

By: Burnam

H.B. No. 3398

A BILL TO BE ENTITLED

AN ACT

relating to regulation of certain personal lines of insurance.

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

ARTICLE 1. FINDINGS AND PURPOSE

SECTION 1.01. (a) The 79th Legislature finds that:

(1) Texans pay the highest homeowners insurance rates in the nation;

(2) actions of the 78th Legislature failed to substantially bring down Texas homeowners insurance rates;

(3) actions of the 78th Legislature failed to substantially curtail the use of capricious and discriminatory insurance industry practices, such as insurance credit scoring and neighborhood redlining, that discriminate against Texans of color as well as Texans of lower and moderate income levels;

(4) the Texas Department of Insurance has repeatedly agreed to settlements favorable to insurers found to be overcharging or discriminating against the insurer's own policyholders; and

(5) while Texas homeowners continue to be subjected to unfair insurance industry practices and exorbitant insurance rates, insurers are experiencing their lowest loss ratios of the last 15 years.

(b) Because of the conditions listed in Subsection (a) of this section, the purpose of this Act is to provide meaningful

1 relief to Texas consumers from unfair insurance rates and unfair
2 insurance industry practices by:

3 (1) requiring rate reviews and rate rollbacks;

4 (2) requiring that insurers submit rates, forms, and
5 underwriting guidelines to the Texas Department of Insurance for
6 prior approval before use;

7 (3) banning insurance credit scoring in all personal
8 lines of insurance;

9 (4) implementing a 15 percent cap on variation in base
10 rates within a county that may not be modified; and

11 (5) implementing other provisions to increase the flow
12 of information and increase fairness in the insurance market in
13 Texas.

14 ARTICLE 2. PRIOR APPROVAL OF RATES AND POLICY FORMS

15 SECTION 2.01. Article 5.13(a), Insurance Code, is amended
16 to read as follows:

17 (a) This subchapter applies to every insurance company,
18 corporation, interinsurance exchange, mutual, reciprocal,
19 association, Lloyd's plan, or other organization or insurer writing
20 any of the characters of insurance business herein set forth,
21 hereinafter called "Insurer"; provided that nothing in this entire
22 subchapter shall be construed to apply to any county or farm mutual
23 insurance company or association, as regulated under Chapters 911
24 and 912 of this code, except that Article 5.13-2 of this code shall
25 apply to a county mutual insurance company with respect to
26 [~~personal automobile and~~] commercial automobile insurance,
27 [~~residential and~~] commercial property insurance, and inland marine

1 insurance.

2 SECTION 2.02. Section 2, Section 5.13-2, Insurance Code, is
3 amended by amending Subsection (a) and adding Subsection (c) to
4 read as follows:

5 (a) This article applies to all lines of the following
6 insurance written under policies or contracts of insurance issued
7 by an insurer authorized to engage in the business of insurance in
8 this state:

9 (1) general liability insurance;

10 (2) [~~residential and~~] commercial property insurance,
11 including farm and ranch insurance and farm and ranch owners
12 insurance;

13 (3) personal and commercial casualty insurance,
14 except as provided by Subsection (b) of this section;

15 (4) medical professional liability insurance;

16 (5) fidelity and surety bonds other than criminal
17 court appearance bonds;

18 (6) personal umbrella insurance;

19 (7) personal liability insurance;

20 (8) [~~guaranteed auto protection (GAP) insurance,~~

21 [~~9~~] involuntary unemployment insurance;

22 (9) [~~10~~] financial guaranty insurance;

23 (10) [~~11~~] inland marine insurance;

24 (11) [~~12~~] rain insurance;

25 (12) [~~13~~] hail insurance on farm crops; and

26 (13) [~~14 personal and~~] commercial automobile
27 insurance.

1 (c) Notwithstanding any other law, rates and forms for
2 personal automobile insurance, including guaranteed auto
3 protection (GAP) insurance, and residential property insurance are
4 governed by Subchapters A, C, L, and U, Chapter 5, of this code.

