list of all fire and lightning losses occurring within the  
 24-13 State of Texas and reflected in their records for the purpose of  
 24-14 accumulating statistical information for the control and  
 24-15 prevention of fires.

24-16 Sec. 8. The department [~~board~~] may, at its discretion,  
 24-17 furnish such list only during such time as the fire record system  
 24-18 remains in force and effect.

24-19 SECTION 7.23. Subsection (i), Article 5.26, Insurance Code,  
 24-20 is amended to read as follows:

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

24-28 SECTION 7.24. Subsection (d), Article 5.28, Insurance Code,  
 24-29 is amended to read as follows:

24-30 (d) Notwithstanding Subsection (a) of this article, on and  
 24-31 after the effective date of Subchapter Q of this chapter [~~March 1,~~  
 24-32 ~~1992~~], rates for homeowners and residential fire and residential  
 24-33 allied lines insurance coverage under this subchapter are  
 24-34 determined as provided by Subchapter Q [~~M~~] of this chapter, and  
 24-35 rates for other lines of insurance subject to this subchapter are  
 24-36 determined as provided by Article 5.13-2 of this code.

24-37 SECTION 7.25. Subsection (b), Article 5.29, Insurance Code,  
 24-38 is amended to read as follows:

24-39 (b) Notwithstanding Subsection (a) of this article, on and  
 24-40 after the effective date of Subchapter Q of this chapter [~~March 1,~~  
 24-41 ~~1992~~], rates for homeowners and residential fire and residential  
 24-42 allied lines insurance coverage under this subchapter are  
 24-43 determined as provided by Subchapter Q [~~M~~] of this chapter, and  
 24-44 rates for other lines of insurance subject to this subchapter are  
 24-45 determined as provided by Article 5.13-2 of this code.

24-46 SECTION 7.26. Subsection (b), Article 5.30, Insurance Code,  
 24-47 is amended to read as follows:

24-48 (b) Notwithstanding Subsection (a) of this article, on and  
 24-49 after the effective date of Subchapter Q of this chapter [~~March 1,~~  
 24-50 ~~1992~~], rates for homeowners and residential fire and residential  
 24-51 allied lines insurance coverage under this subchapter are  
 24-52 determined as provided by Subchapter Q [~~M~~] of this chapter, and  
 24-53 rates for other lines of insurance subject to this subchapter are  
 24-54 determined as provided by Article 5.13-2 of this code.

24-55 SECTION 7.27. Subsection (b), Article 5.31, Insurance Code,  
 24-56 is amended to read as follows:

24-57 (b) Notwithstanding Subsection (a) of this article, on and  
 24-58 after the effective date of Subchapter Q of this chapter [~~March 1,~~  
 24-59 ~~1992~~], rates for homeowners and residential fire and residential  
 24-60 allied lines insurance coverage under this subchapter are  
 24-61 determined as provided by Subchapter Q [~~M~~] of this chapter, and  
 24-62 rates for other lines of insurance subject to this subchapter are  
 24-63 determined as provided by Article 5.13-2 of this code.

24-64 SECTION 7.28. Subsection (b), Article 5.32, Insurance Code,  
 24-65 is amended to read as follows:

24-66 (b) Notwithstanding Subsection (a) of this article, on and  
 24-67 after the effective date of Subchapter Q of this chapter [~~March 1,~~  
 24-68 ~~1992~~], rates for homeowners and residential fire and residential  
 24-69 allied lines insurance coverage under this subchapter are



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

SECTION 7.29. Subdivision (3), Section 1, Article 5.33A, Insurance Code, is amended to read as follows:

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

SECTION 7.30. Subsection (c), Section 3, Article 5.33A, Insurance Code, is amended to read as follows:

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

SECTION 7.31. Subsection (a), Section 4, Article 5.33A, Insurance Code, is amended to read as follows:

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

SECTION 7.32. Section 5, Article 5.33A, Insurance Code, is amended to read as follows:

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

SECTION 7.33. Subsection (e), Section 6, Article 5.33A, Insurance Code, is amended to read as follows:

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

SECTION 7.34. Section 9, Article 5.33A, Insurance Code, is amended to read as follows:

