

By: Haggerty

H.B. No. 2437

A BILL TO BE ENTITLED

AN ACT

relating to nonstandard personal automobile insurers.

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

SECTION 1. Section 13, Article 5.13-2, Insurance Code, is amended to read as follows:

SECTION 13.

(a) This section governs rate regulation of personal automobile insurance issued by a county mutual insurance and other nonstandard insurers as described by this section.

(b) Using standard and generally accepted actuarial techniques, the Commissioner ~~shall~~ may annually compute and publish a statewide standard rate index that accurately reflects the average statewide rates for classifications for each of the following coverages for personal automobile insurance policies;

- (1) bodily injury liability;
- (2) property damage liability;
- (3) personal injury protection;
- (4) medical payments;
- (5) uninsured and underinsured motorists;
- (6) physical damage-collision; and
- (7) physical damage-other than collision.

(c) The commissioner shall compute the rate index using the benchmark rate in effect for personal automobile insurance under Article 5.101 of this code on the effective date of S.B. No. 14,

1 Acts of the 78th Legislature, Regular Session, 2003, and adjusted
2 annually thereafter by the commissioner to reflect average changes
3 in claims costs in the personal automobile insurance market in this
4 state. After the effective date of S.B. No. 14, Acts of the 78th
5 Legislature, Regular Session, 2003, and before the first annual
6 adjustment by the commissioner, the commissioner may adjust the
7 computation of the rate index under this section as the
8 commissioner determines necessary.

9 (d) The commissioner may compute and establish standard
10 rate indexes other than the rate index required under Subsection
11 (b) of this section for any of the personal automobile insurance
12 coverages listed under that subsection as necessary to implement
13 this section.

14 (e) For purposes of this section, "nonstandard rates" means
15 rates that are 30 percent or more above the standard rate index as
16 determined by the commissioner under this section, as determined
17 before all applicable discounts are applied to the rates and after
18 any policy fees are applied to the rates

19 (f) A county mutual insurance company or nonstandard
20 insurer that issues personal automobile insurance policies only at
21 nonstandard rates or issues personal automobile liability
22 coverages only below 101% of minimum limits as required by the
23 financial responsibility laws of this state for liability insurance
24 is subject to exempt from the filing requirements as determined by
25 the commissioner by rule if the insurer and the insurer's
26 affiliated companies or group have a market share of less than 3.5
27 percent of the total Texas personal automobile insurance market.

1 In setting rates, an insurance company subject to this subsection
2 must comply with the rating standards established by this article.
3 ~~Not later than the first day on which any change in the rates~~
4 ~~becomes effective, the company shall for informational purposes~~
5 ~~file the rates and any additional information required by the~~
6 ~~department. The commissioner by rule shall determine the~~
7 ~~information required in the filing under this subsection. Except~~
8 ~~as provided by Subsection (h) of this section, a nonstandard~~
9 ~~insurer described in this Section is exempt from the rate filing and~~
10 ~~approval requirements of Article 5.13-2 of this code. The~~
11 commissioner may inspect the books and records of a company at any
12 time to ensure compliance with the rating standards. An insurance
13 company described by this subsection is subject to Article 5.144 of
14 this code. A county mutual insurance company that not described by
15 this section is subject to Article 21.81 of this code and is
16 required to comply with the filing requirements of this article and
17 any other provision of this code applicable to a county mutual
18 insurance company.

19 (g) ~~The commissioner by rule may designate other types of~~
20 ~~insurers that historically and as of the effective date of S.B. No.~~
21 ~~14, Acts of the 78th Legislature, Regular Session, 2003, have A~~
22 ~~nonstandard insurer shall mean a licensed insurer, county mutual,~~
23 ~~Lloyds or reciprocal that serves served exclusively or is serving~~
24 ~~exclusively the high-risk, nonstandard personal automobile market~~
25 ~~at nonstandard rates or writes personal automobile liability~~
26 ~~coverages only at limits no greater than 101% of the minimum limits~~
27 ~~as required by financial responsibility laws of this state. A~~

1 nonstandard insurer may offer and provide physical damage coverages
2 and other personal automobile coverages to insureds. A nonstandard
3 insurer and the insurer's affiliated companies or group must have a
4 market share of less than 3.5% in order to qualify for exemption
5 under this Section. A nonstandard insurer must meet capitalization
6 and solvency requirements set by the commissioner. ~~An~~ A
7 nonstandard insurer shall file information with ~~designated by~~ the
8 commissioner to show qualification as a nonstandard insurer under
9 this subsection and ~~shall be is governed by this section~~ and shall
10 file a schedule of rates with the department.

11 (h). A nonstandard insurer described in subsection (f) that
12 proposes to increase its overall premium rates charged
13 policyholders for a personal automobile insurance product by 10
14 percent or more than the amount the insurer charged policyholders
15 for the same or an equivalent personal automobile insurance product
16 during the preceding calendar year must file the insurer's proposed
17 rates in accordance with Article 5.13-2 of this code, as
18 applicable, and obtain approval of the proposed rates as provided
19 by the applicable article.

20 (i). A county mutual, Lloyds, or reciprocal insurer shall be
21 subject to the statistical data reporting requirements adopted
22 pursuant to Subchapter E, Chapter 38 of this Code. A county mutual
23 that writes through one or more managing general agents shall be
24 considered a separate insurance program for each managing general
25 agency. Statistics and rates for each managing general agency
26 shall be reported and determined separately for each managing
27 general agency. A nonstandard insurer may write both nonstandard

1 and standard risks, however, standard risks written through a
2 nonstandard insurer shall be subject to the rate filing and other
3 requirements of this Article and shall not be subject to the
4 exemption for nonstandard risks in section (f) of this Article. A
5 county mutual that issues policies through separate programs that
6 are written through one or more managing general agencies shall
7 determine whether the business is standard or nonstandard for each
8 program and managing general agency. The provisions of this
9 Article and Subchapters A and B, Chapter 544 of this Code shall
10 apply to each managing general agency program as if it were a
11 separate insurer.

12 SECTION 2. This Act takes effect immediately if it receives
13 a vote of two-thirds of all the members elected to each house, as
14 provided by section 39, Article III, Texas constitution. If this
15 Act does not receive the vote necessary for immediate effect, this
16 Act takes effect September 1, 2005.