

By: Geren

H.B. No. 2065

A BILL TO BE ENTITLED

AN ACT

relating to regulation of residential property or personal automobile insurance.

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

SECTION 1. Subtitle A, Title 2, Insurance Code, is amended by adding Chapter 41 to read as follows:

CHAPTER 41. INFORMATION CONCERNING RATES FOR CERTAIN PERSONAL LINES; INTERNET WEBSITE

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 41.001. DEFINITIONS. In this chapter:

(1) "Insurer" means an insurance company, reciprocal or interinsurance exchange, mutual insurance company, capital stock company, county mutual insurance company, Lloyd's plan, or other legal entity writing residential property insurance or personal automobile insurance in this state. The term includes:

(A) the Texas Windstorm Insurance Association under Chapter 2210; or

(B) the FAIR Plan Association under Chapter 2211.

(2) "Personal automobile insurance" means motor vehicle insurance coverage for the ownership, maintenance, or use of a private passenger, utility, or miscellaneous type motor vehicle, including a motor home, trailer, or recreational vehicle, that is:

(A) owned or leased by one or more individuals;

1 and

2 (B) not used primarily for the delivery of goods,
3 materials, or services, other than for use in farm or ranch
4 operations.

5 (3) "Residential property insurance" means insurance
6 coverage against loss to real or tangible personal property at a
7 fixed location that is provided through:

8 (A) a homeowners policy, including a tenants
9 policy;

10 (B) a condominium owners policy; or

11 (C) a residential fire and allied lines policy.

12 Sec. 41.002. RULES. The commissioner may adopt rules as
13 provided by Section 36.001 as necessary to implement this chapter.

14 [Sections 41.003-41.050 reserved for expansion]

15 SUBCHAPTER B. RATES FOR RESIDENTIAL PROPERTY INSURANCE OR
16 PERSONAL AUTOMOBILE INSURANCE

17 Sec. 41.051. RATES. (a) The department shall include on
18 the main page of the department's Internet website and other
19 appropriate pages, as determined by the department, sample base
20 rates for each insurer for residential property insurance and
21 personal automobile insurance.

22 (b) The commissioner by rule shall determine the frequency
23 with which the sample base rates described by Subsection (a) must be
24 updated.

25 Sec. 41.052. ADDITIONAL INFORMATION. On each page on which
26 the rate information described by Section 41.051 is displayed, in a
27 location near the information, the department shall include a link

1 to additional information explaining:

2 (1) the rate information, including:

3 (A) a general explanation of how insurance
4 premiums applicable to an individual insured are determined and
5 that the premium amount charged may vary from the base rate
6 displayed; and

7 (B) contact information, including claims filing
8 and dispute resolution contact information, for each insurer whose
9 rates for residential property insurance or personal automobile
10 insurance are displayed on the Internet website; and

11 (2) the process through which the department receives,
12 processes, and investigates complaints made by consumers
13 concerning insurers that write residential property insurance or
14 personal automobile insurance in this state.

15 SECTION 2. Subtitle B, Title 5, Insurance Code, is amended
16 by adding Chapter 525 to read as follows:

17 CHAPTER 525. NOTICE CONCERNING ENTITLEMENT TO CERTAIN REPORTS

18 Sec. 525.001. APPLICABILITY. This chapter applies to an
19 insurer subject to Subchapters A-E, Chapter 2251.

20 Sec. 525.002. CLAIMS HISTORY REPORTS. An insurer that
21 writes residential property insurance or personal automobile
22 insurance in this state shall, not less than twice annually, notify
23 in writing each policyholder of a residential property insurance
24 policy or a personal automobile insurance policy in this state of:

25 (1) the policyholder's right under the Fair Credit
26 Reporting Act (15 U.S.C. Section 1681, et seq.) to request and
27 receive free consumer reports concerning the policyholder,

1 including insurance claims history reports compiled by a national
2 or regional clearinghouse or other organization; and

3 (2) the manner in which a policyholder may request a
4 consumer report to which the policyholder is entitled under the
5 Fair Credit Reporting Act (15 U.S.C. Section 1681, et seq.).

6 SECTION 3. Section 551.107(c), Insurance Code, is amended
7 to read as follows:

8 (c) An insurer may assess a premium surcharge at the time an
9 insurance policy is renewed if the insured has filed two [~~one~~] or
10 more claims in the preceding three policy years. The amount of the
11 surcharge must be based on sound actuarial principles.

12 SECTION 4. Section 2251.008, Insurance Code, is amended by
13 adding Subsection (c) to read as follows:

14 (c) That portion of the quarterly report required under
15 Subsection (b) that concerns rates for residential property and
16 personal automobile insurance must be made available to the
17 governor, lieutenant governor, and speaker of the house of
18 representatives not later than the 60th day after the last day of
19 the calendar quarter covered by the report.

20 SECTION 5. Subtitle H, Title 11, Insurance Code, is amended
21 by adding Chapter 2251A to read as follows:

22 CHAPTER 2251A. BIENNIAL RATE EXAMINATION FOR RESIDENTIAL

23 PROPERTY INSURANCE

24 SUBCHAPTER A. GENERAL PROVISIONS

25 Sec. 2251A.001. DEFINITIONS. The definitions under Chapter
26 2251 apply to this chapter.

27 Sec. 2251A.002. APPLICABILITY OF CHAPTER. This chapter

1 applies only to an insurer that:

2 (1) is subject to Subchapters A-E, Chapter 2251; and

3 (2) writes residential property insurance in this
4 state.

