

By: Smith of Tarrant

H.B. No. 2551

A BILL TO BE ENTITLED

AN ACT

1
2 relating to refund of excessive or unfairly discriminatory premium;
3 providing penalties.

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

5 SECTION 1. Section 2254.003, Insurance Code, is amended to
6 conform to Section 1, Chapter 291, Acts of the 79th Legislature,
7 Regular Session, 2005, and to Section 16.01, Chapter 899, Acts of
8 the 79th Legislature, Regular Session, 2005, by adding Subsections
9 (c) and (d) and is further amended to read as follows:

10 Sec. 2254.003. REFUND OR DISCOUNT BASED ON EXCESSIVE OR
11 UNFAIRLY DISCRIMINATORY PREMIUM RATES. (a) This section applies
12 to a rate filed on or after the effective date of Chapter 206, Acts
13 of the 78th Legislature, Regular Session, 2003.

14 (b) Except as provided by Section 2254.004(c), if the
15 commissioner determines that an insurer has charged a rate for
16 personal automobile insurance or residential property insurance
17 that is excessive or unfairly discriminatory, as described by
18 Section 2251.051, the commissioner may:

19 (1) order the insurer to refund directly to each
20 affected policyholder the portion of the premium, plus interest on
21 that amount, that is excessive or unfairly discriminatory, if that
22 portion of the premium is at least 7.5 percent of the total premium
23 charged for the coverage; or

24 (2) if that portion of the premium is less than 7.5

1 percent of the total premium, order the insurer to provide, to each
2 affected policyholder:

3 (A) who renews the policy, a future premium
4 discount equal to the amount of the excessive or unfairly
5 discriminatory portion of the premium, plus interest on that
6 amount; and

7 (B) who does not renew or whose coverage is
8 otherwise terminated, a refund in the amount described by
9 Subdivision (1).

10 (c) The rate for interest assessed under Subsection (b) is
11 the lesser of 18 percent or the sum of six percent and the prime rate
12 for the calendar year in which the commissioner's order finding
13 that the rate is excessive or unfairly discriminatory is issued.
14 For purposes of this subsection, the prime rate is the prime rate as
15 published in The Wall Street Journal for the first day of the
16 calendar year that is not a Saturday, Sunday, or legal holiday. The
17 period for the refund and interest begins on the date the department
18 first provides the insurer with formal written notice that the
19 insurer's filed rate is excessive or unfairly discriminatory, and
20 interest continues to accrue until the refund is paid. An insurer
21 may not be required to pay any interest penalty if the insurer
22 prevails in an appeal of the commissioner's order under Subchapter
23 D, Chapter 36.

24 (d) An insurer may not claim a premium tax credit to which
25 the insurer is otherwise entitled unless the insurer complies with
26 Subsection (b).

27 SECTION 2. Section 1, Chapter 291, and Section 16.01,

1 Chapter 899, Acts of the 79th Legislature, Regular Session, 2005,
2 which amended former Article 5.144, Insurance Code, by amending
3 Subsection (b) and adding Subsections (b-1) and (b-2), are
4 repealed.

5 SECTION 3. The amendments to Section 2254.003, Insurance
6 Code, in Section 1 of this Act, are made to conform Section
7 2254.003, Insurance Code, with the amendments enacted in Section 1,
8 Chapter 291, and Section 16.01, Chapter 899, Acts of the 79th
9 Legislature, Regular Session, 2005.

10 SECTION 4. This Act applies to an insurance policy that is
11 delivered, issued for delivery, or renewed on or after the
12 effective date of this Act and to rates for such a policy. An
13 insurance policy delivered, issued for delivery, or renewed prior
14 to the effective date of this Act and the rates for such a policy are
15 governed by the law as it existed immediately before the effective
16 date of this Act, and that law is continued in effect for that
17 purpose.

18 SECTION 5. This Act takes effect immediately if it receives
19 a vote of two-thirds of all the members elected to each house, as
20 provided by Section 39, Article III, Texas Constitution. If this
21 Act does not receive the vote necessary for immediate effect, this
22 Act takes effect September 1, 2007.