

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 read as follows:

7 (a) This section applies to a rate filed on or after the  
8 effective date of Chapter 206, Acts of the 78th Legislature,  
9 Regular Session, 2003.

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

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

20 (2) if that portion of the premium is less than 7.5  
21 percent of the total premium, order the insurer to provide, to each  
22 affected policyholder:

23 (A) who renews the policy, a future premium  
24 discount equal to the amount of the excessive or unfairly

1 discriminatory portion of the premium, plus interest on that  
2 amount; and

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

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

20 (d) An insurer may not claim a premium tax credit to which  
21 the insurer is otherwise entitled unless the insurer complies with  
22 Subsection (b) of this section.

23 SECTION 2. Section 1 Chapter 291, Acts of the 79th  
24 Legislature, 2005 [[S.B. No. 14]], is hereby repealed.

25 SECTION 3. Section 16.01, Chapter 899, Acts of the 79th  
26 Legislature, 2005 [[S.B. No. 1863]], is hereby repealed.

27 SECTION 4. The amendments to Section 2254.003, Insurance

1 Code, in SECTION 1, are made to conform Section 2254.003, Insurance  
2 Code, with the amendments enacted in Section 1 Chapter 291, Acts of  
3 the 79th Legislature, 2005 [[S.B. No. 14]].

4 SECTION 5. This Act applies to an insurance policy that is  
5 delivered, issued for delivery, or renewed on or after the  
6 effective date of this Act and to rates for such a policy. An  
7 insurance policy delivered, issued for delivery, or renewed prior  
8 to the effective date of this Act and the rates for such a policy are  
9 governed by the law as it existed immediately before the effective  
10 date of this Act, and that law is continued in effect for that  
11 purpose.

12 SECTION 6. This Act takes effect immediately if it receives  
13 a vote of two-thirds of all the members elected to each house, as  
14 provided by Section 39, Article III, Texas Constitution. If this  
15 Act does not receive the vote necessary for immediate effect, this  
16 Act takes effect September 1, 2007.