

Amend CSHB 1951 (senate committee printing) by striking ARTICLE 3 of the bill and substituting the following:

ARTICLE 3. REGULATION OF PROPERTY AND CASUALTY INSURANCE RATES

SECTION 3.001. Section 706.004, Insurance Code, is amended to read as follows:

Sec. 706.004. RATES AND FORMS. Notwithstanding any other law, rates and forms for insurance coverage issued under this chapter are governed by:

- (1) Subchapters A-D [~~A-E~~], Chapter 2251;
- (2) Subchapter A, Chapter 2301; and
- (3) Article 5.13-2.

SECTION 3.002. Section 912.002(c), Insurance Code, is amended to read as follows:

(c) Rate [~~regulation for a residential fire and allied lines insurance policy written by a county mutual insurance company is subject to Chapter 2253. On and after December 1, 2004, rate~~] regulation for a personal automobile insurance policy and a residential property [~~fire and allied lines~~] insurance policy written by a county mutual insurance company is subject to Article 5.13-2, [and] Chapter 2251, and Chapter 2253. A county mutual insurance company is subject to Chapter 2253. The commissioner may adopt rules as necessary to implement this subsection.

SECTION 3.003. Section 1806.052, Insurance Code, is amended to read as follows:

Sec. 1806.052. CONSTRUCTION OF SUBCHAPTER. This subchapter may not be construed to prohibit the modification of rates by a rating plan that complies [~~is filed in accordance~~] with the requirements of Chapter 2251 or Article 5.13-2, as applicable, [~~that has not been disapproved by the commissioner,~~] and that is designed to encourage the prevention of accidents, and to account for all relevant factors inside and outside this state, including the peculiar hazards and experience of past and prospective individual risks.

SECTION 3.004. Section 2151.001(2), Insurance Code, is amended to read as follows:

(2) "Authorized insurer" means an insurer authorized by the department to write automobile liability coverage under this

title. The [~~Except as provided by Section 2251.204, the~~] term does not include a county mutual insurance company organized under Chapter 912.

SECTION 3.005. Section 2251.001, Insurance Code, is amended to read as follows:

Sec. 2251.001. PURPOSE. The purposes of this subchapter and Subchapters B, C, and D [~~, and E~~] are to:

(1) promote the public welfare by regulating insurance rates to prohibit excessive, inadequate, or unfairly discriminatory rates;

(2) promote the availability of insurance;

(3) promote price competition among insurers to provide rates and premiums that are responsive to competitive market conditions;

(4) prohibit price-fixing agreements and other anticompetitive behavior by insurers; and

(5) provide regulatory procedures for the maintenance of appropriate information reporting systems.

SECTION 3.006. Section 2251.002(7), Insurance Code, is amended to read as follows:

(7) "Supplementary rating information" means any manual, rating schedule, plan of rules, rating rules, classification systems, territory codes and descriptions, rating plans, and other similar information used by the insurer to determine the applicable premium for an insured. The term includes the number of policyholders that would be affected by the rating information change and factors and relativities, including increased limits factors, classification relativities, deductible relativities, premium discount, and other similar factors and rating plans such as experience, schedule, and retrospective rating.

SECTION 3.007. Section 2251.003, Insurance Code, is amended to read as follows:

Sec. 2251.003. APPLICABILITY OF CERTAIN SUBCHAPTERS. (a) This subchapter and Subchapters B, C, and D [~~, and E~~] apply to:

(1) an insurer to which Article 5.13 applies, other than the Texas Windstorm Insurance Association, the FAIR Plan

Association, and the Texas Automobile Insurance Plan Association;
and

(2) except as provided by Subsection (c), a Lloyd's plan, reciprocal or interinsurance exchange, and county mutual insurance company with respect to the lines of insurance described by Subsection (b).

(b) This subchapter and Subchapters B, C, and D~~[, and E]~~ apply to all lines of the following kinds of insurance written under an insurance policy or contract issued by an insurer authorized to engage in the business of insurance in this state:

- (1) general liability insurance;
- (2) residential and commercial property insurance, including farm and ranch insurance and farm and ranch owners insurance;
- (3) personal and commercial casualty insurance, except as provided by Section 2251.004;
- (4) medical professional liability insurance;
- (5) fidelity, guaranty, and surety bonds other than criminal court appearance bonds;
- (6) personal umbrella insurance;
- (7) personal liability insurance;
- (8) guaranteed auto protection (GAP) insurance;
- (9) involuntary unemployment insurance;
- (10) financial guaranty insurance;
- (11) inland marine insurance;
- (12) rain insurance;
- (13) hail insurance on farm crops;
- (14) personal and commercial automobile insurance;
- (15) multi-peril insurance; and
- (16) identity theft insurance issued under Chapter 706.