5 SECTION 2.03. Article 5.171, Insurance Code, is amended to
6 read as follows:

7 Art. 5.171. RATING TERRITORIES. Notwithstanding any other
8 provision of this code, an insurer, in writing any insurance in this
9 state including residential property or personal automobile
10 insurance, may not use rating territories that subdivide a county
11 unless:

12 (1) the county is subdivided; and

13 (2) the rate for any subdivisions within that county
14 is not greater than 15 percent higher than the rate used in any
15 other subdivisions in the county by that insurer [~~, except that the~~
16 ~~commissioner may by rule allow a greater rate difference for~~
17 ~~residential property insurance or personal automobile insurance].~~

18 SECTION 2.04. Section 912.002(b), Insurance Code, is
19 amended to read as follows:

20 (b) A county mutual insurance company is subject to:

21 (1) Sections 38.001, 501.202, 501.203, and 822.204;

22 (2) Chapters 221, 251, 252, 254, and 541; [~~and~~]

23 (3) [~~(2)~~] Articles 1.15, 1.15A, 1.16, [~~1.35B,~~] 2.10,
24 21.21-12, [~~4.10, 5.12, 5.37, 5.38, 5.39, 5.40, 5.49, 21.21,~~] and
25 21.49; and

26 (4) Subchapters A, C, L, and U, Chapter 5.

27 SECTION 2.05. Section 941.003(b), Insurance Code, is

1 amended to read as follows:

2 (b) A Lloyd's plan is subject to:

3 (1) Section 5, Article 1.10;

4 (2) Article 1.15A;

5 (3) Subchapters A, C, L, [~~Q, T~~] and U, Chapter 5;

6 (4) Chapters 251, 252, and 541;

7 (5) Articles 21.21-12 [~~5.35, 5.38, 5.39, 5.40, and~~
8 ~~5.49;~~

9 [~~(5)~~ Articles 21.21] and 21.49-8;

10 (6) Sections 822.203, 822.205, 822.210, and 822.212;

11 and

12 (7) Article 5.13-2, as provided by that article.

13 SECTION 2.06. Section 942.003(b), Insurance Code, is
14 amended to read as follows:

15 (b) An exchange is subject to:

16 (1) Section 5, Article 1.10;

17 (2) Articles 1.15, 1.15A, and 1.16;

18 (3) Subchapters A, C, L, [~~Q, T~~] and U, Chapter 5;

19 (4) [~~Articles 5.35, 5.37, 5.38, 5.39, and 5.40;~~

20 [~~(5)~~] Articles 21.21-12 [~~21.21~~] and 21.49-8;

21 (5) Chapter 541;

22 (6) Sections 822.203, 822.205, 822.210, 822.212,
23 861.254(a)-(f), 861.255, 862.001(b), and 862.003; and

24 (7) Article 5.13-2, as provided by that article.

25 SECTION 2.07. The following laws are repealed:

26 (1) Article 5.01(f), Insurance Code;

27 (2) Article 5.03(g), Insurance Code;

- 1 (3) Article 5.04(c), Insurance Code;
- 2 (4) Article 5.06(12), Insurance Code;
- 3 (5) Article 5.09(c), Insurance Code;
- 4 (6) Article 5.11(c), Insurance Code;
- 5 (7) Section 13, Article 5.13-2, Insurance Code;
- 6 (8) Article 5.25(b), Insurance Code;
- 7 (9) Article 5.25A(b), Insurance Code;
- 8 (10) Article 5.26(i), Insurance Code;
- 9 (11) Article 5.29(b), Insurance Code;
- 10 (12) Article 5.30(b), Insurance Code;
- 11 (13) Article 5.31(b), Insurance Code;
- 12 (14) Article 5.32(b), Insurance Code;
- 13 (15) Article 5.34(b), Insurance Code;
- 14 (16) Article 5.35(k), Insurance Code, as added by
- 15 Section 21.22, Chapter 206, Acts of the 78th Legislature, Regular
- 16 Session, 2003;
- 17 (17) Article 5.39(b), Insurance Code;
- 18 (18) Article 5.40(d), Insurance Code;
- 19 (19) Article 5.41(b), Insurance Code;
- 20 (20) Article 5.96(a-1), Insurance Code;
- 21 (21) Article 5.96A(d), Insurance Code; and
- 22 (22) Subchapter T, Chapter 5, Insurance Code.

