

By: Torres

H.B. No. 3156

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of property and casualty insurance rates.

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

SECTION 1. Section 560.002, Insurance Code, is amended by adding Subsection (d) to read as follows:

(d) Subsection (b)(2)(B) does not apply to a rate filed under Chapter 2251.

SECTION 2. Section 2251.001, Insurance Code, is amended to read as follows:

Sec. 2251.001. PURPOSE. The purposes of this subchapter and Subchapters B, C, D, and E are to:

(1) promote the public welfare by regulating insurance rates to prohibit [~~excessive,~~] inadequate~~[7]~~ or unfairly discriminatory rates;

(2) promote the availability of insurance by reducing regulatory costs;

(3) promote [~~price~~] competition among insurers to provide rates and premiums that are responsive to competitive market conditions;

(4) prohibit price-fixing agreements and other anticompetitive behavior by insurers; and

(5) provide regulatory procedures for the maintenance of appropriate information reporting systems.

1 SECTION 3. Section 2251.003(c), Insurance Code, is amended
2 to read as follows:

3 (c) Sections 2251.008, 2251.052, 2251.101, 2251.102,
4 [~~2251.103,~~] 2251.104, 2251.105, and 2251.107 do not apply to a
5 Lloyd's plan or a reciprocal or interinsurance exchange with
6 respect to commercial property insurance, inland marine insurance,
7 rain insurance, or hail insurance on farm crops.

8 SECTION 4. Section 2251.051, Insurance Code, is amended to
9 read as follows:

10 Sec. 2251.051. [~~EXCESSIVE,~~] INADEQUATE[~~7~~] AND UNFAIRLY
11 DISCRIMINATORY RATES. (a) A rate is [~~excessive,~~] inadequate[~~7~~] or
12 unfairly discriminatory for purposes of this chapter as provided by
13 this section.

14 (b) [~~A rate is excessive if the rate is likely to produce a~~
15 ~~long-term profit that is unreasonably high in relation to the~~
16 ~~insurance coverage provided.~~

17 [~~(c)~~] A rate is inadequate if:

18 (1) the rate is insufficient to sustain projected
19 losses and expenses to which the rate applies; and

20 (2) continued use of the rate:

21 (A) endangers the solvency of an insurer using
22 the rate; or

23 (B) has the effect of substantially lessening
24 competition or creating a monopoly in a market.

25 (c) [~~(d)~~] A rate is unfairly discriminatory if the rate:

26 (1) is not based on sound actuarial principles;

27 (2) does not bear a reasonable relationship to the

1 expected loss and expense experience among risks; or

2 (3) is based wholly or partly on the race, creed,
3 color, ethnicity, or national origin of the policyholder or an
4 insured.

5 SECTION 5. Section 2251.052(b), Insurance Code, is amended
6 to read as follows:

7 (b) A rate may not be [~~excessive,~~] inadequate,
8 unreasonable, or unfairly discriminatory for the risks to which the
9 rate applies.

10 SECTION 6. Section 2251.104(a), Insurance Code, is amended
11 to read as follows:

12 (a) The commissioner may disapprove only a rate that is in
13 effect, and may disapprove the rate only after a hearing. The
14 commissioner shall provide the filer at least 20 days' written
15 notice.

16 SECTION 7. Section 2251.151(a), Insurance Code, is amended
17 to read as follows:

18 (a) The commissioner by order may require an insurer to file
19 with the department for the commissioner's approval all rates,
20 supplementary rating information, and any supporting information
21 in accordance with this subchapter if the commissioner determines
22 that:

23 (1) the insurer's rates require supervision because of
24 the insurer's financial condition [~~or rating practices~~]; or

25 (2) a statewide insurance emergency exists.

26 SECTION 8. Section 2251.155(a), Insurance Code, is amended
27 to read as follows:

1 (a) The commissioner shall approve a rate filing under this
2 subchapter if the proposed rate is adequate~~[, not excessive,]~~ and
3 not unfairly discriminatory.

