

By: Vo

H.B. No. 3175

A BILL TO BE ENTITLED

AN ACT

relating to regulation of residential property insurance;
providing penalties.

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 RESIDENTIAL
PROPERTY INSURANCE; 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 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) "Residential property insurance" means insurance
coverage against loss to real or tangible personal property at a
fixed location that is provided through:

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

(B) a condominium owners policy; or

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

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

4 [Sections 41.003-41.050 reserved for expansion]

5 SUBCHAPTER B. RATES FOR RESIDENTIAL PROPERTY INSURANCE

6 Sec. 41.051. RATES. (a) The department shall include on
7 the main page of the department's Internet website and other
8 appropriate pages, as determined by the department, sample base
9 rates for each insurer for residential property insurance.

10 (b) The commissioner by rule shall determine the frequency
11 with which the sample base rates described by Subsection (a) must be
12 updated.

13 Sec. 41.052. ADDITIONAL INFORMATION. On each page on which
14 the rate information described by Section 41.051 is displayed, in a
15 location near the information, the department shall include a link
16 to additional information explaining the rate information,
17 including:

18 (1) a general explanation of how insurance premiums
19 applicable to an individual insured are determined and that the
20 premium amount charged may vary from the base rate displayed; and

21 (2) contact information, for each insurer whose rates
22 for residential property insurance are displayed on the Internet
23 website.

24 SECTION 2. Subtitle H, Title 11, Insurance Code, is amended
25 by adding Chapter 2251A to read as follows:

1 CHAPTER 2251A. BIENNIAL RATE EXAMINATION FOR RESIDENTIAL

2 PROPERTY INSURANCE

3 SUBCHAPTER A. GENERAL PROVISIONS

4 Sec. 2251A.001. DEFINITIONS. The definitions under Chapter
5 2251 apply to this chapter.

6 Sec. 2251A.002. APPLICABILITY OF CHAPTER. This chapter
7 applies only to an insurer that:

8 (1) is subject to Subchapters A-D, Chapter 2251; and

9 (2) writes residential property insurance in this
10 state.

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

15 (b) To the extent that a provision of this chapter and a
16 provision of Chapter 2251 conflict, the provision in this chapter
17 prevails.

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

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

21 SUBCHAPTER B. BIENNIAL RATE ASSESSMENT

22 Sec. 2251A.051. RATE STANDARDS. (a) A rate filed by an
23 insurer under Section 2251A.052 or a rate ordered by the
24 commissioner following a rate hearing under Section 2251A.053 may
25 not be excessive, inadequate, unfairly discriminatory, or
26 unreasonable.

27 (b) A rate ordered by the commissioner following a rate

1 hearing under Section 2251A.053 must comply with the rate standards
2 described by Subsection (a) and may not be confiscatory.

3 Sec. 2251A.052. SUPPLEMENTAL RATE FILINGS. (a) Not
4 earlier than August 15 and not later than September 1 of each
5 even-numbered year, an insurer described by Section 2251A.002 shall
6 file with the commissioner all rates, applicable rating manuals,
7 and supplementary rating information used by the insurer to set
8 rates for residential property insurance coverage in this state.

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

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

15 (2) file an update to the material filed under Chapter
16 2251.

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

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

22 (2) if the filed rate fails to meet any rate standard
23 under Section 2251A.051, disapprove the filed rate and issue an
24 order specifying in what respects the filed rate fails to comply
25 with the rate standards.

26 (b) If the commissioner disapproves a rate under Subsection
27 (a), the department shall hold a rate hearing and the commissioner

1 shall issue an order in accordance with Chapter 40.

2 Sec. 2251A.054. JUDICIAL REVIEW. (a) Not later than the
3 10th day after the date an insurer receives the commissioner's
4 order issued under Section 2251A.053(a)(2), the insurer may file a
5 petition for judicial review in a district court of Travis County.
6 The standard of review of the commissioner's order is substantial
7 evidence.

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

11 Sec. 2251A.055. REFUND. If on final appeal a court upholds
12 the commissioner's order issued under Section 2251A.053, the
13 insurer shall refund the difference in overcharged premium, if any,
14 plus interest to each policyholder. The interest rate is the prime
15 rate for the calendar year in which the refund is issued, plus six
16 percent.

17 Sec. 2251A.056. CERTAIN SETTLEMENTS PROHIBITED. If an
18 insurer files a petition for judicial review under Section
19 2251A.054, the department may not agree to a settlement of the
20 lawsuit in any amount that is less than the amount of the refund,
21 including interest, that the insurer would be obligated to pay
22 under Section 2251A.055.

23 Sec. 2251A.057. SANCTIONS. An insurer that violates
24 Section 2251A.052 is subject to sanctions under Chapter 82.

25 Sec. 2251A.058. REPORT TO LEGISLATURE. (a) Not later than
26 January 15 of each odd-numbered year, the commissioner shall
27 deliver to the governor, the lieutenant governor, the speaker of

1 the house of representatives, and each standing committee of the
2 senate and the house of representatives that has jurisdiction over
3 the regulation of insurance in this state a written report that:

4 (1) summarizes any rate hearings conducted under this
5 chapter; and

6 (2) identifies any trends in rates for residential
7 property insurance in this state.

8 (b) The commissioner shall post the report described by
9 Subsection (a) on the page of the department's Internet website
10 where the rate information described in Section 41.051 is posted.

11 SECTION 3. The Texas Department of Insurance shall
12 implement Chapter 41, Insurance Code, as added by this Act, not
13 later than January 1, 2008.

14 SECTION 4. This Act takes effect September 1, 2007.