

By: Smithee

H.B. No. 2837

A BILL TO BE ENTITLED

AN ACT

relating to regulation of title insurance rates.

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

SECTION 1. Sections 2703.151(a) and (c), Insurance Code, are amended to read as follows:

(a) Except as provided by Subsection (b) and Subchapter F, the commissioner shall fix and promulgate the premium rates to be charged by a title insurance company or by a title insurance agent for title insurance policies or for other forms prescribed or approved by the commissioner.

(c) Except as provided by Subsection (b) and Subchapter F [~~for a premium charged for reinsurance~~], a premium may not be charged for a title insurance policy or for another prescribed or approved form at a rate different than the rate fixed and promulgated by the commissioner.

SECTION 2. Chapter 2703, Insurance Code, is amended by adding Subchapter F to read as follows:

SUBCHAPTER F. FLEXIBLE RATING PROGRAM

Sec. 2703.301. FLEXIBLE RATING PROGRAM. (a) Notwithstanding Section 2703.151(a), a title insurance company may file with the commissioner to use a premium rate that is not more than 10 percent more or 10 percent less than the rate fixed and promulgated under Section 2703.151(a).

(b) A rate filed under this subchapter:

1 (1) must be filed with actuarial support and any other
2 information required by the commissioner by rule; and

3 (2) may not be excessive, inadequate, or unfairly
4 discriminatory for the risks to which the rate applies.

5 (c) A rate filed under Subsection (a) is effective until the
6 effective date of a rate subsequently fixed and promulgated by the
7 commissioner under Section 2703.151(a).

8 (d) After a rate is fixed and promulgated under Section
9 2703.151(a), a title insurance company using a rate under this
10 subchapter shall:

11 (1) file rates under this subchapter; or

12 (2) notify the commissioner in writing that the
13 company will use the promulgated and fixed rate.

14 (e) The commissioner by rule shall adopt procedures for a
15 rate filing under this subchapter.

16 Sec. 2703.302. DISAPPROVAL OF RATE IN FLEX RATE FILING;
17 HEARING. (a) The commissioner shall disapprove a rate if the
18 commissioner determines that the rate filing made under this
19 subchapter does not meet the standards established under Section
20 2703.301(b)(2).

21 (b) If the commissioner disapproves a filing, the
22 commissioner shall issue an order specifying in what respects the
23 filing fails to meet the requirements of this chapter.

24 (c) The filer is entitled to a hearing on written request
25 made to the commissioner not later than the 30th day after the date
26 the order disapproving the rate filing under this subchapter takes
27 effect.

Sec. 2703.303. DISAPPROVAL OF RATE IN EFFECT; HEARING. (a)

The commissioner may disapprove a rate filed under Section 2703.301 that is in effect only after a hearing before the commissioner. The commissioner shall provide the filer at least 20 days' written notice.

(b) The commissioner must issue an order disapproving a rate filed under Section 2703.301 that is in effect 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.

Sec. 2703.304. GRIEVANCE. (a) An insured, underwriter, or agent who is aggrieved with respect to any rate filed under Section 2703.301 that is in effect, or the public insurance counsel, may apply to the commissioner in writing for a hearing on the filing. The application must specify the grounds for the applicant's grievance.

(b) The commissioner shall hold a hearing on an application filed under Subsection (a) not later than the 30th day after the date the commissioner receives the application if the commissioner determines that:

(1) the application is made in good faith;

(2) the applicant would be aggrieved as alleged if the grounds specified in the application were established; and

(3) the grounds specified in the application otherwise

1 justify holding the hearing.

2 (c) The commissioner shall provide written notice of a
3 hearing under Subsection (b) to the applicant and each insurer that
4 made the filing not later than the 10th day before the date of the
5 hearing.

6 (d) If, after the hearing, the commissioner determines that
7 the filing does not meet the requirements of this chapter, the
8 commissioner shall issue an order:

9 (1) specifying in what respects the filing fails to
10 meet those requirements; and

11 (2) stating the date on which the filing is no longer
12 in effect, which must be within a reasonable period after the order
13 date.

14 (e) The commissioner shall send copies of the order issued
15 under Subsection (d) to the applicant and each affected insurer.

16 Sec. 2703.305. PUBLIC INFORMATION. A filing made and any
17 supporting information filed under this subchapter, as of the date
18 the filing is received by the department:

19 (1) is public information;

20 (2) is not subject to any exceptions to disclosure
21 under Chapter 552, Government Code; and

22 (3) cannot be withheld from disclosure under any other
23 law.

24 SECTION 3. The change in law made by Subchapter F, Chapter
25 2703, Insurance Code, as added by this Act, applies only to a rate
26 effective on or after January 1, 2012. A rate effective before
27 January 1, 2012, is governed by the law in effect immediately before

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1 the effective date of this Act, and that law is continued in effect
2 for that purpose.

3 SECTION 4. This Act takes effect September 1, 2011.