4 SECTION 9. Section 2251.156, Insurance Code, is amended to
5 read as follows:

6 Sec. 2251.156. RATE FILING DISAPPROVAL BY COMMISSIONER;
7 HEARING. (a) If the commissioner disapproves a rate filing under
8 Section 2251.153(a)(2), the commissioner shall issue an order
9 specifying in what respects the filing fails to meet the
10 requirements of this chapter ~~[disapproving the filing in accordance~~
11 ~~with Section 2251.103(b)]~~.

12 (b) An insurer whose rate filing is disapproved is entitled
13 to a hearing on written request made to the commissioner not later
14 than the 30th day after the date the order disapproving the rate
15 filing takes effect ~~[in accordance with Section 2251.103(c)]~~.

16 SECTION 10. The heading to Section 2254.003, Insurance
17 Code, is amended to read as follows:

18 Sec. 2254.003. REFUND OR DISCOUNT BASED ON ~~[EXCESSIVE OR]~~
19 UNFAIRLY DISCRIMINATORY PREMIUM RATES.

20 SECTION 11. Sections 2254.003(b) and (c), Insurance Code,
21 are amended to read as follows:

22 (b) Except as provided by Section 2254.004(c), if the
23 commissioner determines that an insurer has charged a rate for
24 personal automobile insurance or residential property insurance
25 that is ~~[excessive or]~~ unfairly discriminatory, as described by
26 Section 2251.051, the commissioner may:

27 (1) order the insurer to refund directly to each

1 affected policyholder the portion of the premium, plus interest on
2 that amount, that is [~~excessive or~~] unfairly discriminatory, if
3 that portion of the premium is at least 7.5 percent of the total
4 premium charged for the coverage; or

5 (2) if that portion of the premium is less than 7.5
6 percent of the total premium, order the insurer to provide, to each
7 affected policyholder:

8 (A) who renews the policy, a future premium
9 discount equal to the amount of the [~~excessive or~~] unfairly
10 discriminatory portion of the premium, plus interest on that
11 amount; and

12 (B) who does not renew or whose coverage is
13 otherwise terminated, a refund in the amount described by
14 Subdivision (1).

15 (c) The rate for interest assessed under Subsection (b) is
16 the lesser of 18 percent or the sum of six percent and the prime rate
17 for the calendar year in which the commissioner's order finding
18 that the rate is [~~excessive or~~] unfairly discriminatory is
19 issued. For purposes of this subsection, the prime rate is the
20 prime rate as published in The Wall Street Journal for the first day
21 of the calendar year that is not a Saturday, Sunday, or legal
22 holiday. The period for the refund and interest begins on the date
23 the department first provides the insurer with formal written
24 notice that the insurer's filed rate is [~~excessive or~~] unfairly
25 discriminatory, and interest continues to accrue until the refund
26 is paid. An insurer may not be required to pay any interest penalty
27 if the insurer prevails in an appeal of the commissioner's order

1 under Subchapter D, Chapter 36.

2 SECTION 12. Section 2254.004(a), Insurance Code, is amended
3 to read as follows:

4 (a) Not later than the 20th day after the date of an order
5 under Section 2254.003, the insurer may request that the State
6 Office of Administrative Hearings conduct a rate hearing to
7 determine whether the rate that is subject to the order is
8 [~~excessive or~~] unfairly discriminatory.

9 SECTION 13. The following sections of the Insurance Code
10 are repealed:

11 (1) Section 2251.103; and

12 (2) Section 2251.151(a-1).

13 SECTION 14. This Act applies only to an insurance policy or
14 contract that is delivered, issued for delivery, or renewed on or
15 after January 1, 2012. An insurance policy or contract delivered,
16 issued for delivery, or renewed before January 1, 2012, is governed
17 by the law as it existed immediately before the effective date of
18 this Act, and that law is continued in effect for that purpose.

19 SECTION 15. This Act takes effect immediately if it
20 receives a vote of two-thirds of all the members elected to each
21 house, as provided by Section 39, Article III, Texas Constitution.
22 If this Act does not receive the vote necessary for immediate
23 effect, this Act takes effect September 1, 2011.