

By: Wentworth

S.B. No. 1822

A BILL TO BE ENTITLED

AN ACT

relating to competition in certain insurance markets.

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

SECTION 1. Article 1.02, Insurance Code, is amended by amending Subsection (c) and adding Subsection (d) to read as follows:

(c) Except as otherwise provided by this code and subject to Subsection (d) of this article, for ~~For~~ purposes of this code ~~article~~, a rate is:

(1) excessive if the rate is likely to produce a long-term profit that is unreasonably high in relation to the insurance coverage provided;

(2) inadequate if the rate is insufficient to sustain projected losses and expenses to which the rate applies, and continued use of the rate:

(A) endangers the solvency of an insurer using the rate; or

(B) has the effect of substantially lessening competition or creating a monopoly within any market; or

(3) unfairly discriminatory if the rate:

(A) is not based on sound actuarial principles;

(B) does not bear a reasonable relationship to the expected loss and expense experience among risks; or

(C) is based in whole or in part on the race,

1 creed, color, ethnicity, or national origin of the policyholder or  
2 an insured.

3 (d) For purposes of Subsection (c)(1) of this article and  
4 subject to Article 1.03 of this code, rates for a particular line of  
5 insurance are presumed not to be excessive, unless the commissioner  
6 has determined that the market for that line of insurance is  
7 noncompetitive under Article 1.03. In a noncompetitive market,  
8 rates are excessive if:

9 (1) the rates produce or are likely to produce a  
10 long-term profit that is unreasonably high in relation to the  
11 insurance coverage provided; or

12 (2) expenses associated with the insurance coverage  
13 provided are unreasonably high in relation to services rendered or  
14 coverage provided.

15 SECTION 2. Chapter 1, Insurance Code, is amended by adding  
16 Article 1.03 to read as follows:

17 Art. 1.03. MARKET COMPETITIVENESS. (a) This article  
18 applies only to a line of insurance for which rates are regulated  
19 under this code.

20 (b) The department shall periodically evaluate the  
21 competitiveness of the market for each line of insurance described  
22 by Subsection (a) of this article to determine whether a sufficient  
23 degree of market competition exists within each line to give  
24 consumers a reasonable choice in obtaining insurance coverage in  
25 that line of insurance. In determining whether a sufficient degree  
26 of market competition exists, the department shall presume a market  
27 to be competitive and shall consider all factors relevant to market

1 competition, including:

2 (1) the number, market share, and concentration of  
3 insurers actively engaged in writing business in that line of  
4 insurance;

5 (2) the existence of rate differentials in that line  
6 of insurance;

7 (3) ease of entry into the market for that line of  
8 insurance; and

9 (4) whether the long-term profitability of insurers in  
10 that line of insurance is unreasonable in relation to the risks  
11 covered.

12 (c) After the department has evaluated the competitiveness  
13 of the market for a particular line of insurance, the commissioner  
14 may, after notice and hearing, issue an order stating that the  
15 market for the particular line of insurance is noncompetitive.

16 (d) An order issued under Subsection (c) of this article  
17 expires on the first anniversary of the date on which the order is  
18 issued, unless, before the order expires, the commissioner holds a  
19 subsequent hearing and determines that the market for that  
20 particular line of insurance remains noncompetitive, in which case  
21 the order expires on the first anniversary of the subsequent  
22 hearing.

23 SECTION 3. Section 4(d), Article 5.13-2, Insurance Code, is  
24 amended to read as follows:

25 (d) Rates established under this article may not be  
26 excessive, inadequate, unreasonable, or unfairly discriminatory  
27 for the risks to which they apply. For purposes of this article,

1 Articles 1.02(c) and (d) and Article 1.03 of this code govern  
2 whether a rate is excessive.

3 SECTION 4. The changes in law made by this Act apply only to  
4 a rate in effect on or after January 1, 2006. A rate in effect  
5 before January 1, 2006, is governed by the law in effect immediately  
6 before the effective date of this Act, and that law is continued in  
7 effect for that purpose.

8 SECTION 5. This Act takes effect September 1, 2005.