

By: McClendon

H.B. No. 3258

A BILL TO BE ENTITLED

AN ACT

relating to automobile insurance loss ratios and premiums, and the collection and use of certain data by insurers regarding automobile insurance; providing administrative penalties.

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

SECTION 1. Chapter 1953, Insurance Code, is amended by adding Subchapter D to read as follows:

SUBCHAPTER D. DATA MINING AND PATTERN RECOGNITION

Sec. 1953.151. APPLICABILITY OF SUBCHAPTER. This subchapter applies to an insurer writing automobile insurance in this state, including an insurance company, reciprocal or interinsurance exchange, county mutual insurance company, farm mutual insurance company, Lloyd's plan, or other insurer.

Sec. 1953.152. COLLECTION OF INFORMATION CONCERNING DATA MINING AND PATTERN RECOGNITION. (a) The commissioner by rule may require an insurer to report to the department concerning:

(1) technologies to be used by the insurer to identify relationships among variables that are used to predict differences in expected losses of covered persons or applicants for automobile insurance coverage or are otherwise used in the activities of regulated entities; and

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

- 1           (A) underwriting and creating and defining risk  
2 classifications;  
3           (B) setting rates and premiums, as applicable;  
4           (C) detecting fraudulent claims;  
5           (D) identifying subrogation opportunities;  
6           (E) improving marketing; or  
7           (F) performing other activities identified by  
8 the commissioner.

9           (b) In exercising the commissioner's authority under this  
10 section, the commissioner may require that insurers report with  
11 respect to selected segments of the market and may limit the  
12 reporting to specific uses of relationships derived from the  
13 technologies.

14           (c) Underwriting guidelines and related information  
15 obtained by the commissioner under this section are subject to  
16 Section 38.003. Other information obtained under this section is  
17 commercial information not subject to the disclosure requirements  
18 of Chapter 552, Government Code.

19           Sec. 1953.153. ADMINISTRATIVE PENALTIES. If the department  
20 determines that an insurer has violated this chapter or a rule  
21 adopted under this chapter, the department shall assess  
22 administrative penalties against the insurer in the manner provided  
23 by Chapter 84. The amount of an administrative penalty imposed  
24 under this section shall be based on:

25           (1) the seriousness of the violation, including the  
26 nature, circumstances, extent, or gravity of the violation; and

27           (2) the economic harm caused by the violation.

1       Sec. 1953.154. REPORT TO LEGISLATURE. The department shall  
2 include in its biennial report to the legislature under Section  
3 32.022 information concerning the use of relationships derived from  
4 the technologies described by Section 1953.152 by insurers. The  
5 information must include the impact of the use of those  
6 relationships on insurance and other coverage to covered persons  
7 and applicants for coverage in this state. The report must include,  
8 as applicable, recommendations for proposed legislation  
9 appropriate to regulate the use of relationships derived from the  
10 technologies and means to facilitate availability of insurance in  
11 underserved markets.

12       SECTION 2. Subtitle C, Title 10, Insurance Code, is amended  
13 by adding Chapter 1956 to read as follows:

14       CHAPTER 1956. AUTOMOBILE INSURANCE LOSS RATIO AND PREMIUMS

15       Sec. 1956.001. DEFINITIONS. In this chapter:

16               (1) "Direct losses incurred" means the sum of direct  
17 losses paid plus an estimate of losses to be paid in the future for  
18 all claims arising from the current reporting period and all prior  
19 periods, minus the corresponding estimate made at the close of  
20 business for the preceding period. This amount does not include  
21 home office and overhead costs, advertising costs, commissions and  
22 other acquisition costs, taxes, capital costs, administrative  
23 costs, or claims processing costs.

24               (2) "Direct losses paid" means the sum of all payments  
25 made during the period for claimants under a policy to which this  
26 chapter applies before any reinsurance has been ceded or assumed.  
27 This amount does not include home office and overhead costs,

1 advertising costs, commissions and other acquisition costs, taxes,  
2 capital costs, administrative costs, or claims processing costs.

3 (3) "Direct premiums earned" means the amount of  
4 premium attributable to the coverage already provided in a given  
5 period before reinsurance has been ceded or assumed.

6 (4) "Loss ratio" means direct losses incurred divided  
7 by direct premiums earned.

8 Sec. 1956.002. APPLICABILITY OF CHAPTER. This chapter  
9 applies to an insurer writing automobile insurance in this state,  
10 including an insurance company, reciprocal or interinsurance  
11 exchange, county mutual insurance company, farm mutual insurance  
12 company, Lloyd's plan, or other insurer.

13 Sec. 1956.003. LOSS RATIO REPORTING. The commissioner by  
14 rule shall require each insurer to which this chapter applies to  
15 report at least annually the insurer's loss ratio for the preceding  
16 year for each policy issued.

17 Sec. 1956.004. REVIEW OF PREMIUMS. (a) The commissioner by  
18 rule shall establish a minimum loss ratio below which a policy's  
19 premiums are excessive for the benefits provided under the policy.

20 (b) If the commissioner determines that a policy's loss  
21 ratio falls below the minimum established under Subsection (a), the  
22 commissioner may order an insurer to:

- 23 (1) implement a premium rate adjustment;  
24 (2) issue appropriate rebates to policyholders;  
25 (3) file with the department an actuarial memorandum,  
26 prepared by a qualified actuary, in accordance with rules adopted  
27 to implement this section; or

1           (4) take any other remedial action the commissioner  
2 determines is appropriate.

3           (c) The commissioner shall adopt rules as necessary to  
4 implement this section, including rules regarding the frequency and  
5 form of reporting loss ratios.

6           SECTION 3. This Act takes effect September 1, 2009.