23 SECTION 2.08. This article applies only to an insurance
24 policy that is delivered, issued for delivery, or renewed on or
25 after January 1, 2006. A policy that is delivered, issued for
26 delivery, or renewed before January 1, 2006, is governed by the law
27 as it existed immediately before the effective date of this Act, and

1 that law is continued in effect for this purpose.

2 ARTICLE 3. RATE FILING AND RATE ASSESSMENT

3 SECTION 3.01. Subchapter B, Chapter 5, Insurance Code, is
4 amended by adding Article 5.14 to read as follows:

5 Article 5.14. FILING OF RESIDENTIAL PROPERTY AND PERSONAL
6 AUTOMOBILE INSURANCE RATES FOR RATE ASSESSMENT

7 Sec. 1. APPLICABILITY; DEFINITIONS. (a) This article
8 applies only to residential property and personal automobile
9 insurance.

10 (b) The definitions under Article 5.13-2 of this code apply
11 to this article.

12 Sec. 2. CONSTRUCTION WITH OTHER LAW. (a) Notwithstanding
13 any other law, rates for residential property and personal
14 automobile insurance are governed by this article from the
15 effective date of this article until the completion of the rate
16 assessment under this article and any resulting hearings or other
17 proceedings under this article.

18 (b) When the rate assessment and any resulting hearings or
19 other proceedings under this article are completed, rates for
20 residential property and personal automobile insurance are
21 governed by Subchapters A, B, and L, Chapter 5, of this code.

22 Sec. 3. RATE STANDARDS. (a) A rate filed by an insurer
23 under Section 4 of this article or a rate ordered by the
24 commissioner following a rate hearing under Section 5 of this
25 article may not be excessive, inadequate, unfairly discriminatory,
26 or unreasonable.

27 (b) A rate ordered by the commissioner following a rate

1 hearing under Section 5 of this article must comply with the rate
2 standards described by Subsection (a) of this section and may not be
3 confiscatory.

4 Sec. 4. RATE FILING; RATE ASSESSMENT. (a) Not later than
5 the 20th day after the effective date of this article, each insurer
6 writing residential property or personal automobile insurance that
7 is also subject to Subchapter A or B, Chapter 5, of this code shall
8 file with the commissioner the insurer's rates, supporting
9 information, and supplementary rating information. If the insurer
10 has made a rate filing under Article 5.13-2 of this code not more
11 than 30 days before the effective date of this article, the insurer
12 may:

13 (1) notify the department that the insurer is using
14 the rate filing submitted under Article 5.13-2 of this code to
15 comply with the requirements of this article; or

16 (2) file an update to the material filed under Article
17 5.13-2 of this code.

18 (b) If, after reviewing a filing under Subsection (a) of
19 this section, the commissioner determines that the filing does not
20 contain information sufficient to allow the commissioner to
21 determine if the filed rate meets all rate standards under Section 3
22 of this article, not later than the 10th day after the insurer makes
23 the filing, the commissioner may request in writing any specific
24 additional information from the insurer necessary to make the
25 determination.

26 (c) Not later than the 30th day after the date the
27 department receives an insurer's filing under Subsection (a) of

1 this section, the commissioner shall:

2 (1) if the filed rate meets all rate standards under
3 Section 3 of this article, approve the filed rate; or

4 (2) if the filed rate fails to meet any rate standard
5 under Section 3 of this article, disapprove the filed rate and issue
6 an order specifying in what respects the filed rate fails to comply
7 with the rate standards.

8 Sec. 5. HEARING. If the commissioner disapproves a rate
9 under Section 4(c)(2) of this article, the department shall hold a
10 rate hearing and the commissioner shall issue an order in
11 accordance with Chapter 40 of this code.

