

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;

(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 TECHNOLOGY. (a) The commissioner
11 by rule may require a regulated entity to report to the department
12 concerning:

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

17 (2) the manner in which the regulated entity uses the
18 technologies described by Subdivision (1) in:

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

21 (B) setting rates and premiums;

22 (C) detecting fraudulent claims;

23 (D) identifying subrogation opportunities;

24 (E) improving marketing; or

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

27 (b) In exercising the commissioner's authority under this

1 section, the commissioner may require that regulated entities
2 report with respect to selected lines of insurance or selected
3 segments of the market and may limit the reporting to specific uses
4 of relationships derived from the technologies.

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

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

16 (b) The limitations adopted under Subsection (a) may:

17 (1) require regulated entities that file
18 classifications of risks, rates, or rating tier differentials to
19 phase in, over two or more renewal periods, the application or use
20 of the classifications, rates, or rating tier differentials;

21 (2) include limitations on the number of rating
22 classifications or prohibit specified classifications, as
23 necessary or appropriate to preserve a reasonable level of risk
24 transfer;

25 (3) require tests for covariance among
26 classifications or rating variables to avoid overlap among the
27 classifications or rating variables;

1 (4) require assignment of a greater weight to
2 classifications or rating variables that:

3 (A) promote loss prevention; or

4 (B) promote the availability of insurance in
5 underserved areas; or

6 (5) require periodic reconfirmation of the assignment
7 of rating classifications or rating variables over 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 technologies described by Section 752.002(a)(1) by regulated
12 entities. The report must describe the impact that the use of those
13 relationships has on insurance and other coverage for covered
14 persons and applicants for coverage in this state, and may include
15 recommendations for proposed legislation appropriate to regulate
16 these technologies.

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