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

SECTION 7.35. Section 5, Article 5.33B, Insurance Code, as added by Chapter 337, Acts of the 74th Legislature, Regular Session, 1995, is amended to read as follows:

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

SECTION 7.36. Subsection (b), Section 3, Article 5.33C, Insurance Code, is amended to read as follows:

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

SECTION 7.37. Subsection (b), Article 5.34, Insurance Code, is amended to read as follows:

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

SECTION 7.38. Article 5.35, Insurance Code, is amended by adding Subsection (k) to read as follows:

(k) Notwithstanding Subsections (a)-(j) of this article, policy forms and endorsements for residential property insurance in this state are regulated as provided by Article 5.143 of this code. An insurer may continue to use the policy forms and endorsements

26-1 adopted or approved by the commissioner under this article that the  
 26-2 insurer used immediately before the effective date of Article 5.143  
 26-3 of this code on notification to the commissioner in writing that the  
 26-4 policy forms and endorsements will continue to be used.

26-5 SECTION 7.39. Article 5.35-1, Insurance Code, is amended to  
 26-6 read as follows:

26-7 Art. 5.35-1. COVERAGES FOR SPOUSES AND FORMER SPOUSES. A  
 26-8 homeowner's policy or fire policy promulgated under Article 5.35 of  
 26-9 this code or filed and approved as provided by Article 5.143 of this  
 26-10 code may not be delivered, issued for delivery, or renewed in this  
 26-11 state unless the policy contains the following language: "It is  
 26-12 understood and agreed that this policy, subject to all other terms  
 26-13 and conditions contained in this policy, when covering residential  
 26-14 community property, as defined by state law, shall remain in full  
 26-15 force and effect as to the interest of each spouse covered,  
 26-16 irrespective of divorce or change of ownership between the spouses  
 26-17 unless excluded by endorsement attached to this policy until the  
 26-18 expiration of the policy or until canceled in accordance with the  
 26-19 terms and conditions of this policy."

26-20 SECTION 7.40. Article 5.36, Insurance Code, is amended to  
 26-21 read as follows:

26-22 Art. 5.36. WRITTEN EXPLANATION OF CERTAIN ENDORSEMENTS  
 26-23 REQUIRED. An insurer may not use an endorsement to a policy form to  
 26-24 which Article 5.35 of this code or Article 5.143 of this code  
 26-25 applies that reduces the amount of coverage, unless requested by  
 26-26 the insured, that would otherwise be provided under the policy  
 26-27 unless the insurer provides the policyholder with a written  
 26-28 explanation of the change made by the endorsement before the  
 26-29 effective date of the change.

26-30 SECTION 7.41. Subsection (b), Article 5.39, Insurance Code,  
 26-31 is amended to read as follows:

26-32 (b) Notwithstanding Subsection (a) of this article, on and  
 26-33 after the effective date of Subchapter Q of this chapter [March 1,  
 26-34 1992], rates for homeowners and residential fire and residential  
 26-35 allied lines insurance coverage under this subchapter are  
 26-36 determined, and hearings related to those rates are conducted, as  
 26-37 provided by Subchapter Q [4] of this chapter, and rates for other  
 26-38 lines of insurance subject to this subchapter are determined as  
 26-39 provided by Article 5.13-2 of this code.

26-40 SECTION 7.42. Subsection (d), Article 5.40, Insurance Code,  
 26-41 is amended to read as follows:

26-42 (d) Notwithstanding Subsections (a)-(c) of this article, on  
 26-43 and after the effective date of Subchapter Q of this chapter  
 26-44 [March 1, 1992], rates for homeowners and residential fire and  
 26-45 residential allied lines insurance coverage under this subchapter  
 26-46 are determined, and hearings related to those rates are conducted,  
 26-47 as provided by Subchapter Q [4] of this chapter, and rates for other  
 26-48 lines of insurance subject to this subchapter are determined as  
 26-49 provided by Article 5.13-2 of this code.

