

By: Davis

S.B. No. 111

A BILL TO BE ENTITLED

AN ACT

relating to regulation of property and casualty insurance rates.

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

SECTION 1. Section 706.004, Insurance Code, is amended to read as follows:

Sec. 706.004. RATES AND FORMS. Notwithstanding any other law, rates and forms for insurance coverage issued under this chapter are governed by:

- (1) Subchapters A-D [~~A-E~~], Chapter 2251;
- (2) Subchapter A, Chapter 2301; and
- (3) Article 5.13-2.

SECTION 2. Section 912.002(c), Insurance Code, is amended to read as follows:

(c) [~~Rate regulation for a residential fire and allied lines insurance policy written by a county mutual insurance company is subject to Chapter 2253.~~] Rate [~~On and after December 1, 2004, rate~~] regulation for a personal automobile insurance policy and a residential [~~fire and allied lines~~] property insurance policy written by a county mutual insurance company is subject to Article 5.13-2, [and] Chapter 2251, and Chapter 2253. A county mutual insurance company is subject to Chapter 2253. The commissioner may adopt rules as necessary to implement this subsection.

SECTION 3. Section 1806.052, Insurance Code, is amended to read as follows:

1 Sec. 1806.052. CONSTRUCTION OF SUBCHAPTER. This subchapter
2 may not be construed to prohibit the modification of rates by a
3 rating plan that complies [~~is filed in accordance~~] with the
4 requirements of Chapter 2251 or Article 5.13-2, as applicable,
5 [~~that has not been disapproved by the commissioner,~~] and that is
6 designed to encourage the prevention of accidents, and to account
7 for all relevant factors inside and outside this state, including
8 the peculiar hazards and experience of past and prospective
9 individual risks.

10 SECTION 4. Section 2251.002(7), Insurance Code, is amended
11 to read as follows:

12 (7) "Supplementary rating information" means any
13 manual, rating schedule, plan of rules, rating rules,
14 classification systems, territory codes and descriptions, rating
15 plans, and other similar information used by the insurer to
16 determine the applicable premium for an insured. The term includes
17 the number of policyholders that would be affected by the rating
18 information change and factors and relativities, including
19 increased limits factors, classification relativities, deductible
20 relativities, premium discount, and other similar factors and
21 rating plans such as experience, schedule, and retrospective
22 rating.

23 SECTION 5. Section 2251.003, Insurance Code, is amended to
24 read as follows:

25 Sec. 2251.003. APPLICABILITY OF CERTAIN SUBCHAPTERS.

26 (a) This subchapter and Subchapters B, C, and D [~~and E~~] apply to:

27 (1) an insurer to which Article 5.13 applies, other

1 than the Texas Windstorm Insurance Association, the FAIR Plan
2 Association, and the Texas Automobile Insurance Plan Association;
3 and

4 (2) except as provided by Subsection (c), a Lloyd's
5 plan, reciprocal or interinsurance exchange, and county mutual
6 insurance company with respect to the lines of insurance described
7 by Subsection (b).

8 (b) This subchapter and Subchapters B, C, and D [~~, and E~~]
9 apply to all lines of the following kinds of insurance written under
10 an insurance policy or contract issued by an insurer authorized to
11 engage in the business of insurance in this state:

12 (1) general liability insurance;

13 (2) residential and commercial property insurance,
14 including farm and ranch insurance and farm and ranch owners
15 insurance;

16 (3) personal and commercial casualty insurance,
17 except as provided by Section 2251.004;

18 (4) medical professional liability insurance;

19 (5) fidelity, guaranty, and surety bonds other than
20 criminal court appearance bonds;

21 (6) personal umbrella insurance;

22 (7) personal liability insurance;

23 (8) guaranteed auto protection (GAP) insurance;

24 (9) involuntary unemployment insurance;

25 (10) financial guaranty insurance;

26 (11) inland marine insurance;

27 (12) rain insurance;

(13) hail insurance on farm crops;

(14) personal and commercial automobile insurance;

(15) multi-peril insurance; and

(16) identity theft insurance issued under Chapter 706.

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

SECTION 6. Section 2251.101(a), Insurance Code, is amended to read as follows:

(a) For ~~[Except as provided by Subchapter D, for]~~ risks written in this state, each insurer shall file with the commissioner all rates, applicable rating manuals, supplementary rating information, and additional information as required by the commissioner.

SECTION 7. The heading of Subchapter D, Chapter 2251, Insurance Code, is amended to read as follows:

SUBCHAPTER D. PRIOR APPROVAL OF RATES [~~UNDER CERTAIN CIRCUMSTANCES~~]

SECTION 8. Section 2251.151, Insurance Code, is amended to read as follows:

Sec. 2251.151. REQUIREMENT TO FILE RATES FOR PRIOR APPROVAL
[~~UNDER CERTAIN CIRCUMSTANCES~~]. (a) An insurer may not use a rate
for a personal automobile insurance policy or a residential
property insurance policy until the rate has been filed with the

department in accordance with Subchapter C and approved by the commissioner in accordance with this subchapter.

(b) For all rates that are not included in Subsection (a),
the [The] commissioner by order may require an insurer to file with
the department for the commissioner's approval all rates,
supplementary rating information, and any supporting information
in accordance with this subchapter if the commissioner determines
that:

(1) the insurer's rates require supervision because of
the insurer's financial condition or rating practices; or

(2) a statewide insurance emergency exists.

