1-1   By: West, Van de Putte   S.B. No. 828
1-2   (In the Senate - Filed February 22, 2007; March 7, 2007,
1-3   read first time and referred to Committee on Business and Commerce;
1-4   April 19, 2007, reported adversely, with favorable Committee
1-5   Substitute by the following vote: Yeas 6, Nays 0; April 19, 2007,
1-6   sent to printer.)

1-7   COMMITTEE SUBSTITUTE FOR S.B. No. 828   By: Lucio

1-8   A BILL TO BE ENTITLED
1-9   AN ACT

1-10 relating to the collection and use of certain information by
1-11 certain insurers.
1-12   BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
1-13   SECTION 1.   Subtitle G, Title 5, Insurance Code, is amended
1-14 by adding Chapter 752 to read as follows:
1-15   CHAPTER 752. DATA MINING AND PATTERN RECOGNITION
1-16   Sec. 752.001. DEFINITIONS. In this chapter:
1-17   (1) "Personal   automobile   insurance"   means   an
1-18 automobile insurance policy providing insurance coverages for the
1-19 ownership, maintenance, or use of private passenger, utility, and
1-20 miscellaneous type motor vehicles and trailers including mobile
1-21 homes and recreational trailers, and not primarily used for the
1-22 delivery of goods, materials, or services, unless the use is in farm
1-23 or ranch operations and provided that the vehicles are owned or
1-24 leased by an individual or individuals.
1-25   (2) "Regulated insurer" means each insurer subject to
1-26 rate   regulation   by   the   department   for   residential property
1-27 insurance or personal automobile insurance, including a domestic or
1-28 foreign, stock or mutual, fire or casualty insurance company, a
1-29 domestic or foreign Lloyd's plan, a domestic or foreign reciprocal
1-30 or interinsurance exchange, and a county mutual insurance company.
1-31 The term includes an affiliate, as described by this code, if that
1-32 affiliate is authorized to write residential property insurance or
1-33 personal automobile insurance.
1-34   (3) "Residential property insurance" means insurance
1-35 against loss to real property at a fixed location or tangible
1-36 personal property provided in a homeowners policy, a tenant policy,
1-37 a condominium unit owners policy, or a residential fire and allied
1-38 lines policy.
1-39   Sec. 752.002. COLLECTION OF INFORMATION CONCERNING DATA
1-40 MINING AND PATTERN RECOGNITION. (a)   The commissioner by rule may
1-41 require a regulated insurer to report to the department concerning:
1-42   (1) technologies such as statistical techniques,
1-43 devices, or models to be used by or on behalf of the regulated
1-44 insurer to establish new classifications or to change existing
1-45 methods of classification for rating, tiering, or underwriting, as
1-46 described by Subsection (b); and
1-47   (2) the manner in which the regulated insurer intends
1-48 to use the relationships derived from the technologies described by
1-49 Subdivision (1) in:
1-50   (A) underwriting and creating and defining new
1-51 risk classifications or changing an existing method of
1-52 classification;
1-53   (B) setting or determining rates and premiums; or
1-54   (C) using new classifications or a change in an
1-55 existing method of classification to deny coverage, limit coverage,
1-56 or refuse to renew or cancel coverage for existing individual
1-57 insureds.
1-58   (b) Information filed as required by Subsection (a)(1) must
1-59 include:
1-60   (1) information necessary for the department to
1-61 identify:
1-62   (A) the expected costs for a particular
1-63 classification; and