(c) Sections 2251.008, 2251.052, 2251.101, 2251.102, ~~[2251.103, 2251.104,]~~ 2251.105, ~~[and]~~ 2251.107, and 2251.157 do not apply to a Lloyd's plan or a reciprocal or interinsurance exchange with respect to commercial property insurance, inland marine insurance, rain insurance, or hail insurance on farm crops.

SECTION 3.008. Section 2251.101(a), Insurance Code, is

amended to read as follows:

(a) For [~~Except as provided by Subchapter D, for~~] risks written in this state, each insurer shall file with the commissioner all rates, applicable rating manuals, supplementary rating information, and additional information as required by the commissioner.

SECTION 3.009. The heading to Subchapter D, Chapter 2251, Insurance Code, is amended to read as follows:

SUBCHAPTER D. [~~PRIOR~~] APPROVAL AND DISAPPROVAL OF RATES [~~UNDER CERTAIN CIRCUMSTANCES~~]

SECTION 3.010. Section 2251.151, Insurance Code, is amended to read as follows:

Sec. 2251.151. REQUIREMENT TO FILE RATES FOR PRIOR APPROVAL [~~UNDER CERTAIN CIRCUMSTANCES~~]. (a) An insurer may not use a rate for a personal automobile insurance policy or residential property insurance policy until the rate has been filed with the department in accordance with Subchapter C and approved by the commissioner in accordance with this subchapter.

(b) For rates that are not subject to Subsection (a), the [~~The~~] commissioner by order may require an insurer to file with the department for the commissioner's approval all rates, supplementary rating information, and any supporting information in accordance with this subchapter if the commissioner determines that:

- (1) the insurer's rates require supervision because of the insurer's financial condition or rating practices; or
- (2) a statewide insurance emergency exists.

(c) [(a-1)] If an insurer whose rate is subject to Subsection (a) or (b) files a petition under Subchapter D, Chapter 36, for judicial review of an order disapproving the [~~a~~] rate under this chapter, the insurer must use the rates in effect for the insurer at the time the petition is filed and may not file and use any higher rate for the same line of insurance subject to this chapter before the matter subject to judicial review is finally resolved unless the insurer, in accordance with this subchapter, files the new rate with the department, along with any applicable supplementary rating information and supporting information, and

obtains the commissioner's approval of the rate.

(d) ~~[(b)]~~ From the date a ~~[of the filing of the]~~ rate is filed with the department under this section to the effective date of the new rate, the insurer's previously filed rate that is in effect on the date of the filing remains in effect.

(e) ~~[(e)]~~ The commissioner may require an insurer to file the insurer's rates under Subsection (b) ~~[this section]~~ until the commissioner determines that the conditions described by that subsection ~~[Subsection (a)]~~ no longer exist.

(f) ~~[(d)]~~ For purposes of this chapter ~~[section]~~, a rate is filed with the department on the date the commissioner determines that the department has received all information necessary to evaluate ~~[receives]~~ the rate ~~[filing]~~.

(g) ~~[(e)]~~ If the commissioner requires an insurer to file the insurer's rates under Subsection (b) ~~[this section]~~, the commissioner shall issue an order specifying the commissioner's reasons for requiring the rate filing. An affected insurer is entitled to a hearing on written request made to the commissioner not later than the 30th day after the date the order is issued.

SECTION 3.011. Section 2251.152, Insurance Code, is amended to read as follows:

Sec. 2251.152. ~~[RATE APPROVAL REQUIRED.]~~ EXCEPTION TO CERTAIN RATE APPROVAL REQUIREMENTS. (a) After ~~[An insurer subject to this subchapter may not use a rate until the rate has been filed with the department and approved by the commissioner in accordance with this subchapter.]~~

~~[(b) Notwithstanding Subsection (a), after]~~ a rate filing required of an insurer under Section 2251.151(b) is approved under this subchapter, the ~~[an]~~ insurer, without prior approval of the commissioner, may use any rate subsequently filed by the insurer if the subsequently filed rate does not exceed the lesser of:

(1) 107.5 percent of the rate approved by the commissioner; or

(2) 110 percent of any rate used by the insurer in the previous 12-month period.

