

By: Hancock

H.B. No. 1368

Substitute the following for H.B. No. 1368:

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C.S.H.B. No. 1368

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the nonrenewal of, the assessment of premium surcharges
3 against, and a study concerning loss ratios with respect to certain
4 insurance policies.

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

6 SECTION 1. Section 551.107, Insurance Code, is amended by
7 amending Subsections (b), (c), (d), and (e) and adding Subsections
8 (d-1), (d-2), (h), and (i) to read as follows:

9 (b) A claim under this section does not include a claim [~~+~~
10 [~~(1) resulting from a loss caused by natural causes,~~
11 [~~(2)~~] that is filed but is not paid or payable under
12 the policy [~~, or~~
13 [~~(3) that an insurer is prohibited from using under~~
14 ~~Section 544.353~~].

15 (c) An insurer may, [assess a premium surcharge] at the time
16 an insurance policy is renewed:

17 (1) assess a premium surcharge in an [if the insured
18 has filed two or more claims in the preceding three policy years.
19 The] amount that is [of the surcharge must be] based on sound
20 actuarial principles; and

21 (2) require an increase in any applicable deductible
22 under the policy.

23 (d) Subject to Subsections (d-1) and (d-2) [~~Subsection~~
24 ~~(e)~~], an insurer may not refuse to renew an insurance policy unless

1 ~~[if]~~ the insured has filed two ~~[three]~~ or more claims under the
2 policy in any three-year period.

3 (d-1) The total number of policies an insurer refuses in a
4 calendar year to renew under Subsection (d) may not exceed:

5 (1) for the entire state, two percent of the total
6 number of standard fire, homeowners, or farm or ranch owners
7 insurance policies written by the insurer in this state in the
8 immediately preceding calendar year; and

9 (2) except as provided by Subsection (d-2), for each
10 county, two percent of the total number of standard fire,
11 homeowners, or farm or ranch owners insurance policies written by
12 the insurer in the county in the immediately preceding calendar
13 year.

14 (d-2) An insurer may, in each calendar year, refuse to renew
15 one policy in each county in which the insurer writes standard fire,
16 homeowners, or farm or ranch owners insurance policies if the two
17 percent limit described by Subsection (d-1)(2) is an amount that is
18 less than one.

19 (e) When an insured files a claim, an ~~[An]~~ insurer may
20 notify the ~~[an]~~ insured, by electronic means or by mail, ~~[who has~~
21 ~~filed two claims in a period of less than three years]~~ that the
22 insurer may refuse to renew the policy if the insured files a second
23 ~~[third]~~ claim during a the three-year period. ~~[If the insurer~~
24 ~~does not notify the insured in accordance with this subsection, the~~
25 ~~insurer may not refuse to renew the policy because of claims. The~~
26 ~~notice form must:~~

27 ~~[(1) list the policyholder's claims, and~~

1 ~~[(2) contain the sentence: "The filing by you of~~
2 ~~another claim, except for a claim resulting from a loss caused by~~
3 ~~natural causes, a claim filed but not paid or payable under the~~
4 ~~policy under which it was filed, or an appliance-related claim that~~
5 ~~we are prohibited from using under Section 544.353, Texas Insurance~~
6 ~~Code, could cause us to refuse to renew your policy."]~~

7 (h) This section may not be construed to limit an insurer's
8 right to refuse to renew an insurance policy for reasons other than
9 the insured's claims history.

10 (i) Not later than January 31 of each calendar year, an
11 insurer shall submit a report to the department containing the
12 total number of policies that the insurer, under this section,
13 refused to renew in this state, and in each county of this state, in
14 the calendar year immediately preceding the year in which the
15 report is submitted.

16 SECTION 2. Section 2006.052(c), Insurance Code, is amended
17 to read as follows:

18 (c) A residential property insurance claim under this
19 section does not include a claim:

- 20 (1) resulting from a loss caused by natural causes; or
21 (2) that is filed but is not paid or payable under the
22 policy~~, or~~

23 ~~[(3) that an insurer is prohibited from using under~~
24 ~~Section 544.353].~~

25 SECTION 3. Subchapter H, Chapter 544, Insurance Code, is
26 repealed.

27 SECTION 4. The change in law made by this Act applies only

1 to an insurance policy that is delivered, issued for delivery,
2 renewed, or subject to nonrenewal on or after the effective date of
3 this Act. An insurance policy that is delivered, issued for
4 delivery, renewed, or subject to nonrenewal before the effective
5 date of this Act is governed by the law as it existed immediately
6 before the effective date of this Act, and that law is continued in
7 effect for that purpose.

8 SECTION 5. This Act takes effect September 1, 2011.