

By: Jackson, Lucio, Fraser

S.B. No. 14

A BILL TO BE ENTITLED

AN ACT

1
2 relating to disapproval by the commissioner of insurance of certain
3 property and casualty insurance rates; providing penalties.

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

5 SECTION 1. Section 7, Article 5.13-2, Insurance Code, is
6 amended by adding Subsections (d) and (e) to read as follows:

7 (d) A new rate filing that is made by an insurer whose rate
8 is disapproved under Subsection (c) of this section and that is made
9 on or after the date of the written notice required under Subsection
10 (c) of this section is subject to prior approval by the commissioner
11 until the expiration of any appeal period related to a hearing
12 conducted under Subsection (c) of this section.

13 (e) In conjunction with a hearing required under Subsection
14 (c) of this section, the commissioner may:

15 (1) order restitution under Section 82.053 of this
16 code;

17 (2) impose any sanction authorized under Chapter 83 of
18 this code, including assessment of an administrative penalty as
19 provided by Chapter 84 of this code; or

20 (3) take any combination of the actions described by
21 Subdivisions (1) and (2) of this subsection.

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

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

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

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

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

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

21 (b-1) The rate for interest assessed under Subsection (b) of
22 this article is the prime rate for the calendar year in which the
23 order is issued plus six percent. For purposes of this subsection,
24 the prime rate is the prime rate as published by The Wall Street
25 Journal for the first day of that calendar year that is not a
26 Saturday, Sunday, or legal holiday. The interest accrues beginning
27 on the date on which the insurer first charged the excessive or

1 unfairly discriminatory rate, as determined by the commissioner,
2 and continues to accrue until the refund is paid.

3 SECTION 3. The change in law made by this Act applies only
4 to a rate used for an insurance policy delivered, issued for
5 delivery, or renewed on or after January 1, 2006. A rate used for a
6 policy delivered, issued for delivery, or renewed before January 1,
7 2006, is governed by the law as it existed immediately before the
8 effective date of this Act, and that law is continued in effect for
9 that purpose.

10 SECTION 4. This Act takes effect September 1, 2005.