

1 AN ACT

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

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

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

7 SUBCHAPTER P. FILING OF RESIDENTIAL PROPERTY INSURANCE

8 RATES FOR REPORT TO LEGISLATURE

9 Art. 5.141. FILING OF RATE INFORMATION; REPORT

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

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

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

1 insurance in Texas.

2 Sec. 2. DEFINITIONS. In this article:

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

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

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

24 (4) "Security" or "securities" has the meaning
25 assigned by Section 4, The Securities Act (Article 581-4, Vernon's
26 Texas Civil Statutes).

27 Sec. 3. RATE INFORMATION. (a) Insurers must file

1 residential property insurance rates and supporting information
2 with the commissioner in accordance with the requirements
3 determined by the commissioner under this article.

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

10 (c) The insurer shall file, in a format specified by the
11 commissioner, including an electronic format:

12 (1) all residential property insurance rates,
13 supplementary rating information, underwriting guidelines,
14 reasonable and pertinent supporting information for risks written
15 in the state, and all applicable rating manuals;

16 (2) actuarial support, including all statistics,
17 data, or other information to support the rates, supplementary
18 rating information, use of credit scoring, and underwriting
19 guidelines used by the insurer;

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

22 (4) information on the credit scoring formulas and
23 methodologies possessed and used by the insurer to determine
24 residential property insurance premiums or underwriting and any
25 other information required by the commissioner relating to the
26 insurer's use of credit scoring to determine premiums or
27 underwriting for residential property insurance;

1 (5) information on the insurer's losses from
2 investments in securities, whether publicly or privately traded,
3 including investments in the securities of companies required by
4 any oversight agency to restate earnings within the 24 months
5 preceding the effective date of this article, possessed and used by
6 the insurer to determine premiums or underwriting for residential
7 property insurance, as this information relates to the rates
8 described by Section 1 of this article;

9 (6) information on the insurer's costs of reinsurance,
10 including costs incurred subsequent to September 11, 2001,
11 possessed and used by the insurer to determine premiums or
12 underwriting for residential property insurance, as this
13 information relates to the rates described by Section 1 of this
14 article;

15 (7) a complete explanation, and an electronic copy, of
16 all computer models used by the insurer, including credit scoring
17 and catastrophe models, not protected by a contract with a third
18 party; and

19 (8) a complete explanation of all changes to
20 underwriting guidelines, rates, and supplementary rating
21 information since January 1, 2000.

22 (d) Each insurer that has a share of the residential
23 property insurance market in this state of five percent or more
24 shall file the rating information required under this section. The
25 commissioner shall determine which insurers that have a share of
26 the residential property insurance market in this state of less
27 than five percent are required to file the rating information under

1 this section.

2 (e) The commissioner shall determine the date on which the
3 filing is due.

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

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

13 (h) The commissioner is not required to hold a hearing
14 before issuing the order required under Subsection (g) of this
15 section.

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

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

24 Sec. 5. USE OF FILED RATE INFORMATION. (a) Information
25 filed by an insurer with the department under this article that is
26 confidential under a law that applied to the insurer before the
27 effective date of this article remains confidential and is not

1 subject to disclosure under Chapter 552, Government Code, except
2 that the information may be disclosed as provided by Section
3 552.008, Government Code, relating to information for legislative
4 purposes. Information disclosed pursuant to Section 552.008,
5 Government Code, shall be provided in a commonly used electronic
6 format, including in spreadsheet or comma-delimited format, if so
7 requested. The information may not be released to the public except
8 in summary form in the report required under Section 6 of this
9 article.

10 (b) Subsection (a) of this section does not preclude the use
11 of information filed under this article as evidence in prosecuting
12 a violation of this code. Confidential information described by
13 Subsection (a) of this section that is used in prosecuting a
14 violation is subject to a protective order until all appeals of the
15 case have been exhausted. If an insurer is found, after the
16 exhaustion of all appeals, to have violated this code, a copy of the
17 confidential information used as evidence of the violation is no
18 longer presumed to be confidential.

19 Sec. 6. REPORT. (a) The commissioner shall submit a
20 report to the governor, the lieutenant governor, the speaker of the
21 house of representatives, and the members of the legislature on the
22 information collected from the filings required under this article.
23 The report shall be submitted not later than the 30th day after the
24 effective date of this article. The report may be created based on
25 a sample of the information provided under Section 3 of this
26 article.

27 (b) The report required under this section shall provide a

1 summary review of the rates currently charged and estimated to be
2 charged over the six months following the effective date of this
3 article, presented in a manner that protects the identity of
4 individual insurers:

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

8 (2) to assist the legislature in the determination of
9 the most effective and efficient regulatory system for residential
10 property insurance in Texas.

11 Sec. 7. NOTIFICATION; NONCOMPLIANCE. The commissioner
12 shall notify the governor, the lieutenant governor, the speaker of
13 the house of representatives, and the members of the legislature of
14 the names of the insurers whom the commissioner requested to make
15 the rate filings under this article and the names of the insurers
16 who did not respond in whole or in part to the commissioner's
17 request. This notification shall be made by separate letter on the
18 fourth day following the date on which the commissioner determines
19 the filing is due under Section 3(g) of this article.

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

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

27 Sec. 10. EXPIRATION. This article expires December 31,

1 2003.

2 SECTION 2. The expiration of Article 5.141, Insurance Code,
3 as added by this Act, does not affect an action or proceeding
4 against an insurer subject to that law for a failure to comply with
5 that law before its expiration, regardless of when the action or
6 proceeding was commenced, and that law is continued in effect for
7 this purpose.

8 SECTION 3. This Act takes effect immediately if it receives
9 a vote of two-thirds of all the members elected to each house, as
10 provided by Section 39, Article III, Texas Constitution. If this
11 Act does not receive the vote necessary for immediate effect, this
12 Act takes effect September 1, 2003.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 310 passed the Senate on February 11, 2003, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendments on February 20, 2003, by the following vote: Yeas 29, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 310 passed the House, with amendments, on February 18, 2003, by the following vote: Yeas 148, Nays 0, one present not voting.

Chief Clerk of the House

Approved:

Date

Governor