

Amend **HB 2678** by inserting the following appropriately numbered SECTION and renumbering SECTIONS of the bill appropriately:

SECTION __. Article 5.15-1, Insurance Code, is amended by adding Section 13 to read as follows:

Sec. 13. USE IN UNDERWRITING OF CERTAIN INFORMATION RELATED TO LAWSUITS; REFUND. (a) Notwithstanding any other provision of this code, an insurer may not consider for the purpose of setting premiums for a particular physician's or health care provider's professional liability insurance a lawsuit filed against the physician or provider if:

(1) the lawsuit was dismissed by the claimant or nonsuited; and

(2) no payment was made to the claimant under a settlement agreement.

(b) An insurer that, in setting premiums for a physician's or health care provider's professional liability insurance, considers a lawsuit filed against the physician or provider shall refund to the physician or provider any increase in premiums paid by the physician or provider that is attributable to that lawsuit if the lawsuit is dismissed by the claimant or nonsuited without payment to the claimant under a settlement agreement. The insurer shall issue the refund on or before the 30th day after the date the insurer receives written evidence that the lawsuit was dismissed or nonsuited without payment to the claimant under a settlement agreement.

(c) This section does not prohibit an insurer from considering and using aggregate historical loss and expense experience applicable generally to a classification of physicians' or health care providers' professional liability insurance to set rates for that classification to the extent authorized by Article 5.13-2 of this code. Notwithstanding Section 4(c), Article 5.13-2, of this code, an insurer may not assign a physician or health care provider to a particular classification based on a factor described by Subsection (a) of this section.