12 Sec. 6. JUDICIAL REVIEW. (a) Not later than the 10th day
13 after the date an insurer receives the commissioner's order issued
14 under Section 5 of this article, the insurer may file a petition for
15 judicial review in a district court of Travis County. The standard
16 of review of the commissioner's order is substantial evidence.

17 (b) During the pendency of an appeal under this section, the
18 insurer may charge either the insurer's existing rates or the rate
19 ordered by the commissioner under Section 5 of this article.

20 Sec. 7. REFUND. If on final appeal a court upholds the
21 commissioner's order issued under Section 5 of this article, the
22 insurer shall refund the difference in overcharged premium, if any,
23 plus interest to each policyholder. The interest rate is the prime
24 rate for the calendar year in which the refund is issued, plus six
25 percent.

26 Sec. 8. CERTAIN SETTLEMENTS PROHIBITED. If an insurer
27 files a petition for judicial review under Section 6 of this

1 article, the department may not agree to a settlement of the lawsuit
2 in any amount that is less than the amount of the refund, including
3 interest, that the insurer would be obligated to pay under Section 7
4 of this article.

5 Sec. 9. EXPIRATION. (a) This article expires September 1,
6 2006.

7 (b) The expiration of this article does not affect an action
8 or proceeding against an insurer subject to this article for a
9 failure to comply with this article before the expiration of this
10 article, regardless of when the action or proceeding was commenced,
11 and this article is continued in effect only for that purpose.

12 SECTION 3.02. (a) Article 5.14, Insurance Code, as added by
13 this article, applies to an insurer who is writing residential
14 property or personal automobile insurance in this state on the
15 effective date of this Act.

16 (b) This article applies to a residential property or
17 personal automobile insurance policy that is delivered, issued for
18 delivery, or renewed on or after the effective date of this Act and
19 to rates for such a policy. A residential property or personal
20 automobile insurance policy delivered, issued for delivery, or
21 renewed before the effective date of this Act and the rates for such
22 a policy are governed by the law as it existed immediately before
23 the effective date of this Act, and that law is continued in effect
24 for that purpose.

25 ARTICLE 4. USE OF CERTAIN POLICY FORMS

26 SECTION 4.01. Article 5.35, Insurance Code, is amended by
27 adding Subsection (1) to read as follows:

1 (1) An insurer that offers a residential property insurance
2 policy in this state and that is authorized to offer a Homeowners
3 "B" policy form, as adopted by the commissioner, must write the
4 residential property insurance policy using a Homeowners "B" policy
5 form unless the insured rejects coverage under an HO-B policy in
6 writing.

7 SECTION 4.02. This article applies only to an insurance
8 policy that is delivered, issued for delivery, or renewed on or
9 after January 1, 2006. A policy that is delivered, issued for
10 delivery, or renewed before January 1, 2006, is governed by the law
11 as it existed immediately before the effective date of this Act, and
12 that law is continued in effect for this purpose.

13 ARTICLE 5. REGULATION OF UNDERWRITING GUIDELINES

14 SECTION 5.01. Subchapter B, Chapter 21, Insurance Code, is
15 amended by adding Article 21.21-12 to read as follows:

16 Article 21.21-12. REGULATION OF UNDERWRITING GUIDELINES

17 Sec. 1. DEFINITIONS. In this article:

18 (1) "Actuarially sound" means the underwriting
19 guideline is shown to differentiate among consumers who have
20 different expected costs associated with the transfer of risk, all
21 other relevant factors being the same.

22 (2) "Person" includes any individual or entity engaged
23 in the business of insurance, including any individual or entity
24 described by Section 82.002 of this code.

25 (3) "Personal automobile insurance" means an
26 automobile insurance policy providing insurance coverages for the
27 ownership, maintenance, or use of private passenger, utility, and

1 miscellaneous type motor vehicles and trailers, including mobile
2 homes and recreational trailers, that are not primarily used for
3 the delivery of goods, materials, or services, unless that use is in
4 farm or ranch operations and the vehicles are owned or leased by one
5 or more individuals.

6 (4) "Residential property insurance" means insurance
7 against loss to real or tangible personal property at a fixed
8 location provided in a homeowners policy, a tenant policy, a
9 condominium owners policy, or a residential fire and allied lines
10 policy.

