

1-1 By: Smith of Tarrant (Senate Sponsor - Harris) H.B. No. 2551  
1-2 (In the Senate - Received from the House May 9, 2007;  
1-3 May 10, 2007, read first time and referred to Committee on Business  
1-4 and Commerce; May 17, 2007, reported favorably by the following  
1-5 vote: Yeas 9, Nays 0; May 17, 2007, sent to printer.)

1-6 A BILL TO BE ENTITLED  
1-7 AN ACT

1-8 relating to refund of excessive or unfairly discriminatory premium;  
1-9 providing penalties.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Section 2254.003, Insurance Code, is amended to  
1-12 conform to Section 1, Chapter 291, Acts of the 79th Legislature,  
1-13 Regular Session, 2005, and to Section 16.01, Chapter 899, Acts of  
1-14 the 79th Legislature, Regular Session, 2005, by adding Subsections  
1-15 (c) and (d) and is further amended to read as follows:

1-16 Sec. 2254.003. REFUND OR DISCOUNT BASED ON EXCESSIVE OR  
1-17 UNFAIRLY DISCRIMINATORY PREMIUM RATES. (a) This section applies  
1-18 to a rate filed on or after the effective date of Chapter 206, Acts  
1-19 of the 78th Legislature, Regular Session, 2003.

1-20 (b) Except as provided by Section 2254.004(c), if the  
1-21 commissioner determines that an insurer has charged a rate for  
1-22 personal automobile insurance or residential property insurance  
1-23 that is excessive or unfairly discriminatory, as described by  
1-24 Section 2251.051, the commissioner may:

1-25 (1) order the insurer to refund directly to each  
1-26 affected policyholder the portion of the premium, plus interest on  
1-27 that amount, that is excessive or unfairly discriminatory, if that  
1-28 portion of the premium is at least 7.5 percent of the total premium  
1-29 charged for the coverage; or

1-30 (2) if that portion of the premium is less than 7.5  
1-31 percent of the total premium, order the insurer to provide, to each  
1-32 affected policyholder:

1-33 (A) who renews the policy, a future premium  
1-34 discount equal to the amount of the excessive or unfairly  
1-35 discriminatory portion of the premium, plus interest on that  
1-36 amount; and

1-37 (B) who does not renew or whose coverage is  
1-38 otherwise terminated, a refund in the amount described by  
1-39 Subdivision (1).

1-40 (c) The rate for interest assessed under Subsection (b) is  
1-41 the lesser of 18 percent or the sum of six percent and the prime rate  
1-42 for the calendar year in which the commissioner's order finding  
1-43 that the rate is excessive or unfairly discriminatory is issued.  
1-44 For purposes of this subsection, the prime rate is the prime rate as  
1-45 published in The Wall Street Journal for the first day of the  
1-46 calendar year that is not a Saturday, Sunday, or legal holiday. The  
1-47 period for the refund and interest begins on the date the department  
1-48 first provides the insurer with formal written notice that the  
1-49 insurer's filed rate is excessive or unfairly discriminatory, and  
1-50 interest continues to accrue until the refund is paid. An insurer  
1-51 may not be required to pay any interest penalty if the insurer  
1-52 prevails in an appeal of the commissioner's order under Subchapter  
1-53 D, Chapter 36.

1-54 (d) An insurer may not claim a premium tax credit to which  
1-55 the insurer is otherwise entitled unless the insurer complies with  
1-56 Subsection (b).

1-57 SECTION 2. Section 1, Chapter 291, and Section 16.01,  
1-58 Chapter 899, Acts of the 79th Legislature, Regular Session, 2005,  
1-59 which amended former Article 5.144, Insurance Code, by amending  
1-60 Subsection (b) and adding Subsections (b-1) and (b-2), are  
1-61 repealed.

1-62 SECTION 3. The amendments to Section 2254.003, Insurance  
1-63 Code, in Section 1 of this Act, are made to conform Section  
1-64 2254.003, Insurance Code, with the amendments enacted in Section 1,

2-1 Chapter 291, and Section 16.01, Chapter 899, Acts of the 79th  
2-2 Legislature, Regular Session, 2005.

2-3 SECTION 4. This Act applies to an insurance policy that is  
2-4 delivered, issued for delivery, or renewed on or after the  
2-5 effective date of this Act and to rates for such a policy. An  
2-6 insurance policy delivered, issued for delivery, or renewed prior  
2-7 to the effective date of this Act and the rates for such a policy are  
2-8 governed by the law as it existed immediately before the effective  
2-9 date of this Act, and that law is continued in effect for that  
2-10 purpose.

2-11 SECTION 5. This Act takes effect immediately if it receives  
2-12 a vote of two-thirds of all the members elected to each house, as  
2-13 provided by Section 39, Article III, Texas Constitution. If this  
2-14 Act does not receive the vote necessary for immediate effect, this  
2-15 Act takes effect September 1, 2007.

2-16

\* \* \* \* \*