26-50 SECTION 7.43. Subsection (b), Article 5.41, Insurance Code,  
 26-51 is amended to read as follows:

26-52 (b) Notwithstanding Subsection (a) of this article, on and  
 26-53 after the effective date of Subchapter Q of this chapter [March 1,  
 26-54 1992], rates for homeowners and residential fire and residential  
 26-55 allied lines insurance coverage under this subchapter are  
 26-56 determined as provided by Subchapter Q [4] of this chapter, and  
 26-57 rates for other lines of insurance subject to this subchapter are  
 26-58 determined as provided by Article 5.13-2 of this code.

26-59 SECTION 7.44. Subsection (g), Article 5.53, Insurance Code,  
 26-60 is amended to read as follows:

26-61 (g) The writing of inland marine insurance, rain insurance  
 26-62 and insurance against loss by hail on farm crops, shall be governed  
 26-63 by the provisions of Articles 5.25 to 5.48, inclusive, and also  
 26-64 Articles 5.50 to 5.51, inclusive, of this subchapter and Article  
 26-65 5.67 of Subchapter D[-] of this chapter, in the same manner and to  
 26-66 the same extent as fire insurance and fire insurance rates are now  
 26-67 affected by the provisions of said articles, except that wherever  
 26-68 in any of said articles reference is made to making, fixing,  
 26-69 prescribing, determination or promulgation by the Board of rates or

27-1 policy forms or endorsements, the provisions of this article shall  
27-2 control. [~~Notwithstanding any other provision of this subchapter,~~  
27-3 ~~the flexible rating program created under Subchapter M of this~~  
27-4 ~~chapter does not apply to this article.]~~

27-5 SECTION 7.45. Subsection (a-1), Article 5.96, Insurance  
27-6 Code, is amended to read as follows:

27-7 (a-1) ~~This [Except as provided by Section 5(d), Article~~  
27-8 ~~5.101, of this code, this]~~ article does not apply to the setting of  
27-9 [~~benchmark~~] rates for motor vehicle insurance and fire and allied  
27-10 lines insurance under Subchapter Q [~~M~~] of this chapter.

27-11 SECTION 7.46. (a) Section 5, Article 17.25, Insurance  
27-12 Code, as effective until June 1, 2003, is amended to read as  
27-13 follows:

27-14 Sec. 5. POLICY FORMS PRESCRIBED. Each county mutual  
27-15 insurance company shall be subject to the provisions of Articles  
27-16 [Article] 5.06, [and Article] 5.35, and 5.143 of this code [Code].  
27-17 County [The Board of Insurance Commissioners pursuant to Article  
27-18 5.35 may in its discretion make, promulgate and establish uniform  
27-19 policies for county] mutual insurance companies shall file policy  
27-20 forms under Article 5.143 of this code or continue to use the  
27-21 standard policy forms and endorsements promulgated under Articles  
27-22 5.06 and 5.35 of this code on notification to the commissioner in  
27-23 writing that the forms will continue to be used [different from the  
27-24 uniform policies made, promulgated and established for use by  
27-25 companies other than county mutual insurance companies, and shall  
27-26 prescribe the conditions under which such policies may be adopted  
27-27 and used by county mutual insurance companies, and the conditions  
27-28 under which such companies shall adopt and use the same forms and no  
27-29 others as are prescribed for other companies].

27-30 (b) Section 912.152, Insurance Code, as effective June 1,  
27-31 2003, is amended to read as follows:

27-32 Sec. 912.152. POLICY FORMS. (a) A county mutual insurance  
27-33 company is subject to Articles 5.06, [and] 5.35, and 5.143.

27-34 (b) County [The commissioner, in accordance with Article  
27-35 5.35, may adopt for use by county] mutual insurance companies shall  
27-36 file policy forms under Article 5.143 or continue to use the  
27-37 standard policy forms and endorsements promulgated under Articles  
27-38 5.06 and 5.35 on notification to the commissioner in writing that  
27-39 the forms will continue to be used [uniform policy forms that differ  
27-40 from the forms adopted for use by other companies and shall  
27-41 prescribe the conditions under which a county mutual insurance  
27-42 company:

27-43 [ (1) may use the policy forms adopted under this  
27-44 subsection; or

27-45 [ (2) shall use the policy forms adopted for other  
27-46 companies].