(b) ~~[(e)]~~ Filed rates under Subsection (a) ~~[(b)]~~ take effect on the date specified by the insurer.

SECTION 3.012. Section 2251.153, Insurance Code, is amended to read as follows:

Sec. 2251.153. COMMISSIONER ACTION. (a) Not later than the 60th [~~30th~~] day after the date a rate is filed with the department under this subchapter, the commissioner shall:

(1) approve the rate if the commissioner determines that the rate complies with the requirements of this chapter and any other provision of this code governing the setting of the rate by the insurer; or

(2) disapprove the rate if the commissioner determines that the rate does not comply with the requirements of this chapter or any other provision of this code governing the setting of the rate by the insurer.

(b) Except as provided by Subsection (c), if a rate has not been approved or disapproved by the commissioner before the expiration of the 60-day [~~30-day~~] period described by Subsection (a), the rate is considered approved and the insurer may use the rate unless the rate proposed in the filing represents an increase of 12.5 percent or more from the insurer's previously filed rate.

(c) For good cause, the commissioner may, on the expiration of the 60-day [~~30-day~~] period described by Subsection (a), extend the period for approval or disapproval of a rate for a [~~one additional~~] 30-day period. [~~The commissioner and the insurer may not by agreement extend the 30-day period described by Subsection (a).~~]

SECTION 3.013. Section 2251.154(a), Insurance Code, is amended to read as follows:

(a) If the department determines that the information filed by an insurer under this chapter is incomplete or otherwise deficient, the department may request additional information from the insurer. If the department requests additional information from the insurer during the initial approval [~~30-day~~] period provided by Section 2251.153(a) or under an extension [~~a second 30-day~~] period provided under Section 2251.153(c), the time between the date the department submits the request to the insurer and the date the department receives the information requested is not included in the computation of the initial approval [~~first 30-day~~]

period or the extension [~~second 30-day~~] period, as applicable.

SECTION 3.014. Section 2251.156, Insurance Code, is amended to read as follows:

Sec. 2251.156. RATE FILING DISAPPROVAL BY COMMISSIONER; HEARING. (a) The commissioner shall disapprove a rate filing if the commissioner determines that the rate filing made under this chapter does not meet the standards under Subchapter B.

(b) If the commissioner disapproves a rate filing under this chapter [~~Section 2251.153(a)(2)~~], the commissioner shall issue an order specifying in what respects the filing fails to meet the requirements of this chapter or another provision of this code applicable to the setting of the rate by the insurer [~~disapproving the filing in accordance with Section 2251.103(b)~~].

(c) [~~(b)~~] An insurer whose rate filing is disapproved is entitled to a hearing on written request made to the commissioner not later than the 30th day after the date the order disapproving the rate filing takes effect [~~in accordance with Section 2251.103(c)~~].

SECTION 3.015. Section 2251.104, Insurance Code, is transferred to Subchapter D, Chapter 2251, Insurance Code, and redesignated as Section 2251.157 to read as follows:

Sec. 2251.157 [~~2251.104~~]. DISAPPROVAL OF RATE IN EFFECT; HEARING. (a) The commissioner may disapprove a rate that is in effect only after a hearing. The commissioner shall provide the filer at least 20 days' written notice.

(b) The commissioner must issue an order disapproving a rate under Subsection (a) not later than the 15th day after the close of the hearing. The order must:

(1) specify in what respects the rate fails to meet the requirements of this chapter; and

(2) state the date on which further use of the rate is prohibited, which may not be earlier than the 45th day after the close of the hearing under this section.

SECTION 3.016. The following provisions of the Insurance Code are repealed:

(1) Section 2251.103;

(2) Section 2251.155; and

(3) Subchapter E, Chapter 2251.

SECTION 3.017. The commissioner of insurance shall adopt all rules necessary to implement this article on or before December 1, 2011.

SECTION 3.018. The change in law made by this article applies to insurance policies delivered, issued for delivery, or renewed on or after January 1, 2012, and to rates for those policies. An insurance policy delivered, issued for delivery, or renewed before January 1, 2012, and rates for the policy are governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.