

BILL ANALYSIS

C.S.S.B. 698
By: Ellis
Insurance
Committee Report (Substituted)

BACKGROUND AND PURPOSE

S.B. 698 addresses past injustices at the hands of insurance companies that issued race-based insurance coverage from the 1930s into the 1970s. While the Texas Department of Insurance (TDI) has determined that race-based insurance pricing of new policies ceased altogether in the early 1970s, premiums currently being collected or death benefits paid on hold policies issued before the early 1970s may not have been adjusted to eliminate the effects of this practice.

C.S.S.B. 698 requires the commissioner of insurance to establish a registry of each legal entity engaged in the insurance business in Texas that, formally or informally, has entered into an agreement with the Texas Department of Insurance that disposes of allegations of race-based pricing and under which all or part of the relief agreed on to make insureds whole includes a claims-made offer that remains in place and has not otherwise expired under the terms of the agreement.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.S.B. 698 amends the Insurance Code to require the commissioner of insurance to establish a registry of each legal entity engaged in the insurance business in Texas that, formally or informally, has entered into an agreement with the Texas Department of Insurance that disposes of allegations of race-based pricing and under which all or part of the relief agreed on to make insureds whole includes a claims-made offer that remains in place and has not otherwise expired under the terms of the agreement. The bill requires the registry to be prominently published on the department's Internet website and requires the registry to identify each insurance company that has entered into an agreement as described above and the eligibility and terms of the insurance company's claims-made offer and to include a claim form and links on the Internet website to the insurance company that is administering the claims-made offer.

C.S.S.B. 698 requires the commissioner of insurance to encourage those insurance companies who, but for the fact that any applicable claims-made offer has expired, would be listed in the registry to voluntarily participate in the registry and to extend or revive the claims-made offer previously agreed on for a five-year period beginning on September 1, 2009. The bill requires the department to identify in the registry an insurance company that does not agree to revive or extend the claims-made offer period.

C.S.S.B. 698 requires the department to preserve all examinations, exhibits to examinations, and other relevant documents regarding race-based pricing that the department has gathered or created with respect to an investigation that is completed or ongoing on September 1, 2009, other than those for which an attorney-client or attorney work product privilege can be claimed, until the time that the documents are eligible for delivery. The bill requires the department, on

completion of its race-based pricing investigation, but not later than January 15, 2011, to deliver the required records or copies of those records to the state archivist and requires the state archives to preserve and catalogue the records using best efforts, and to make records available to the public as soon as appropriate but not later than January 15, 2015.

C.S.S.B. 698 requires the commissioner to establish the registry not later than January 1, 2010. The bill makes the race-based insurance registry provisions apply to any legal entity engaged in the business of insurance in Texas and enumerates the types of legal entities included in the application.

EFFECTIVE DATE

September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.S.B. 698 adds provisions specifying that the registry contain each legal insurance business in Texas that disposes of allegations of race-based pricing and under which all or part of the relief agreed on to make insureds whole includes a claims-made offer that remains in place and has not otherwise expired under the terms of the agreement, whereas the original specifies that the registry contain legal entities that have a documented history of race-based discrimination practices or race-based marketing; authorizes the commissioner of insurance to require a legal entity to submit information regarding such practices; and requires the commissioner to prescribe by rule the manner of submitting information.

C.S.S.B. 698 requires the registry to be prominently published on the department's Internet website and establishes provisions relating to additions to the registry for expired claims-made offers and the preservation of certain records regarding race-based pricing, whereas the original establishes that the information submitted for the registry to the Texas Department of Insurance is public information and requires the department to prepare information of public interest describing the registry.