27-47 SECTION 7.47. (a) Section 6, Article 17.25, Insurance  
27-48 Code, as effective until June 1, 2003, is amended to read as  
27-49 follows:

27-50 Sec. 6. FILE OF SCHEDULE OF CHARGES. As part of the rate  
27-51 filings required under Article 5.142 of this code, a county mutual  
27-52 insurance company [Such companies] shall file with the department  
27-53 [Board] a schedule of its rates, the amount of policy fee,  
27-54 inspection fee, membership fee, or initial charge by whatever name  
27-55 called, proposed to be charged to its policyholders or those  
27-56 applying for policies. The filing of this information shall be in  
27-57 accordance with the requirements of Article 5.142 of this code.

27-58 (b) Section 912.201, Insurance Code, as effective June 1,  
27-59 2003, is amended to read as follows:

27-60 Sec. 912.201. SCHEDULE OF CHARGES. As part of the rate  
27-61 filings required under Article 5.142, a [A] county mutual insurance  
27-62 company shall file with the department a schedule of the amounts the  
27-63 company proposes to charge [charges] a policyholder or an applicant  
27-64 for a policy, regardless of the term the company uses to refer to  
27-65 those charges, including "rate," "policy fee," "inspection fee,"  
27-66 "membership fee," or "initial charge." The filing of this  
27-67 information shall be in accordance with the requirements of Article  
27-68 5.142.

27-69 SECTION 7.48. Section 8, Article 21.77, Insurance Code, is

28-1 amended to read as follows:

28-2 Sec. 8. POLICY FORMS. All policy forms for insurance  
28-3 written under this article shall be prescribed by the commissioner  
28-4 [~~board~~] as provided in Article 5.06 of this code or filed and in  
28-5 effect as provided in Article 5.143 of this code[~~, Insurance Code~~].

28-6 SECTION 7.49. (a) Section 912.002, Insurance Code, as  
28-7 effective June 1, 2003, is amended by amending Subsection (a) and  
28-8 adding Subsection (c) to read as follows:

28-9 (a) A county mutual insurance company is exempt from the  
28-10 operation of all insurance laws of this state[~~, including the~~  
28-11 ~~flexible rating program under Article 5.101,~~] except laws that are  
28-12 made applicable by their specific terms or except as specifically  
28-13 provided by this chapter.

28-14 (c) Rate regulation for a personal automobile insurance  
28-15 policy written by a county mutual insurance company is subject to  
28-16 Subchapter Q, Chapter 5. Rate regulation for a residential  
28-17 property insurance policy written by a county mutual insurance  
28-18 company is subject to Subchapter Q, Chapter 5. The commissioner may  
28-19 adopt rules as necessary to implement this subsection.

28-20 (b) Subsection (b), Article 17.22, Insurance Code, as  
28-21 effective until June 1, 2003, is amended to read as follows:

28-22 (b) Rate regulation for a personal automobile insurance  
28-23 policy written by a county mutual insurance company is subject to  
28-24 Subchapter Q, Chapter 5 of this code. Rate regulation for a  
28-25 residential property insurance policy written by a county mutual  
28-26 insurance company is subject to Subchapter Q, Chapter 5 of this  
28-27 code. The commissioner may adopt rules as necessary to implement  
28-28 this subsection [~~The flexible rating program created under~~  
28-29 ~~Subchapter M, Chapter 5, of this code does not apply to county~~  
28-30 ~~mutual insurance companies~~].

28-31 SECTION 7.50. Section 912.152, Insurance Code, as effective  
28-32 June 1, 2003, is amended to read as follows:

28-33 Sec. 912.152. POLICY FORMS. (a) A county mutual insurance  
28-34 company is subject to Articles 5.06, [~~and~~] 5.35, and 5.143.

28-35 (b) County [~~The commissioner, in accordance with Article~~  
28-36 ~~5.35, may adopt for use by county~~] mutual insurance companies shall  
28-37 file policy forms under Article 5.143 or continue to use the  
28-38 standard policy forms and endorsements promulgated under Articles  
28-39 5.06 and 5.35 on notification to the commissioner in writing in the  
28-40 manner prescribed by Article 5.143 that those forms will continue  
28-41 to be used [~~uniform policy forms that differ from the forms adopted~~  
28-42 ~~for use by other companies and shall prescribe the conditions under~~  
28-43 ~~which a county mutual insurance company~~].