1

2-1   (B) relationships among variables that are used
2-2 to predict differences in expected losses of covered persons or
2-3 applicants for coverage; and
2-4   (2) other information, to the extent reasonably
2-5 available, concerning the new classification or change in an
2-6 existing method of classification that is intended to be otherwise
2-7 used in rating, tiering, or underwriting activities of the
2-8 regulated insurer.
2-9   (c) In exercising the commissioner's authority under this
2-10 section, the commissioner may require that regulated insurers:
2-11   (1) file underlying data relating to new
2-12 classifications or a change to an existing method of classification
2-13 as supplementary rating information under Chapter 2251;
2-14   (2) support the specific uses of information derived
2-15 from the technologies; and
2-16   (3) state whether the new classification or change to
2-17 an existing method of classification preserves a reasonable level
2-18 of risk transfer.
2-19   (d) Technologies and related information obtained from a
2-20 regulated insurer by the department under this chapter are
2-21 confidential and are not subject to disclosure under Chapter 552,
2-22 Government Code, except to the extent the regulated insurer
2-23 specifically authorizes the release.
2-24   Sec. 752.003. OVERSIGHT OF DATA MINING AND PATTERN
2-25 RECOGNITION; TRANSITION PLAN. (a) The commissioner may limit the
2-26 use of a new classification or a change to an existing method of
2-27 classification derived from a technology described by Section
2-28 752.002 if the commissioner finds that:
2-29   (1) the new classification or change to an existing
2-30 method of classification was not previously used by the regulated
2-31 insurer in underwriting or in establishing rating classifications
2-32 or rating tiers; and
2-33   (2) one of the following conditions exists:
2-34   (A) the new classification or change to an
2-35 existing method of classification would result in:
2-36   (i) a refusal to renew or to limit coverage
2-37 of an existing policyholder; or
2-38   (ii) an increase or decrease of 15 percent
2-39 or more in premium for any existing policyholder; or
2-40   (B) the new classification or change to an
2-41 existing method of classification violates state law.
2-42   (b) The limitations adopted under Subsection (a) may
2-43 require the regulated insurer to:
2-44   (1) use a transition plan, as described by Subsection
2-45 (c), to phase in the application or use of classifications, rating
2-46 tier differentials, or underwriting guidelines over not more than
2-47 two renewal periods;
2-48   (2) furnish available underlying data relating to the
2-49 new classifications or changes to an existing method of
2-50 classification, including whether the new classifications or
2-51 changes to an existing method of classification create overlaps
2-52 among classifications and the manner that the overlap has been
2-53 recognized in underwriting or setting or determining rates or
2-54 premiums; or
2-55   (3) require the regulated insurer to furnish available
2-56 information on whether the new classifications or changes to an
2-57 existing method of classification will promote loss prevention or
2-58 the availability of insurance in underserved areas.
2-59   (c) A transition plan required by Subsection (b)(1) must:
2-60   (1) be reasonable;
2-61   (2) promote market and rate stability;
2-62   (3) take into consideration any changes that may
2-63 impact overall rates and premiums, other than the new
2-64 classifications or changes to an existing method of classification
2-65 or uses of the relationships derived from the technology; and
2-66   (4) moderate or otherwise mitigate overall rate and
2-67 premium increases for individual policyholders over one or two
2-68 renewal periods.
2-69   (d) This chapter does not limit the authority of the

3-1   commissioner to disapprove rates or rating classifications that
3-2   violate state law.
3-3   Sec. 752.004. REPORT TO LEGISLATURE. The department shall
3-4   include in its biennial report to the legislature under Section
3-5   32.022 information concerning the use of relationships derived from
3-6   technologies described by Section 752.002(a)(1) by regulated
3-7   insurers. The report must describe the impact that the use of those
3-8   relationships has on insurance, policyholders, and applicants for
3-9   insurance in this state, and may include recommendations for
3-10 proposed legislation appropriate to regulate new classifications
3-11 or changes to existing methods of classification that are derived
3-12 from the use of those technologies.
3-13   SECTION 2. This Act takes effect immediately if it receives
3-14 a vote of two-thirds of all the members elected to each house, as
3-15 provided by Section 39, Article III, Texas Constitution. If this
3-16 Act does not receive the vote necessary for immediate effect, this
3-17 Act takes effect September 1, 2007.

3-18   * * * * *