

By: Smithee

H.B. No. 2839

A BILL TO BE ENTITLED

AN ACT

relating to regulation of title insurance rates on a file and use basis.

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

SECTION 1. The heading to Section 2703.153, Insurance Code, is amended to read as follows:

Sec. 2703.153. COLLECTION OF DATA FOR DETERMINING [~~FIXING~~] PREMIUM RATES; ANNUAL STATISTICAL REPORT.

SECTION 2. Section 2703.153(a), Insurance Code, is amended to read as follows:

(a) Each title insurance company and title insurance agent engaged in the business of title insurance in this state shall annually submit to the department, as required by the department to collect data to use to determine [~~fix~~] premium rates, a statistical report containing information relating to:

- (1) loss experience;
- (2) expense of operation; and
- (3) other material matters.

SECTION 3. Subchapter D, Chapter 2703, Insurance Code, is amended by adding Section 2703.154 to read as follows:

Sec. 2703.154. EXCEPTIONS. Notwithstanding this subchapter, real property title insurance rates are determined under Subchapter F.

SECTION 4. Subchapter E, Chapter 2703, Insurance Code, is

1 amended by adding Section 2703.209 to read as follows:

2 Sec. 2703.209. EXCEPTIONS. Notwithstanding this  
3 subchapter, real property title insurance rates are determined  
4 under Subchapter F.

5 SECTION 5. Chapter 2703, Insurance Code, is amended by  
6 adding Subchapter F to read as follows:

7 SUBCHAPTER F. FILE AND USE PREMIUM RATES

8 Sec. 2703.251. RATE STANDARDS. (a) In setting rates, a  
9 title insurance company shall consider:

- 10 (1) past and prospective loss experience and expense:  
11 (A) inside this state; and  
12 (B) outside this state if the data from this  
13 state is not credible;  
14 (2) the insurer's and agents' actuarially credible  
15 historical premium, exposure, loss, and expense experience;  
16 (3) operating expenses;  
17 (4) investment income;  
18 (5) a reasonable margin for profit; and  
19 (6) any other factors derived from information or data  
20 inside and outside this state:

- 21 (A) determined relevant by the insurer; and  
22 (B) not disallowed by the commissioner.

23 (b) A rate may not be excessive, inadequate, unreasonable,  
24 or unfairly discriminatory for the risks to which the rate applies.

25 (c) In setting rates that apply only to policyholders in  
26 this state, an insurer shall use available premium, loss, expenses,  
27 and exposure information from this state to the full extent of the

1 actuarial credibility of the information. The insurer may use  
2 experience from outside this state to supplement information from  
3 this state that is not actuarially credible.

4 Sec. 2703.252. RATE FILINGS AND SUPPORTING INFORMATION.

5 (a) For title insurance policies written in this state, each title  
6 insurance company shall file with the commissioner all rates,  
7 supporting information, supplementary rating information, and  
8 additional information required by the commissioner.

9 (b) The commissioner by rule shall determine the  
10 information required to be included in the filing, including:

11 (1) categories of supporting information and  
12 supplementary rating information; and

13 (2) statistics or other information to support the  
14 rates to be used by the insurer or agent.

15 Sec. 2703.253. DISAPPROVAL OF RATE IN RATE FILING; HEARING.

16 (a) The commissioner shall disapprove a rate if the commissioner  
17 determines that the filing made under this chapter does not meet the  
18 standards established under Section 2703.251.

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

22 (c) The filer is entitled to a hearing on written request  
23 made to the commissioner not later than the 30th day after the date  
24 the order disapproving the filing takes effect.

25 Sec. 2703.254. DISAPPROVAL OF RATE IN EFFECT; HEARING. (a)

26 The commissioner may disapprove a rate that is in effect only after  
27 a hearing. The commissioner shall provide the filer at least 20

1 days' written notice.

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

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

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

10 Sec. 2703.255. GRIEVANCE. (a) An insured, underwriter, or  
11 agent who is aggrieved with respect to any filing under this chapter  
12 that is in effect, or the public insurance counsel, may apply to the  
13 commissioner in writing for a hearing on the filing. The  
14 application must specify the grounds for the applicant's grievance.

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

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

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

22 (3) the grounds specified in the application otherwise  
23 justify holding the hearing.

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

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

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

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

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

11        Sec. 2703.256. PUBLIC INFORMATION. Each filing made, and  
12 any supporting information filed under this chapter as of the date  
13 the filing is received by the department:

14            (1) is public information;

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

17            (3) cannot be withheld from disclosure under any other  
18 law.

19        SECTION 6. Subchapter B, Chapter 2751, Insurance Code, is  
20 amended by adding Section 2751.056 to read as follows:

21        Sec. 2751.056. EXCEPTIONS. Notwithstanding this  
22 subchapter, personal property title insurance rates are determined  
23 under Subchapter F, Chapter 2703.

24        SECTION 7. Section 2703.153(c), Insurance Code, is  
25 repealed.

26        SECTION 8. The change in law made by this Act applies only  
27 to a rate that first becomes effective on or after January 1, 2012.

1 A rate that first becomes effective before January 1, 2012, is  
2 governed by the law in effect immediately before the effective date  
3 of this Act, and that law is continued in effect for that purpose.

4 SECTION 9. This Act takes effect on September 1, 2011.