

By: Smithee

H.B. No. 2838

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of title insurance rates.

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

SECTION 1. Section 2703.151, Insurance Code, is amended to read as follows:

Sec. 2703.151. FIXING AND PROMULGATING PREMIUM RATES; DOWNWARD DEVIATION AUTHORIZED. (a) Except as provided by Subsections [Subsection] (b), (d), and (g), 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.

(b) Notwithstanding Subsection (a), a title insurance company may file with the commissioner to use premium rates that are a uniform percentage rate less than the premium rates fixed and promulgated under Subsection (a).

(c) A rate filing under Subsection (b) must explain the basis for the lower rates and include data supporting the rates and any other information required by the commissioner by rule.

(d) The commissioner shall:

(1) approve premium rates filed under Subsection (b) if the commissioner finds that the rates are not inadequate or excessive; and

(2) disapprove premium rates filed under Subsection

1 (b) that are inadequate or excessive.

2 (e) Except as provided by Subsection (f), a rate filed under  
3 Subsection (b) is effective until the effective date of a rate  
4 subsequently fixed and promulgated under Subsection (a).

5 (f) With the approval of the commissioner, a rate filed  
6 under Subsection (b) may be withdrawn at any time.

7 (g) The commissioner may not fix or promulgate the premium  
8 rates for reinsurance between title insurance companies. Title  
9 insurance companies may establish the premium rates in amounts to  
10 which the companies agree.

11 (h) [~~(c)~~] Except as provided in Subsections (b) through (g)  
12 [~~for a premium charged for reinsurance~~], a premium may not be  
13 charged for a title insurance policy or for another prescribed or  
14 approved form at a rate different than the rate fixed and  
15 promulgated by the commissioner.

16 (i) An insured, underwriter, or agent who is aggrieved with  
17 respect to a filing under Subsection (b) that is in effect, or the  
18 public insurance counsel, may apply to the commissioner in writing  
19 for a hearing on the filing. The application must specify the  
20 grounds for the applicant's grievance.

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

25 (1) the application is made in good faith;

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

1           (3) the grounds specified in the application otherwise  
2 justify holding the hearing.

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

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

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

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

15           (m) The commissioner shall send copies of the order issued  
16 under Subsection (l) to the applicant and each affected insurer.

17           SECTION 2. The change in law made by Section 2703.151,  
18 Insurance Code, as amended by this Act, applies only to a rate fixed  
19 or promulgated under Section 2703.151(a), Insurance Code, on or  
20 after January 1, 2012. A rate fixed and promulgated under Section  
21 2703.151(a), Insurance Code, before January 1, 2012, is governed by  
22 the law in effect immediately before the effective date of this Act,  
23 and that law is continued in effect for that purpose.

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