28-44 [(1) ~~may use the policy forms adopted under this~~  
28-45 ~~subsection, or~~

28-46 [(2) ~~shall use the policy forms adopted for other~~  
28-47 ~~companies~~].

28-48 SECTION 7.51. (a) Subsection (b), Section 941.003,  
28-49 Insurance Code, as effective June 1, 2003, is amended to read as  
28-50 follows:

28-51 (b) A Lloyd's plan is subject to:

- 28-52 (1) Section 5, Article 1.10;  
28-53 (2) Article 1.15A;  
28-54 (3) Subchapter A, Chapter 5;  
28-55 (4) Articles 5.35, 5.38, 5.39, 5.40, [~~and~~] 5.49,  
28-56 5.142, and 5.143;

28-57 (5) Articles 21.21 and 21.49-8; and

28-58 (6) Sections 822.203, 822.205, 822.210, and 822.212.

28-59 (b) Article 18.23, Insurance Code, as effective until  
28-60 June 1, 2003, is amended by adding Subsection (c) to read as  
28-61 follows:

28-62 (c) Rate regulation for a personal automobile insurance  
28-63 policy written by a Lloyd's plan is subject to Subchapter Q, Chapter  
28-64 5 of this code. Rate regulation for a residential property  
28-65 insurance policy written by a Lloyd's plan is subject to Subchapter  
28-66 Q, Chapter 5 of this code. The commissioner may adopt rules as  
28-67 necessary to implement this subsection.

28-68 SECTION 7.52. (a) Subsection (b), Section 942.003,  
28-69 Insurance Code, as effective June 1, 2003, is amended to read as

29-1 follows:

29-2 (b) An exchange is subject to:

29-3 (1) Section 5, Article 1.10;

29-4 (2) Articles 1.15, 1.15A, and 1.16;

29-5 (3) Subchapter A, Chapter 5;

29-6 (4) Articles 5.35, 5.37, 5.38, 5.39, [~~and~~] 5.40,  
29-7 5.142, and 5.143;

29-8 (5) Articles 21.21 and 21.49-8; and

29-9 (6) Sections 822.203, 822.205, 822.210, 822.212,  
29-10 861.254(a)-(f), 861.255, 862.001(b), and 862.003.

29-11 (b) Article 19.12, Insurance Code, as effective until  
29-12 June 1, 2003, is amended by adding Subsection (c) to read as  
29-13 follows:

29-14 (c) Rate regulation for a personal automobile insurance  
29-15 policy written by a reciprocal or interinsurance exchange is  
29-16 subject to Subchapter Q, Chapter 5 of this code. Rate regulation  
29-17 for a residential property insurance policy written by a reciprocal  
29-18 or interinsurance exchange is subject to Subchapter Q, Chapter 5 of  
29-19 this code. The commissioner may adopt rules as necessary to  
29-20 implement this subsection.

29-21 SECTION 7.53. Subsection (d), Section 502.153,  
29-22 Transportation Code, is amended to read as follows:

29-23 (d) A personal automobile policy used as evidence of  
29-24 financial responsibility under this section must comply with  
29-25 Article 5.06 or 5.143, Insurance Code.

29-26 SECTION 7.54. Subsection (c), Section 521.143,  
29-27 Transportation Code, is amended to read as follows:

29-28 (c) A personal automobile insurance policy used as evidence  
29-29 of financial responsibility under this section must comply with  
29-30 Article 5.06 or 5.143, Insurance Code.

29-31 SECTION 7.55. The following laws are repealed:

29-32 (1) Subsection (h), Article 5.26, and Articles 5.50,  
29-33 5.101, and 40.061, Insurance Code;

29-34 (2) as effective June 1, 2003, Subsection (c), Section  
29-35 941.003, and Subsection (c), Section 942.003, Insurance Code; and

29-36 (3) Section 4C, Article 5.73, Insurance Code.

