

BILL ANALYSIS

Senate Research Center

H.B. 2551
By: Smith, Todd (Harris)
Business & Commerce
5/12/2007
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

During the 79th Legislature, two different versions of legislation were enacted concerning refunds of excessive or unfairly discriminatory residential property insurance premiums. Because these versions were passed by the legislature at the same time, the rules of statutory construction require that they be read together. The Texas Department of Insurance has recommended that these two versions be clarified.

H.B. 2551 unifies those versions to provide consistent provisions concerning the refunds and the assessment of interest on the refund amount and makes further changes in accord with the nonsubstantive revisions to the Insurance Code by the Texas Legislative Council.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 2254.003, Insurance Code, to conform to Section 1, Chapter 291, Acts of the 79th Legislature, Regular Session, 2005, and to Section 16.01, Chapter 899, Acts of the 79th Legislature, Regular Session, 2005, by adding Subsections (c) and (d), and further amending, as follows:

Sec. 2254.003. REFUND OR DISCOUNT BASED ON EXCESSIVE OR UNFAIRLY DISCRIMINATORY PREMIUM RATES. (a) Makes no changes to existing subsection.

(b) Authorizes the commissioner of insurance (commissioner), if the commissioner determines that an insurer has charged a rate for personal automobile insurance or residential property insurance that is excessive or unfairly discriminatory, as described by Section 2251.051, to order the insurer to refund directly to each affected policyholder the portion of the premium, plus interest on that amount, that is excessive or unfairly discriminatory, if that portion of the premium is at least 7.5 percent of the total premium charged for the coverage, or if that portion of the premium is less than 7.5 percent of the total premium, order the insurer to provide, to each affected policyholder who renews the policy, a future premium discount equal to the amount of the excessive or unfairly discriminatory portion of the premium, plus interest on that amount, except as provided by Section 2254.004(c).

(c) Provides that the rate for interest assessed under Subsection (b) is the lesser of 18 percent or the sum of six percent and the prime rate for the calendar year in which the commissioner's order finding that the rate is excessive or unfairly discriminatory is issued. Provides that, for purposes of this subsection, the prime rate is the prime rate as published in The Wall Street Journal for the first day of the calendar year that is not a Saturday, Sunday, or legal holiday. Provides that the period for the refund and interest begins on the date the Texas Department of Insurance first provides the insurer with formal written notice that the insurer's filed rate is excessive or unfairly discriminatory, and interest continues to accrue until the refund is paid. Prohibits an insurer from being required to pay any

interest penalty if the insurer prevails in an appeal of the commissioner's order under Subchapter D (Judicial Review), Chapter 36.

(d) Prohibits an insurer from claiming a premium tax credit to which the insurer is otherwise entitled unless the insurer complies with Subsection (b).

SECTION 2. Repealer: Section 1 (relating to insurance rates assessed), Chapter 291, and Section 16.01 (relating to insurance rates assessed), Chapter 899, Acts of the 79th Legislature, Regular Session, 2005.

SECTION 3. Provides that the amendments to Section 2254.003, Insurance Code, in Section 1 of this Act, are made to conform Section 2254.003, Insurance Code, with the amendments enacted in Section 1, Chapter 291, and Section 16.01, Chapter 899, Acts of the 79th Legislature, Regular Session, 2005.

SECTION 4. Makes application of this Act prospective.

SECTION 5. Effective date: upon passage or September 1, 2007.