5 Sec. 2251A.003. CONSTRUCTION WITH OTHER LAW. (a)
6 Notwithstanding any provision in Chapter 2251, this chapter and
7 Chapter 2251 govern the setting and evaluation of rates for
8 residential property insurance in this state.

9 (b) To the extent that a provision of this chapter and a
10 provision of Chapter 2251 conflict, the provision in this chapter
11 prevails.

12 Sec. 2251A.004. RULES. The commissioner may adopt rules
13 necessary to implement this chapter.

14 [Sections 2251A.005-2251A.050 reserved for expansion]

15 SUBCHAPTER B. BIENNIAL RATE ASSESSMENT

16 Sec. 2251A.051. RATE STANDARDS. (a) A rate filed by an
17 insurer under Section 2251A.052 or a rate ordered by the
18 commissioner following a rate hearing under Section 2251A.053 may
19 not be excessive, inadequate, unfairly discriminatory, or
20 unreasonable.

21 (b) A rate ordered by the commissioner following a rate
22 hearing under Section 2251A.053 must comply with the rate standards
23 described by Subsection (a) and may not be confiscatory.

24 Sec. 2251A.052. SUPPLEMENTAL RATE FILINGS. (a) Not
25 earlier than August 15 and not later than September 1 of each
26 even-numbered year, an insurer described by Section 2251A.002 shall
27 file with the commissioner all rates, applicable rating manuals,

1 and supplementary rating information used by the insurer to set
2 rates for residential property insurance coverage in this state.

3 (b) If an insurer has made a rate filing under Chapter 2251
4 on or after August 1 of an even-numbered year, the insurer may:

5 (1) notify the department that the insurer is using
6 the rate filing submitted under Chapter 2251 to comply with the
7 requirements of this chapter for the even-numbered year in which
8 the insurer made the filing; or

9 (2) file an update to the material filed under Chapter
10 2251.

11 Sec. 2251A.053. RATE ASSESSMENT; RATE HEARING. (a) Not
12 later than November 1 of each even-numbered year, the commissioner
13 shall:

14 (1) if the filed rate meets the rate standards
15 described by 2251A.051, approve the filed rate; or

16 (2) if the filed rate fails to meet any rate standard
17 under Section 2251A.051, disapprove the filed rate and issue an
18 order specifying in what respects the filed rate fails to comply
19 with the rate standards.

20 (b) If the commissioner disapproves a rate under Subsection
21 (a), the department shall hold a rate hearing and the commissioner
22 shall issue an order in accordance with Chapter 40.

23 Sec. 2251A.054. JUDICIAL REVIEW. (a) Not later than the
24 10th day after the date an insurer receives the commissioner's
25 order issued under Section 2251A.053(a)(2), the insurer may file a
26 petition for judicial review in a district court of Travis County.

27 The standard of review of the commissioner's order is substantial

1 evidence.

2 (b) During the pendency of an appeal under this section, the
3 insurer may charge either the insurer's existing rates or the rate
4 ordered by the commissioner under Section 2251A.053.

5 Sec. 2251A.055. REFUND. If on final appeal a court upholds
6 the commissioner's order issued under Section 2251A.053, the
7 insurer shall refund the difference in overcharged premium, if any,
8 plus interest to each policyholder. The interest rate is the prime
9 rate for the calendar year in which the refund is issued, plus six
10 percent.

11 Sec. 2251A.056. CERTAIN SETTLEMENTS PROHIBITED. If an
12 insurer files a petition for judicial review under Section
13 2251A.054, the department may not agree to a settlement of the
14 lawsuit in any amount that is less than the amount of the refund,
15 including interest, that the insurer would be obligated to pay
16 under Section 2251A.055.

17 Sec. 2251A.057. REPORT TO LEGISLATURE. Not later than
18 January 15 of each odd-numbered year, the commissioner shall
19 deliver to the governor, the lieutenant governor, the speaker of
20 the house of representatives, and each standing committee of the
21 senate and the house of representatives that has jurisdiction over
22 the regulation of insurance in this state a written report that:

23 (1) summarizes any rate hearings conducted under this
24 chapter; and

25 (2) identifies any trends in rates for residential
26 property insurance in this state.

27 SECTION 6. (a) The Texas Department of Insurance shall

1 implement Chapter 41, Insurance Code, as added by this Act, not
2 later than January 1, 2008.

3 (b) An insurer shall first notify each policyholder in
4 accordance with Chapter 525, Insurance Code, as added by this Act,
5 not later than January 1, 2008.

6 (c) The change in law made by Section 551.107(c), Insurance
7 Code, as amended by this Act, applies only to an insurance policy
8 that is delivered, issued for delivery, or renewed on or after
9 January 1, 2008. An insurance policy that is delivered, issued for
10 delivery, or renewed before January 1, 2008, is covered by the law
11 in effect at the time the policy was delivered, issued for delivery,
12 or renewed, and that law is continued in effect for that purpose.

13 (d) The change in law made by Section 2251.008(c), Insurance
14 Code, as added by this Act, applies only to a quarterly report
15 required for a calendar quarter that begins on or after October 1,
16 2007. A quarterly report that is issued or scheduled to be issued
17 before October 1, 2007, is covered by the law in effect at the time
18 the policy was issued or scheduled to be issued, and that law is
19 continued in effect for that purpose.

20 SECTION 7. This Act takes effect September 1, 2007.