

1-1 By: Fraser, et al. S.B. No. 310
1-2 (In the Senate - Filed January 29, 2003; January 29, 2003,
1-3 read first time and referred to Committee on Business and Commerce;
1-4 February 3, 2003, reported favorably by the following vote: Yeas
1-5 9, Nays 0; February 3, 2003, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to rate information to be filed by certain insurers of
1-9 residential property; providing an administrative penalty.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Chapter 5, Insurance Code, is amended by adding
1-12 Subchapter P to read as follows:

1-13 SUBCHAPTER P. FILING OF RESIDENTIAL PROPERTY INSURANCE

1-14 RATES FOR REPORT TO LEGISLATURE

1-15 Art. 5.141. FILING OF RATE INFORMATION; REPORT

1-16 Sec. 1. PURPOSE. The purpose of this article is to require
1-17 on a one-time basis that insurers writing residential property
1-18 insurance in this state, immediately after the effective date of
1-19 this article, file rates and supporting data, including current
1-20 rates and estimated rates to be charged in the six-month period
1-21 following the effective date of this article, with the commissioner
1-22 of insurance for the purpose of the preparation of a summary report
1-23 for submission to the 78th Legislature. The report shall contain a
1-24 review of the rates, presented in a manner that protects the
1-25 identity of individual insurers:

1-26 (1) to inform the legislature as to whether the rates
1-27 are just, adequate, and reasonable and not excessive or unfairly
1-28 discriminatory; and

1-29 (2) to assist in the determination of the most
1-30 effective and efficient regulatory system for residential property
1-31 insurance in Texas.

1-32 Sec. 2. DEFINITIONS. In this article:

1-33 (1) "Insurer" means an insurance company, reciprocal
1-34 or interinsurance exchange, mutual, capital stock company, county
1-35 mutual insurance company, association, Lloyd's plan company, or
1-36 other entity writing residential property insurance in the state.
1-37 The term includes an affiliate as described by Section 823.003(a)
1-38 of this code if that affiliate is writing residential property
1-39 insurance in the state.

1-40 (2) "Residential property insurance" means insurance
1-41 against loss to residential real property at a fixed location or
1-42 tangible personal property provided in a homeowners policy, which
1-43 includes a tenant policy, a condominium owners policy, or a
1-44 residential fire and allied lines policy.

1-45 (3) "Supplementary rating information" means any
1-46 manual, rating schedule, plan of rules, rating rules,
1-47 classification systems, territory codes and descriptions, rating
1-48 plans, and other similar information used by the insurer to
1-49 determine the applicable premium for an insured. The term includes
1-50 factors and relativities, such as increased limits factors,
1-51 classification relativities, deductible relativities, premium
1-52 discount, and other similar factors and rating plans such as
1-53 experience, schedule, and retrospective rating.

1-54 Sec. 3. RATE INFORMATION. (a) Insurers must file
1-55 residential property insurance rates and supporting information
1-56 with the commissioner in accordance with the requirements
1-57 determined by the commissioner under this article.

1-58 (b) Filings made by each insurer must be sufficient to
1-59 respond to the commissioner's request for information under this
1-60 article and must provide both current rates and estimated rates for
1-61 the six-month period following the effective date of this article
1-62 based upon information reasonably known to the insurer at the time
1-63 of filing.

1-64 (c) As determined by the commissioner under Subsection (e)

2-1 of this section, the insurer shall file:

2-2 (1) all residential property insurance rates,
 2-3 supplementary rating information, reasonable and pertinent
 2-4 supporting information for risks written in the state, and all
 2-5 applicable rating manuals;

2-6 (2) any statistics or other information to support the
 2-7 rates to be used by the insurer;

2-8 (3) the policy fees, service fees, and other fees that
 2-9 are charged under Article 21.35A or 21.35B of this code; and

2-10 (4) information on the credit scoring formulas and
 2-11 methodologies possessed and used by the insurer to determine
 2-12 residential property insurance premiums or underwriting and any
 2-13 other information required by the commissioner relating to the
 2-14 insurer's use of credit scoring to determine premiums or
 2-15 underwriting for residential property insurance.

2-16 (d) The commissioner shall determine which insurers are
 2-17 required to file the rating information under this section.

2-18 (e) The commissioner shall determine the type of
 2-19 information to be included in the filing and the date on which the
 2-20 filing is due.

2-21 (f) The commissioner may require only one filing of rates
 2-22 and supporting information by an insurer under this section and may
 2-23 require additional information as provided by Section 4 of this
 2-24 article. The commissioner shall require the one filing of rates as
 2-25 provided by this section to be made before June 1, 2003.