29-37 ARTICLE 8. LEGISLATIVE OVERSIGHT COMMITTEE

29-38 SECTION 8.01. Subchapter E, Chapter 21, Insurance Code, is  
29-39 amended by adding Article 21.49-20 to read as follows:

29-40 Art. 21.49-20. PROPERTY AND CASUALTY LEGISLATIVE OVERSIGHT  
29-41 COMMITTEE. (a) In this section, "committee" means the property  
29-42 and casualty insurance legislative oversight committee.

29-43 (b) The committee is composed of seven members as follows:

29-44 (1) the chair of the Senate Business and Commerce  
29-45 Committee and the chair of the House Committee on Insurance, who  
29-46 shall serve as joint chairs of the committee;

29-47 (2) two members of the senate appointed by the  
29-48 lieutenant governor;

29-49 (3) two members of the house of representatives  
29-50 appointed by the speaker of the house of representatives; and

29-51 (4) the public insurance counsel.

29-52 (c) An appointed member of the committee serves at the  
29-53 pleasure of the appointing official. In making appointments to the  
29-54 committee, the appointing officials shall attempt to appoint  
29-55 persons who represent the gender composition, minority  
29-56 populations, and geographic regions of the state.

29-57 (d) The committee is subject to Chapter 325, Government Code  
29-58 (Texas Sunset Act). Unless continued in existence as provided by  
29-59 that chapter, the committee is abolished September 1, 2007.

29-60 (e) The committee shall:

29-61 (1) meet at least annually with the commissioner;

29-62 (2) receive information about rules relating to  
29-63 property and casualty insurance proposed by the department, and may  
29-64 submit comments to the commissioner on those proposed rules;

29-65 (3) monitor the progress of property and casualty  
29-66 insurance regulation reform, including the fairness of rates,  
29-67 underwriting guidelines, and rating manuals, the availability of  
29-68 coverage, the effect of rate rollbacks, credit scoring, and  
29-69 regulation of homeowners and automobile insurance markets; and

30-1 (4) review recommendations for legislation proposed  
30-2 by the department.

30-3 (f) The committee may request reports and other information  
30-4 from the department as necessary to carry out this section.

30-5 (g) Not later than November 15 of each even-numbered year,  
30-6 the committee shall report to the governor, lieutenant governor,  
30-7 and speaker of the house of representatives on the committee's  
30-8 activities under Subsection (e). The report shall include:

30-9 (1) an analysis of any problems caused by property and  
30-10 casualty insurance regulation reform; and

30-11 (2) recommendations of any legislative action  
30-12 necessary to address those problems and to foster stability,  
30-13 availability, and competition within the property and casualty  
30-14 insurance industry.

30-15 ARTICLE 9. GENERAL TRANSITION; SEVERABILITY; EFFECTIVE DATE

30-16 SECTION 9.01. The amendment of statutory provisions by this  
30-17 Act does not affect the repeal of those provisions by Section 31,  
30-18 Chapter 1419, Acts of the 77th Legislature, Regular Session, 2001.

30-19 SECTION 9.02. Except as provided by Section 3.04 of this  
30-20 Act, this Act applies to an insurance policy that is delivered,  
30-21 issued for delivery, or renewed on or after the effective date of  
30-22 this Act. A policy delivered, issued for delivery, or renewed  
30-23 before the effective date of this Act is governed by the law as it  
30-24 existed immediately before the effective date of this Act, and that  
30-25 law is continued in effect for that purpose.

30-26 SECTION 9.03. If any provision of this Act or its  
30-27 application to any person or circumstance is held invalid, the  
30-28 invalidity does not affect other provisions or applications of this  
30-29 Act that can be given effect without the invalid provision or  
30-30 application, and to this end the provisions of this Act are declared  
30-31 to be severable.

30-32 SECTION 9.04. This Act takes effect immediately if it  
30-33 receives a vote of two-thirds of all the members elected to each  
30-34 house, as provided by Section 39, Article III, Texas Constitution.  
30-35 If this Act does not receive the vote necessary for immediate  
30-36 effect, this Act takes effect September 1, 2003.

30-37 \* \* \* \* \*