

By: West, Van de Putte

S.B. No. 828

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the collection and use of certain information by
3 certain insurers.

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

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

7 CHAPTER 752. DATA MINING AND PATTERN RECOGNITION

8 Sec. 752.001. DEFINITIONS. In this chapter:

9 (1) "Personal automobile insurance" means an
10 automobile insurance policy providing insurance coverages for the
11 ownership, maintenance, or use of private passenger, utility, and
12 miscellaneous type motor vehicles and trailers including mobile
13 homes and recreational trailers, and not primarily used for the
14 delivery of goods, materials, or services, unless the use is in farm
15 or ranch operations and provided that the vehicles are owned or
16 leased by an individual or individuals.

17 (2) "Regulated insurer" means each insurer subject to
18 rate regulation by the department for residential property
19 insurance or personal automobile insurance, including a domestic or
20 foreign, stock or mutual, fire or casualty insurance company, a
21 domestic or foreign Lloyd's plan, a domestic or foreign reciprocal
22 or interinsurance exchange, and a county mutual insurance company.
23 The term includes an affiliate, as described by this code, if that
24 affiliate is authorized to write residential property insurance or

1 personal automobile insurance.

2 (3) "Residential property insurance" means insurance
3 against loss to real property at a fixed location or tangible
4 personal property provided in a homeowners policy, a tenant policy,
5 a condominium unit owners policy, or a residential fire and allied
6 lines policy.

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

10 (1) technologies such as statistical techniques,
11 devices, or models to be used by or on behalf of the regulated
12 insurer to establish new classifications or to change existing
13 methods of classification for rating, tiering, or underwriting, as
14 described by Subsection (b); and

15 (2) the manner in which the regulated insurer intends
16 to use the relationships derived from the technologies described by
17 Subdivision (1) in:

18 (A) underwriting and creating and defining new
19 risk classifications or changing an existing method of
20 classification;

21 (B) setting or determining rates and premiums; or

22 (C) using new classifications or a change in an
23 existing method of classification to deny coverage, limit coverage,
24 or refuse to renew or cancel coverage for existing individual
25 insureds.

26 (b) Information filed as required by Subsection (a)(1) must
27 include:

1 (1) information necessary for the department to
2 identify:

3 (A) the expected costs for a particular
4 classification; and

5 (B) relationships among variables that are used
6 to predict differences in expected losses of covered persons or
7 applicants for coverage; and

8 (2) other information, to the extent reasonably
9 available, concerning the new classification or change in an
10 existing method of classification that is intended to be otherwise
11 used in rating, tiering, or underwriting activities of the
12 regulated insurer.

13 (c) In exercising the commissioner's authority under this
14 section, the commissioner may require that regulated insurers:

15 (1) file underlying data relating to new
16 classifications or a change to an existing method of classification
17 as supplementary rating information under Chapter 2251;

18 (2) support the specific uses of information derived
19 from the technologies; and

20 (3) state whether the new classification or change to
21 an existing method of classification preserves a reasonable level
22 of risk transfer.

23 (d) Technologies and related information obtained from a
24 regulated insurer by the department under this chapter are
25 confidential and are not subject to disclosure under Chapter 552,
26 Government Code, except to the extent the regulated insurer
27 specifically authorizes the release.

1 Sec. 752.003. OVERSIGHT OF DATA MINING AND PATTERN
2 RECOGNITION; TRANSITION PLAN. (a) The commissioner may limit the
3 use of a new classification or a change to an existing method of
4 classification derived from a technology described by Section
5 752.002 if the commissioner finds that:

6 (1) the new classification or change to an existing
7 method of classification was not previously used by the regulated
8 insurer in underwriting or in establishing rating classifications
9 or rating tiers; and

10 (2) one of the following conditions exists:

11 (A) the new classification or change to an
12 existing method of classification would result in:

13 (i) a refusal to renew or to limit coverage
14 of an existing policyholder; or

15 (ii) an increase or decrease of 15 percent
16 or more in premium for any existing policyholder; or

17 (B) the new classification or change to an
18 existing method of classification violates state law.

19 (b) The limitations adopted under Subsection (a) may
20 require the regulated insurer to:

21 (1) use a transition plan, as described by Subsection
22 (c), to phase in the application or use of classifications, rating
23 tier differentials, or underwriting guidelines over not more than
24 two renewal periods;

25 (2) furnish available underlying data relating to the
26 new classifications or changes to an existing method of
27 classification, including whether the new classifications or

1 changes to an existing method of classification create overlaps
2 among classifications and the manner that the overlap has been
3 recognized in underwriting or setting or determining rates or
4 premiums; or

5 (3) require the regulated insurer to furnish available
6 information on whether the new classifications or changes to an
7 existing method of classification will promote loss prevention or
8 the availability of insurance in underserved areas.

9 (c) A transition plan required by Subsection (b)(1) must:

10 (1) be reasonable;

11 (2) promote market and rate stability;

12 (3) take into consideration any changes that may
13 impact overall rates and premiums, other than the new
14 classifications or changes to an existing method of classification
15 or uses of the relationships derived from the technology; and

16 (4) moderate or otherwise mitigate overall rate and
17 premium increases for individual policyholders over one or two
18 renewal periods.

19 (d) This chapter does not limit the authority of the
20 commissioner to disapprove rates or rating classifications that
21 violate state law.

22 Sec. 752.004. REPORT TO LEGISLATURE. The department shall
23 include in its biennial report to the legislature under Section
24 32.022 information concerning the use of relationships derived from
25 technologies described by Section 752.002(a)(1) by regulated
26 insurers. The report must describe the impact that the use of those
27 relationships has on insurance, policyholders, and applicants for

1 insurance in this state, and may include recommendations for
2 proposed legislation appropriate to regulate new classifications
3 or changes to existing methods of classification that are derived
4 from the use of those technologies.

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