11 (5) "Underwriting guideline" means a rule, standard,
12 marketing decision, guideline, or practice, whether written, oral,
13 or electronic, used by an insurer or its agent to examine, bind,
14 accept, reject, renew, nonrenew, cancel, or limit coverages made
15 available to classes of consumers or individual consumers.

16 Sec. 2. PROHIBITION. A person may not use an underwriting
17 guideline for personal automobile insurance or residential
18 property insurance, other than underwriting guidelines described
19 by Section 3 of this article, without the prior approval of the
20 commissioner.

21 Sec. 3. PERMISSIBLE UNDERWRITING GUIDELINES. (a) A person
22 is not required to obtain the commissioner's prior approval to use
23 an underwriting guideline if the guideline complies with this
24 section.

25 (b) An underwriting guideline for personal automobile
26 insurance may be based on the following characteristics:

27 (1) average miles driven in a year or other specified

1 time period;

2 (2) accidents in which a person to be insured under the
3 policy can reasonably be considered to have been at fault and which
4 resulted in bodily injury or property damage;

5 (3) an alleged violation of a law regulating the
6 operation of motor vehicles if the alleged violation resulted in:

7 (A) a final conviction in any court in the United
8 States;

9 (B) forfeiture of bond; or

10 (C) payment of a fine or an amount accepted by the
11 court;

12 (4) the making of a fraudulent insurance claim; or

13 (5) the number of years of driving experience and
14 years licensed to drive.

15 (c) An underwriting guideline for residential property
16 insurance may be based on the following characteristics:

17 (1) the physical condition of the property to be
18 insured, provided the underwriting guideline has specific and
19 objective measures to evaluate the hazard;

20 (2) claim experience on a residential property policy
21 arising out of the owner's negligence;

22 (3) whether the structure to be insured is vacant or
23 unoccupied for more than 60 days;

24 (4) the making of a fraudulent insurance claim; or

25 (5) an act of arson.

26 (d) A person may use an underwriting guideline adopted by
27 the commissioner by rule. The commissioner may adopt an

1 underwriting guideline under this subsection only if the
2 commissioner determines after a hearing that the underwriting
3 guideline:

- 4 (1) is actuarially sound;
5 (2) promotes the mitigation of losses; and
6 (3) does not have an adverse impact based on the
7 insured's income level.

8 Sec. 4. PRIOR APPROVAL STANDARDS. (a) The commissioner may
9 not approve the use of an underwriting guideline unless the
10 underwriting guideline:

- 11 (1) is actuarially sound;
12 (2) promotes the mitigation of losses; and
13 (3) does not have an adverse impact based on the
14 insured's income level.

15 (b) The burden of proof in any proceeding regarding whether
16 an underwriting guideline is actuarially sound is on the party that
17 used or intends to use the underwriting guideline.

18 Sec. 5. CREDIT SCORING PROHIBITED. The commissioner may
19 not approve, and a person may not use, an underwriting guideline
20 based in whole or in part on credit scoring prohibited under Article
21 21.49-2U.

22 SECTION 5.02. This article applies only to an insurance
23 policy that is delivered, issued for delivery, or renewed on or
24 after January 1, 2006. A policy that is delivered, issued for
25 delivery, or renewed before January 1, 2006, is governed by the law
26 as it existed immediately before the effective date of this Act, and
27 that law is continued in effect for this purpose.

ARTICLE 6. CREDIT SCORING

SECTION 6.01. Sections 1(2), (4), and (7), Article 21.49-2U, Insurance Code, are amended to read as follows:

(2) "Agent" means a person licensed or required to be licensed as a general property and casualty insurance agent under Subchapters B, C, D, or E, Chapter 4051 [~~Article 21.14 of this code~~].

(4) "Consumer" means an individual whose credit information has been reported to or is in the possession of a consumer reporting agency or an insurer [~~is used or whose credit score is computed in the underwriting or rating of a personal insurance policy~~]. The term includes an applicant for insurance coverage.

