

1-1 By: Jackson S.B. No. 14
1-2 (In the Senate - Filed December 21, 2004; January 31, 2005,
1-3 read first time and referred to Committee on Business and Commerce;
1-4 April 11, 2005, reported favorably by the following vote: Yeas 9,
1-5 Nays 0; April 11, 2005, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to disapproval by the commissioner of insurance of certain
1-9 property and casualty insurance rates; providing penalties.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Section 7, Article 5.13-2, Insurance Code, is
1-12 amended by adding Subsections (d) and (e) to read as follows:

1-13 (d) A new rate filing that is made by an insurer whose rate
1-14 is disapproved under Subsection (c) of this section and that is made
1-15 on or after the date of the written notice required under Subsection
1-16 (c) of this section is subject to prior approval by the commissioner
1-17 until the expiration of any appeal period related to a hearing
1-18 conducted under Subsection (c) of this section.

1-19 (e) In conjunction with a hearing required under Subsection
1-20 (c) of this section, the commissioner may:

1-21 (1) order restitution under Section 82.053 of this
1-22 code;

1-23 (2) impose any sanction authorized under Chapter 83 of
1-24 this code, including assessment of an administrative penalty as
1-25 provided by Chapter 84 of this code; or

1-26 (3) take any combination of the actions described by
1-27 Subdivisions (1) and (2) of this subsection.

1-28 SECTION 2. Article 5.144, Insurance Code, is amended by
1-29 amending Subsection (b) and by adding Subsection (b-1) to read as
1-30 follows:

1-31 (b) Except as provided by Subsection (d) of this article, if
1-32 the commissioner determines that an insurer has charged a rate for
1-33 personal automobile insurance or residential property insurance
1-34 that is excessive or unfairly discriminatory, as described by
1-35 Article 5.13-2 [~~or 5.101~~] of this code, the commissioner may order
1-36 the insurer to:

1-37 (1) issue a refund of the excessive or unfairly
1-38 discriminatory portion of the premium, plus interest on that
1-39 amount, directly to each affected policyholder if the amount of
1-40 that portion of the premium is at least 7.5 percent of the total
1-41 premium charged for the coverage; or

1-42 (2) if the amount of that portion of the premium is
1-43 less than 7.5 percent:

1-44 (A) provide each affected policyholder who
1-45 renews the policy a future premium discount in the amount of the
1-46 excessive or unfairly discriminatory portion of the premium, plus
1-47 interest on that amount; and

1-48 (B) provide each affected policyholder who does
1-49 not renew or whose coverage is otherwise terminated a refund in the
1-50 amount described by Subdivision (1) of this subsection.

1-51 (b-1) The rate for interest assessed under Subsection (b) of
1-52 this article is the prime rate for the calendar year in which the
1-53 order is issued plus six percent. For purposes of this subsection,
1-54 the prime rate is the prime rate as published by The Wall Street
1-55 Journal for the first day of that calendar year that is not a
1-56 Saturday, Sunday, or legal holiday. The interest accrues beginning
1-57 on the date on which the insurer first charged the excessive or
1-58 unfairly discriminatory rate, as determined by the commissioner,
1-59 and continues to accrue until the refund is paid.

1-60 SECTION 3. The change in law made by this Act applies only
1-61 to a rate used for an insurance policy delivered, issued for
1-62 delivery, or renewed on or after January 1, 2006. A rate used for a
1-63 policy delivered, issued for delivery, or renewed before January 1,
1-64 2006, is governed by the law as it existed immediately before the

2-1 effective date of this Act, and that law is continued in effect for
2-2 that purpose.

2-3 SECTION 4. This Act takes effect September 1, 2005.

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