BACKGROUND AND PURPOSE

An increasing trend in insurance rating and underwriting is the combined use of data mining and pattern recognition technologies. These technologies have the potential to far exceed the use of anything else in practice today.   Their combined use can be characterized as a means of identifying relationships among variables used to predict differences in the expected losses of insured entities, thereby allowing insurers to create newer, more refined risk classifications. Although insurers currently deploy similar technologies to detect fraudulent claims, identify subrogation opportunities, and improve marketing effectiveness, the use of these new technologies for new and different purposes may pose significant policy issues, as their use has already shown the potential to be controversial.

C.S.S.B. 828 requires the Texas Department of Insurance to conduct a study regarding data mining and pattern recognition and the manner in which insurers may use these technologies and to issue a report of the findings to the Legislature.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.S.B 828 relates to a study concerning the collection and use of certain information by certain insurers.

SECTION 1. DEFINITION. In this Act, "department" means the Texas Department of Insurance.

SECTION 2. DEPARTMENT STUDY CONCERNING DATA MINING AND PATTERN RECOGNITION. The department shall conduct a study of:

(1) technologies such as statistical techniques, devices, or models that may be used by or on behalf of an insurer that writes personal automobile or residential property insurance to establish new classifications or to change methods of classification for rating, tiering, or underwriting; and

(2) the manner in which the insurer may use the relationships derived from the technologies described by Subdivision (1) in:

(A) predicting differences in expected losses of insureds or applicants for coverage;

(B) underwriting and creating and defining risk classifications or changing a method of classification;

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(C) setting or determining rates and premiums; or

(D) using classifications or a change in a method of classification to deny coverage, limit coverage, or refuse to renew or cancel coverage for individual insureds.

SECTION 3. REPORT TO LEGISLATURE. The department shall include a report of the results of the study conducted under this Act in the biennial report to the 81st Legislature made under Section 32.022, Insurance Code. The report must describe the impact that the use of the relationships derived from technologies described by Section 2 of this Act has on insurance, insureds, and applicants for insurance in this state, and may include recommendations for proposed legislation appropriate to regulate or mitigate the use of those technologies.

SECTION 4. EFFECTIVE DATE. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007.

EFFECTIVE DATE

Upon passage, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2007.

COMPARISON OF ORIGINAL TO SUBSTITUTE

C.S.S.B. 828 makes several changes to the senate bill. Whereas SECTION 1 of the engrossed version of the bill defined "personal automobile insurance," "regulated insurer," and "residential property insurance", SECTION 1 of C.S.S.B. 828 only defines the term "department" to mean the Texas Department of Insurance (TDI). Also, C.S.S.B. 828 deletes the rest of the exact wording and the rest of the exact provisions found in SECTION 1 of the engrossed version of the bill.

The exact provisions found in SECTIONS 2 and 3 of C.S.S.B. 828 are not present in the engrossed version. SECTION 2 in the substitute sets out requirements for the department study concerning data mining and pattern recognition, and SECTION 3 requires TDI to report the findings to the Legislature. The language in SECTION 3 of the substitute regarding reporting to the Legislature is similar to a provision in SECTION 1 of the engrossed version, but is not exactly the same.

Whereas, in the engrossed version of the bill, SECTION 2 states that "the Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007", this wording was moved in the substitute and can now be found in SECTION 4 of C.S.S.B 828.

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