(7) "Credit report" means any written, oral, or other communication of information by a consumer reporting agency that [~~+~~

[~~(A)~~] bears on a consumer's creditworthiness, credit standing, or credit capacity [~~, and~~

[~~(B) is used or expected to be used or collected in whole or in part to serve as a factor to determine personal insurance premiums, eligibility for coverage, or tier placement~~].

SECTION 6.02. Section 2, Article 21.49-2U, Insurance Code, is amended to read as follows:

Sec. 2. APPLICATION. This article applies to each [~~an~~] insurer that writes personal insurance coverage [~~and uses credit information or credit reports for the underwriting or rating of that coverage~~].

SECTION 6.03. Section 3, Article 21.49-2U, Insurance Code,

1 is amended to read as follows:

2 Sec. 3. [~~PROHIBITED~~] USE OF CREDIT INFORMATION PROHIBITED.

3 (a) An insurer may not:

4 (1) use an underwriting guideline [~~a credit score~~]
5 that is based, in whole or in part, on the credit information,
6 credit report, or credit score of an applicant for insurance
7 coverage or any other person other than the applicant who would be
8 insured under a policy of personal insurance [~~computed using~~
9 ~~factors that constitute unfair discrimination~~];

10 (2) refuse to underwrite [~~deny~~], cancel, or nonrenew a
11 policy of personal insurance based, in whole or in part, [~~solely~~] on
12 the [~~basis of~~] credit information, credit report, or credit score
13 of an applicant for insurance coverage or any other person other
14 than the applicant who would be insured under the policy [~~without~~
15 ~~consideration of any other applicable underwriting factor~~
16 ~~independent of credit information~~]; [~~or~~]

17 (3) take an action that results in an adverse effect
18 against a consumer because the consumer does not have a credit card
19 account;

20 (4) charge an applicant for insurance coverage a
21 higher premium than otherwise would be charged based, in whole or in
22 part, on the credit information, credit report, or credit score of
23 the applicant or any other person other than the applicant who would
24 be insured under a policy of personal insurance;

25 (5) rate a risk based, in whole or in part, on the
26 credit information, credit report, or credit score of an applicant
27 for insurance coverage or any other person other than the applicant

1 who would be insured under a policy of personal insurance,
2 including:

3 (A) providing or removing a discount;

4 (B) assigning the applicant for insurance
5 coverage to a rating tier; or

6 (C) placing an applicant for insurance coverage
7 with an affiliated company; or

8 (6) require a particular payment plan based, in whole
9 or in part, on the credit information, credit report, or credit
10 score of the applicant for insurance coverage or any other person
11 other than the applicant who would be insured under a policy of
12 personal insurance [~~without consideration of any other applicable~~
13 ~~factor independent of credit information~~].

14 (b) An insurer may not consider an absence of credit
15 information or an inability to determine credit information for an
16 applicant for insurance coverage or insured as a factor in
17 underwriting or rating an insurance policy [~~unless the insurer:~~

18 [~~(1) has statistical, actuarial, or reasonable~~
19 ~~underwriting information that:~~

20 [~~(A) is reasonably related to actual or~~
21 ~~anticipated loss experience; and~~

22 [~~(B) shows that the absence of credit information~~
23 ~~could result in actual or anticipated loss differences;~~

24 [~~(2) treats the consumer as if the applicant for~~
25 ~~insurance coverage or insured had neutral credit information, as~~
26 ~~defined by the insurer; or~~

27 [~~(3) excludes the use of credit information as a~~

1 ~~factor in underwriting and uses only other underwriting criteria]~~.

2 SECTION 6.04. Section 16, Article 21.49-2U, Insurance Code,
3 is amended to read as follows:

4 Sec. 16. DUTIES OF DEPARTMENT. The department shall [+

5 ~~(1) update insurer profiles maintained on the~~
6 ~~department's Internet website to provide information to consumers~~
7 ~~stating whether or not an insurer uses credit scoring, and~~

8 ~~(2)]~~ post the report required under Section 15 of
9 this article on the department's Internet website.