2-26 (g) The commissioner shall issue an order specifying the
 2-27 information that insurers must file to comply with this article and
 2-28 the date on which the filing is due.

2-29 (h) The commissioner is not required to hold a hearing
 2-30 before issuing the order required under Subsection (g) of this
 2-31 section.

2-32 (i) The commissioner shall notify an affected insurer of the
 2-33 order requiring the rate filing information under this section on
 2-34 the day the order is issued.

2-35 Sec. 4. ADDITIONAL INFORMATION. After the initial rate
 2-36 submission under Section 3 of this article, the commissioner may
 2-37 require an insurer to provide additional, reasonable information
 2-38 for purposes of the clarification or completeness of the initial
 2-39 rate submission.

2-40 Sec. 5. USE OF FILED RATE INFORMATION. (a) Rate
 2-41 information filed with the department under this article may not be
 2-42 used as the basis for a rate hearing or any disciplinary action by
 2-43 the department except for a disciplinary action against an insurer
 2-44 for a violation of a statute that applied to the insurer before the
 2-45 effective date of this article or for a violation under Section 8 of
 2-46 this article.

2-47 (b) Information filed with the department under this
 2-48 article is confidential and not subject to disclosure under Chapter
 2-49 552, Government Code, except that the information may be disclosed
 2-50 as provided by Section 552.008, Government Code, relating to
 2-51 information for legislative purposes. The information may not be
 2-52 released to the public except in summary form in the report required
 2-53 under Section 6 of this article.

2-54 (c) If information filed with the department under this
 2-55 article is disclosed as provided by Section 552.008, Government
 2-56 Code, the department shall require the requesting member, agency,
 2-57 or committee of the legislature, and the employees of the
 2-58 requesting member or the members or employees of the requesting
 2-59 entity who will view or handle the confidential information, to
 2-60 sign a confidentiality agreement that covers the information and
 2-61 requires that:

2-62 (1) the information not be disclosed outside the
 2-63 requesting entity, or within the requesting entity for purposes
 2-64 other than the purposes for which it was received;

2-65 (2) the information be labeled as confidential;

2-66 (3) the information be kept securely; and

2-67 (4) the number of copies of the information and any
 2-68 notes taken from the confidential information be controlled and
 2-69 that all copies and notes that are not destroyed or returned to the

3-1 governmental body remain confidential and subject to the
3-2 confidentiality agreement.

3-3 (d) Subsection (b) of this section does not preclude the use
3-4 of information filed under this article as evidence in prosecuting
3-5 a violation of this code as provided by Subsection (a) of this
3-6 section. Confidential information that is used in prosecuting a
3-7 violation is subject to a protective order until all appeals of the
3-8 case have been exhausted. If an insurer is found, after the
3-9 exhaustion of all appeals, to have violated this code, a copy of the
3-10 confidential information used as evidence of the violation is no
3-11 longer presumed to be confidential.

3-12 Sec. 6. REPORT. (a) The commissioner shall submit a
3-13 report to the governor, the lieutenant governor, the speaker of the
3-14 house of representatives, and the members of the legislature on the
3-15 information collected from the filings required under this article.
3-16 The report shall be submitted not later than the 30th day after the
3-17 effective date of this article.

3-18 (b) The report required under this section shall provide a
3-19 summary review of the rates currently charged and estimated to be
3-20 charged over the six months following the effective date of this
3-21 article, presented in a manner that protects the identity of
3-22 individual insurers:

3-23 (1) to inform the legislature as to whether the rates
3-24 are just, adequate, and reasonable and not excessive or unfairly
3-25 discriminatory; and

3-26 (2) to assist the legislature in the determination of
3-27 the most effective and efficient regulatory system for residential
3-28 property insurance in Texas.

3-29 Sec. 7. APPLICATION OF CERTAIN LAW. Chapter 40 of this code
3-30 does not apply to an action of the commissioner under Section 3(g)
3-31 of this article.

3-32 Sec. 8. FAILURE TO COMPLY. An insurer that fails to comply
3-33 with any request for information issued by the commissioner under
3-34 this article is subject, after notice and opportunity for hearing,
3-35 to sanctions as provided by Chapters 82 and 84 of this code.

3-36 SECTION 2. This Act takes effect immediately if it receives
3-37 a vote of two-thirds of all the members elected to each house, as
3-38 provided by Section 39, Article III, Texas Constitution. If this
3-39 Act does not receive the vote necessary for immediate effect, this
3-40 Act takes effect September 1, 2003.

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