

By: Smithee

H.B. No. 2640

A BILL TO BE ENTITLED

AN ACT

relating to the collection and use of certain information by  
insurers and related entities.

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

SECTION 1. Subtitle G, Title 5, Insurance Code, is amended  
by adding Chapter 752 to read as follows:

CHAPTER 752. DATA MINING AND PATTERN RECOGNITION

Sec. 752.001. DEFINITION. In this chapter, "regulated  
entity" means each insurer or other organization regulated by the  
department, including:

(1) a domestic or foreign, stock or mutual, life,  
health, or accident insurance company;

(2) a domestic or foreign, stock or mutual, fire or  
casualty insurance company;

(3) a Mexican casualty company;

(4) a domestic or foreign Lloyd's plan insurer;

(5) a domestic or foreign reciprocal or interinsurance  
exchange;

(6) a domestic or foreign fraternal benefit society;

(7) a domestic or foreign title insurance company;

(8) an attorney's title insurance company;

(9) a stipulated premium company;

(10) a nonprofit legal service corporation;

(11) a health maintenance organization;

1           (12) a statewide mutual assessment company;

2           (13) a local mutual aid association;

3           (14) a local mutual burial association;

4           (15) an association exempt under Section 887.102;

5           (16) a nonprofit hospital, medical, or dental service  
6 corporation, including a company subject to Chapter 842;

7           (17) a county mutual insurance company; and

8           (18) a farm mutual insurance company.

9           Sec. 752.002. COLLECTION OF INFORMATION CONCERNING DATA  
10 MINING AND PATTERN RECOGNITION. (a) The commissioner by rule may  
11 require a regulated entity to report to the department concerning:

12           (1) technologies to be used by the regulated entity to  
13 identify relationships among variables that are used to predict  
14 differences in expected losses of covered persons or applicants for  
15 coverage or are otherwise used in the activities of regulated  
16 entities; and

17           (2) the manner in which the regulated entity intends  
18 to use the relationships derived from the technologies described by  
19 Subdivision (1) in:

20                   (A) underwriting and creating and defining risk  
21 classifications;

22                   (B) setting rates and premiums;

23                   (C) detecting fraudulent claims;

24                   (D) identifying subrogation opportunities;

25                   (E) improving marketing; or

26                   (F) performing other activities identified by  
27 the commissioner.

1       (b) In exercising the commissioner's authority under this  
2 section, the commissioner may require that regulated entities  
3 report with respect to selected lines of insurance or selected  
4 segments of the market and may limit the reporting to specific uses  
5 of relationships derived from the technologies.

6       (c) Underwriting guidelines and related information  
7 obtained by the commissioner under this section are subject to  
8 Section 38.002 or 38.003, as appropriate. Disclosure of other  
9 information obtained under this section is subject to Chapter 552,  
10 Government Code.

11       Sec. 752.003. OVERSIGHT OF DATA MINING AND PATTERN  
12 RECOGNITION. (a) The commissioner may limit the use of  
13 relationships derived from a technology described by Section  
14 752.002 if the commissioner finds that the technology will  
15 incorporate any factor not previously used by the regulated entity  
16 in underwriting or establishing rates or rating tiers.

17       (b) Limitations adopted by rule under Subsection (a) may:  
18               (1) limit the number of rating classifications or  
19 prohibit certain classifications entirely, so as to preserve a  
20 reasonable level of risk transfer; or

21               (2) require:  
22                       (A) that regulated entities that file  
23 classifications of risks, rates, or rating tier differentials to  
24 phase in, over two or more renewal periods, the application or use  
25 of those classifications, rates, or rating tier differentials;

26                       (B) tests for covariance among classifications  
27 or rating variables to avoid overlap among the classifications or

1 rating variables;

2 (C) assignment of a greater weight to those  
3 classifications or rating variables that promote loss prevention or  
4 encourage availability of insurance in underserved areas; or

5 (D) periodic reconfirmation of the assignment of  
6 rating classifications or rating variables that may change over  
7 time.

8 Sec. 752.004. REPORT TO LEGISLATURE. The department shall  
9 include in its biennial report to the legislature under Section  
10 32.022 information concerning the use of relationships derived from  
11 the technologies described by Section 752.002 by regulated  
12 entities. The information must include the impact of the use of  
13 those relationships on insurance and other coverage to covered  
14 persons and applicants for coverage in this state. The report may  
15 include recommendations for proposed legislation appropriate to  
16 regulate the use of relationships derived from the technologies and  
17 means to facilitate availability of insurance in underserved  
18 markets.

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