10 SECTION 6.05. Sections 4-11 and Section 13, Article
11 21.49-2U, Insurance Code, are repealed.

12 ARTICLE 7. WITHDRAWAL AND RESTRICTION PLANS

13 SECTION 7.01. Section 827.001, Insurance Code, is amended
14 by adding Subdivision (3) to read as follows:

15 (3) "Affiliate" has the meaning described by Section
16 823.003.

17 SECTION 7.02. Sections 827.006, 827.007, and 827.008,
18 Insurance Code, are amended to read as follows:

19 Sec. 827.006. [~~RESUMPTION OF~~] WRITING INSURANCE AFTER
20 [~~COMPLETE~~] WITHDRAWAL. An insurer that withdraws from writing
21 personal automobile or residential property insurance [~~all lines of~~
22 ~~insurance~~] in this state and any affiliate of that insurer may not,
23 without the approval of the commissioner, write any line of [~~resume~~
24 ~~writing~~] insurance in this state before the fifth anniversary of
25 the date of withdrawal.

26 Sec. 827.007. PENALTIES. The commissioner may impose the
27 civil penalties under Chapter 82 on an insurer that violates this

1 chapter [~~fails to obtain the commissioner's approval before the~~
2 ~~insurer:~~

3 [~~(1) withdraws from writing a line of insurance in~~
4 ~~this state; or~~

5 [~~(2) reduces the insurer's total annual premium volume~~
6 ~~by 75 percent or more in any year].~~

7 Sec. 827.008. RESTRICTION PLAN. (a) Before an insurer [~~7~~
8 ~~in response to a catastrophic natural event that occurred during~~
9 ~~the preceding six months,~~] may restrict writing new personal
10 automobile or residential property insurance business in this state
11 or a rating territory [~~in a line of personal automobile or~~
12 ~~residential property insurance~~], the insurer must file a proposed
13 restriction plan with the commissioner for the commissioner's
14 review and approval.

15 (b) The commissioner may not approve a restriction plan
16 unless the commissioner determines that the plan will not have an
17 adverse impact on the affordability and availability of insurance
18 in this state [~~modify, restrict, or limit a restriction plan under~~
19 ~~this section as necessary if the commissioner finds that a line of~~
20 ~~insurance subject to the restriction plan is not offered in this~~
21 ~~state in a quantity or manner to adequately cover the risks in this~~
22 ~~state or to adequately protect the residents of this state and~~
23 ~~policyholders in this state in light of the impact of the~~
24 ~~catastrophic natural event~~]. The commissioner may by order set the
25 date on which the insurer's restriction begins.

26 [~~(c) A withdrawal plan must be filed and approved under~~
27 ~~Sections 827.003 and 827.004 if an insurer's decision not to accept~~

1 ~~new business in a line of personal automobile or residential~~
2 ~~property insurance results in a reduction of the insurer's total~~
3 ~~annual premium volume by 50 percent or more.]~~

4 SECTION 7.03. Sections 827.010(a) and (d), Insurance Code,
5 are amended to read as follows:

6 (a) The commissioner may impose a moratorium of not longer
7 than two years on:

8 (1) the approval of withdrawal plans; or

9 (2) the approval ~~[implementation]~~ of plans to restrict
10 the writing of new business described by Section 827.008.

11 (d) To impose or renew a moratorium under this section, the
12 commissioner must determine, after notice and hearing, that [~~a~~
13 ~~catastrophic event has occurred and that as a result of that event]~~
14 a particular line of insurance is not reasonably expected to be
15 available and affordable to a substantial number of policyholders
16 or potential policyholders in this state or, in the case of lines of
17 personal automobile or residential property insurance, in a rating
18 territory.

19 SECTION 7.04. The change in law made by this article applies
20 only to the conduct of an insurer or its affiliate on or after
21 September 1, 2005. The conduct of an insurer or its affiliate
22 before September 1, 2005, is governed by the law as it existed at
23 the time the conduct occurred and that law is continued in effect
24 for this purpose.

25 ARTICLE 8. EFFECTIVE DATE

26 SECTION 8.01. This Act takes effect September 1, 2005.