By: McClendon   H.B. No. 2018

A BILL TO BE ENTITLED

1   AN ACT

2 relating to certain automobile insurance loss adjustment and claims

3 settlement practices and the collection and use of certain data by

4 insurers regarding automobile loss and damage claims; providing

5 administrative penalties.

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

7   SECTION 1. Chapter 1953, Insurance Code, is amended by

8 adding Subchapter D to read as follows:

9   SUBCHAPTER D. DATA MINING AND PATTERN RECOGNITION

10   Sec. 1953.151. APPLICABILITY OF SUBCHAPTER.   This

11 subchapter applies to an insurer writing automobile insurance in

12 this state, including an insurance company, reciprocal or

13 interinsurance exchange, county mutual insurance company, farm

14 mutual insurance company, Lloyd's plan, or other insurer.

15   Sec. 1953.152. COLLECTION OF INFORMATION CONCERNING DATA

16 MINING AND PATTERN RECOGNITION. (a) The commissioner by rule may

17 require an insurer to report to the department concerning:

18   (1) technologies to be used by the insurer to identify

19 relationships among variables that are used to predict differences

20 in expected losses of covered persons or applicants for automobile

21 insurance coverage or are otherwise used in the activities of

22 regulated entities; and

23   (2) the manner in which the insurer intends to use the

24 relationships derived from the technologies described by

1   Subdivision (1) in:

2   (A)   underwriting and creating and defining risk

3   classifications;

4   (B)   setting rates and premiums, as applicable;

5   (C)   detecting fraudulent claims;

6   (D)   identifying subrogation opportunities;

7   (E)   improving marketing; or

8   (F)   performing other activities identified by

9   the commissioner; and

10   (3)   services provided by third party loss-evaluation

11 services to identify loss statistics and information for the

12 purpose of evaluating claims, loss-settlement reserves, and losses

13 paid and the manner in which the insurer uses those services and the

14 information obtained.

15   (b)   In exercising the commissioner's authority under this

16 section, the commissioner may require that insurers report with

17 respect to selected segments of the market and may limit the

18 reporting to specific uses of relationships derived from the

19 technologies.

20   (c)   Underwriting guidelines, loss and claims evaluation

21 data, and related information obtained by the commissioner under

22 this section are subject to Section 38.003.   Other information

23 obtained under this section is commercial information not subject

24 to the disclosure requirements of Chapter 552, Government Code.

25   Sec. 1953.153.   ADMINISTRATIVE PENALTIES. If the department

26 determines that an insurer has violated this chapter or a rule

27 adopted under this chapter, the department shall assess

1 administrative penalties against the insurer in the manner provided

2 by Chapter 84. The amount of an administrative penalty imposed

3 under this section shall be based on:

4   (1) the seriousness of the violation, including the

5 nature, circumstances, extent, or gravity of the violation; and

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

7   Sec. 1953.154. REPORT TO LEGISLATURE. The department shall

8 include in its biennial report to the legislature under Section

9 32.022 information concerning the use of relationships derived from

10 the technologies described by Section 1953.152 by insurers. The

11 information must include the impact of the use of those

12 relationships on insurance and other coverage to covered persons

13 and applicants for coverage in this state. The report must include,

14 as applicable, recommendations for:

15   (1) proposed legislation appropriate to regulate the

16 use of relationships derived from the technologies; and

17   (2) means to facilitate availability of insurance in

18 underserved markets and to maintain fair and equitable

19 loss-evaluation and claims settlement practices in this state.

20   SECTION 2. This Act takes effect September 1, 2011.