

By: Smithee

H.B. No. 2922

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to the refund of excessively or unfairly discriminatory  
3 premiums paid for certain personal lines of insurance.

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

5 SECTION 1. Section 2254.003(d), Insurance Code, is amended  
6 to read as follows:

7 (d) An insurer may not claim a premium tax credit to which  
8 the insurer is otherwise entitled unless the insurer complies with  
9 Subsection (b) or, if applicable, Section 2254.005(a).

10 SECTION 2. Chapter 2254, Insurance Code, is amended by  
11 adding Section 2254.005 to read as follows:

12 Sec. 2254.005. BOND OR DEPOSIT FOR RATE HEARING; EXEMPTION.

13 (a) An insurer that does not refund or discount premiums under  
14 Section 2254.003(b) and files a petition for judicial review of the  
15 commissioner's action under Section 2254.004(d) shall, with the  
16 court in which the petition for judicial review is filed:

17 (1) deposit or post, as applicable:

18 (A) money in an amount that is equal to that  
19 portion of the total premiums paid by all policyholders who were  
20 charged the disapproved rate that is excessive or unfairly  
21 discriminatory, plus interest on that amount; or

22 (B) a good and sufficient bond in an amount that  
23 is equal to that portion of the total premiums paid by all  
24 policyholders who were charged the disapproved rate that is

1 excessive or unfairly discriminatory, plus interest on that amount;

2 or

3 (2) file a motion seeking an exemption from complying  
4 with Subdivision (1).

5 (b) A motion filed under Subsection (a)(2) must be:

6 (1) accompanied by an affidavit that shows that the  
7 insurer is financially unable to comply with Subsection (a)(1); and

8 (2) served on the commissioner by certified mail,  
9 return receipt requested.

10 (c) Not later than the 30th day after the date an insurer  
11 files a motion under Subsection (a)(2), the court shall hold an  
12 evidentiary hearing to determine whether the insurer has proven by  
13 clear and convincing evidence that the insurer is financially  
14 unable to comply with Subsection (a)(1).

15 (d) If after a hearing under Subsection (c), the court finds  
16 that the insurer is financially unable to comply with Subsection  
17 (a)(1), the court shall enter an order exempting the insurer from  
18 compliance. If after a hearing under Subsection (c), the court  
19 finds that the insurer is financially able to comply with  
20 Subsection (a), the court shall issue an order specifying the date  
21 by which the insurer must comply.

22 (e) The court shall return a deposit to an insurer or  
23 release a bond of an insurer:

24 (1) not later than seven days after the date on which  
25 the insurer demonstrates to the court compliance with the  
26 commissioner's order under Section 2254.003; or

27 (2) in accordance with a final order of a court after

1 the insurer has exhausted all judicial appeals.

2           SECTION 3. Section 2254.003, Insurance Code, as amended by  
3 this Act, and Section 2254.005, Insurance Code, as added by this  
4 Act, apply only to a rate used on or after the effective date of this  
5 Act. A rate used before the effective date of this Act is governed  
6 by the law in effect on the date the rate was used, and the former  
7 law is continued in effect for that purpose.

8           SECTION 4. This Act takes effect immediately if it receives  
9 a vote of two-thirds of all the members elected to each house, as  
10 provided by Section 39, Article III, Texas Constitution. If this  
11 Act does not receive the vote necessary for immediate effect, this  
12 Act takes effect September 1, 2011.