

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 828
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Business & Commerce
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

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 authorizes the commissioner of insurance (commissioner) to require an insurance company to report how and what data mining technologies it uses for underwriting, setting rates and premiums, detecting fraud, and marketing. The bill also authorizes the commissioner to limit the use of these technologies if the commissioner finds that they use any factors not previously used for underwriting purposes, and requires the Texas Department of Insurance to report to the legislature on the use and impact of these technologies.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the commissioner of insurance in SECTION 1 (Section 752.002, Insurance Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subtitle G, Title 5, Insurance Code, by adding Chapter 752, as follows:

CHAPTER 752. DATA MINING AND PATTERN RECOGNITION

Sec. 752.001. DEFINITIONS. Defines “personal automobile insurance,” “regulated insurer,” and “residential property insurance.”

Sec. 752.002. COLLECTION OF INFORMATION CONCERNING DATA MINING AND PATTERN RECOGNITION. (a) Authorizes the commissioner of insurance (commissioner) by rule to require a regulated insurer to report to the Texas Department of Insurance (TDI) concerning the technologies and uses of technologies as set forth in this subsection.

(b) Requires information filed as required by Subsection (a)(1) (on certain technologies used by or on the behalf of a regulated insurer to establish new classifications or change existing methods of classification for rating, tiering or underwriting) to include certain information set forth in this subsection.

(c) Authorizes the commissioner, in exercising authority under this section, to require regulated insurers to take certain actions set forth in this subsection related to the use of new technologies.

(d) Provides that technologies and related information obtained from a regulated insurer by TDI under this chapter are confidential and not subject to disclosure

under Chapter 552 (Public Information), Government Code, except to the extent the regulated insurer specifically authorizes the release.

Sec. 752.003. OVERSIGHT OF DATA MINING AND PATTERN RECOGNITION; TRANSITION PLAN. (a) Authorizes the commissioner to limit the use of a new classification or a change to an existing method of classification derived from a technology described by Section 752.002 if the commissioner makes certain findings.

(b) Authorizes the limits adopted under Subsection (a) to require the regulated insurer to take certain actions.

(c) Requires a transition plan required by Subsection (b)(1) (to phase in the application or use of certain items over not more than two renewal periods) to have certain traits.

(d) Provides that this chapter does not limit the authority of the commissioner to disapprove rates or rating classifications that violate state law.

Sec. 752.004. REPORT TO LEGISLATURE. Requires TDI to include information concerning the use of relationships derived from technologies described by Section 752.002(a)(1) by regulated entities in its biennial report to the legislature under Section 32.002. Requires the report to describe the impact that the use of such relationships has on insurance, policyholders, and applicants for insurance in this state. Authorizes the report to include recommendations for proposed legislation appropriate to regulate new classifications or changes to existing methods of classification that are derived from the use of these technologies.

SECTION 2. Effective date: upon passage or September 1, 2007.