

By: Eiland

H.B. No. 3968

A BILL TO BE ENTITLED

AN ACT

relating to allowing insurer rate filings in coastal areas within a 12-month period following a storm to be presumed reasonable.

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

SECTION 1. Section 2251.002, Insurance Code, is amended by adding new Subdivision (1) and redesignating Subdivision (1) as Subdivision (1-a) to read as follows:

Sec. 2251.002. DEFINITIONS. In this chapter:

(1) "Catastrophe area" has the same meaning as in Section 2210.003(3).

(1-a) [~~(1)~~] "Disallowed expenses" includes:

(A) administrative expenses, other than acquisition, loss control, and safety engineering expenses, that exceed 110 percent of the industry median for those expenses;

(B) lobbying expenses;

(C) advertising expenses, other than for advertising:

(i) directly related to the services or products provided by the insurer; or

(ii) designed and directed at loss prevention;

(D) amounts paid by an insurer:

(i) as damages in an action brought against the insurer for bad faith, fraud, or any matters other than payment

1 under the insurance contract; or

2 (ii) as fees, fines, penalties, or  
3 exemplary damages for a civil or criminal violation of law;

4 (E) contributions to:

5 (i) social, religious, political, or  
6 fraternal organizations; or

7 (ii) organizations engaged in legislative  
8 advocacy;

9 (F) except as authorized by commissioner rule,  
10 fees and assessments paid to advisory organizations;

11 (G) any amount determined by the commissioner to  
12 be excess premiums charged by the insurer; and

13 (H) any unreasonably incurred expenses, as  
14 determined by the commissioner after notice and hearing.

15 SECTION 2. Subsection (a), Section 2251.101, Insurance  
16 Code, is amended to read as follows:

17 (a) Except as provided by Section 2251.1011 and Subchapter  
18 D, for risks written in this state, each insurer shall file with the  
19 commissioner all rates, applicable rating manuals, supplementary  
20 rating information, and additional information as required by the  
21 commissioner.

22 SECTION 3. Subchapter C, Chapter 2251, Insurance Code, is  
23 amended by adding Section 2251.1011 to read as follows:

24 Sec. 2251.1011. CATASTROPHE AREA RATE FILINGS. (a) This  
25 section only applies to rates for residential and commercial  
26 property insurance providing coverage for windstorm and hail  
27 insurance, including farm and ranch insurance and farm and ranch

1 owners insurance, for properties located in a catastrophe area.

2 (b) The commissioner may adopt rules that provide for rates  
3 which may be filed following a named tropical storm or hurricane  
4 affecting insured property on the Texas coast. If adopted, these  
5 rules must specify:

6 (1) the event, events or circumstances that must occur  
7 before such rates may be filed, including but not limited to:

8 (A) the number of named tropical storms or  
9 hurricanes;

10 (B) the size or category of the named tropical  
11 storm or hurricane;

12 (C) the amount of damage caused to insured  
13 property; and

14 (D) the size of the population affected.

15 (2) the total rate change allowed, not to exceed five  
16 percent for each 12-month period;

17 (3) the period of time, not to exceed five years,  
18 during which such rates may be filed and maintained; and

19 (4) the conditions that insurers must fulfill with  
20 respect to providing windstorm insurance in a catastrophe area in  
21 order to be eligible to file and maintain such rates.

22 (c) Rates submitted in accordance with rules promulgated by  
23 the commissioner under Subsection (b) are presumed to be not  
24 excessive. This presumption does not apply, and will cease to  
25 apply, if:

26 (1) The time period established under Subsection (b)  
27 (3) has expired;

1           (2) the insurer no longer meets the conditions  
2 established under Subsection (b)(4); or

3           (3) the insurer is or becomes subject to an order  
4 issued pursuant to Section 2251.151.

5           (d) Notwithstanding Subsection (c), the commissioner may  
6 disapprove rates filed pursuant to this section using the procedure  
7 described in this chapter, if the commissioner determines the  
8 filing would produce rates that are inadequate or unfairly  
9 discriminatory.

10           SECTION 4. This Act applies only to an insurance policy that  
11 is delivered, issued for delivery, or renewed on or after January 1,  
12 2008. A policy delivered, issued for delivery, or renewed before  
13 January 1, 2008, is governed by the law as it existed immediately  
14 before the effective date of this Act, and that law is continued in  
15 effect for that purpose.

16           SECTION 5. This Act takes effect September 1, 2007.