

Amend **HB 3540** on third reading by striking Article ____ .01 of the bill as added by Amendment No. 36 by Smithee and substituting the following:

ARTICLE ____ .01. REIMBURSEMENT OF EXCESSIVE OR UNFAIRLY

DISCRIMINATORY RATES CHARGED BY CERTAIN INSURERS

SECTION ____ .01. Article 5.144, Insurance Code, is amended by amending Subsection (b) and adding Subsections (b-1) and (b-2) to read as follows:

(b) Except as provided by Subsection (d) of this article, if the commissioner determines that an insurer has charged a rate for personal automobile insurance or residential property insurance that is excessive or unfairly discriminatory, as described by Article 5.13-2 [~~or 5.101~~] of this code, the commissioner may order the insurer to:

(1) issue a refund of the excessive or unfairly discriminatory portion of the premium, plus interest on that amount, directly to each affected policyholder if the amount of that portion of the premium is at least 7.5 percent of the total premium charged for the coverage; or

(2) if the amount of that portion of the premium is less than 7.5 percent:

(A) provide each affected policyholder who renews the policy a future premium discount in the amount of the excessive or unfairly discriminatory portion of the premium, plus interest on that amount; and

(B) provide each affected policyholder who does not renew or whose coverage is otherwise terminated a refund in the amount described by Subdivision (1) of this subsection.

(b-1) The rate for interest assessed under Subsection (b) of this section is the lesser of 18 percent or the sum of the prime rate for the calendar year in which the order by the commissioner that the rate is excessive or unfairly discriminatory is issued and 6 percent. For purposes of this subsection, the prime rate is the prime rate as published in The Wall Street Journal for the first day of the calendar year that is not a Saturday, Sunday, or a legal holiday. The interest accrues beginning on the date on which the commissioner enters the order and continues to accrue until the

refund is paid. An insurer may not be required to pay any interest penalty if the insurer prevails in an appeal of the commissioner's order under Subchapter D, Chapter 36 of this code.

(b-2) An insurer may not claim a premium tax credit to which the insurer is otherwise entitled unless the insurer has complied with this section.