(c) [(a-1)] If an insurer whose rate is disapproved under
subsection (a) or (b) files a petition under Subchapter D, Chapter
36, for judicial review of an order disapproving a rate under this
chapter, the insurer must use the rates in effect for the insurer at
the time the petition is filed and may not file and use any higher
rate for the same line of insurance subject to this chapter before
the matter subject to judicial review is finally resolved unless
the insurer, in accordance with this subchapter, files the new rate
with the department, along with any applicable supplementary rating
information and supporting information, and obtains the
commissioner's approval of the rate.

(d) [(b)] From the date a [of the filing of the] rate is
filed with the department under this section to the effective date
of the new rate, the insurer's previously filed rate that is in
effect on the date of the filing remains in effect.

(e) [(c)] The commissioner may require an insurer to file

the insurer's rates under Subsection (b) ~~[this section]~~ until the commissioner determines that the conditions described by that subsection ~~[Subsection (a)]~~ no longer exist.

(f) ~~[(d)]~~ For purposes of this chapter ~~[section]~~, a rate is filed with the department on the date ~~[the department receives the rate filing]~~ the commissioner determines that all information necessary to evaluate the rate has been received by the department.

(g) ~~[(e)]~~ If the commissioner requires an insurer to file the insurer's rates under Subsection (b) ~~[this section]~~, the commissioner shall issue an order specifying the commissioner's reasons for requiring the rate filing. An affected insurer is entitled to a hearing on written request made to the commissioner not later than the 30th day after the date the order is issued.

SECTION 9. Section 2251.152, Insurance Code, is amended to read as follows:

Sec. 2251.152. ~~[RATE APPROVAL REQUIRED.]~~ EXCEPTION TO CERTAIN RATE APPROVAL REQUIREMENTS. (a) After ~~[An insurer subject to this subchapter may not use a rate until the rate has been filed with the department and approved by the commissioner in accordance with this subchapter.]~~

~~[(b) Notwithstanding Subsection (a), after]~~ a rate filing required of an insurer under Section 2251.151(b) is approved under this subchapter, the ~~[an]~~ insurer, without prior approval of the commissioner, may use any rate subsequently filed by the insurer if the subsequently filed rate does not exceed the lesser of:

(1) 107.5 percent of the rate approved by the commissioner; or

(2) 110 percent of any rate used by the insurer in the previous 12-month period.

(b) ~~[(c)]~~ Filed rates under Subsection (a) ~~[(b)]~~ take effect on the date specified by the insurer.

SECTION 10. Section 2251.153, Insurance Code, is amended to read as follows:

(a) Not later than the 60th ~~[30th]~~ day after the date a rate is filed with the department under this subchapter, the commissioner shall:

(1) approve the rate if the commissioner determines that the rate complies with the requirements of this chapter and any other provision of this code governing the setting of the rate by the insurer; or

(2) disapprove the rate if the commissioner determines that the rate does not comply with the requirements of this chapter or any other provision of this code governing the setting of the rate by the insurer.

(b) Except as provided by Subsection (c), if a rate has not been approved or disapproved by the commissioner before the expiration of the 60 ~~[30]~~-day period described in Subsection (a), the rate is considered approved and the insurer may use the rate unless the rate proposed in the filing represents an increase of 12.5 percent or more from the insurer's previously filed rate.

(c) For good cause, the commissioner may, on the expiration of the 60 ~~[30]~~-day period described by Subsection (a), extend the period for approval or disapproval of a rate for a ~~[one additional]~~ 30-day period. ~~[The commissioner and the insurer may not by~~

~~agreement extend the 30-day period described in Subsection (a).]~~

SECTION 11. Section 2251.156, Insurance Code, is amended to read as follows:

Sec. 2251.156. RATE FILING DISAPPROVAL BY COMMISSIONER; HEARING. (a) The commissioner shall disapprove a rate filing if the commissioner determines that the rate filing made under this chapter does not meet the standards under Subchapter B.

(b) [(a)] If the commissioner disapproves a rate filing under this chapter [Section 2251.153(a)(2)], the commissioner shall issue an order specifying in what respects the filing fails to meet the requirements of this chapter or another provision of this code applicable to the setting of the rate by the insurer [disapproving the filing in accordance with Section 2251.103(b)].

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

SECTION 12. Section 2251.104, Insurance Code, is transferred to Subchapter D, Chapter 2251, Insurance Code, and redesignated as Section 2251.157 to read as follows:

Sec. 2251.157 [~~2251.104~~]. DISAPPROVAL OF RATE IN EFFECT; HEARING. (a) The commissioner may disapprove a rate that is in effect only after a hearing. The commissioner shall provide the filer at least 20 days' written notice.

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

1 the hearing. The order must:

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

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

7 SECTION 13. The following provisions of the Insurance Code
8 are repealed:

9 (1) Section 2251.103;

10 (2) Section 2251.155;

11 (3) Subchapter E, Chapter 2251.

12 SECTION 14. The commissioner of insurance shall adopt all
13 rules necessary to implement this Act on or before December 1, 2011.

14 SECTION 15. The change in law made by this Act applies to
15 insurance policies delivered, issued for delivery, or renewed on or
16 after January 1, 2012, and to rates for those policies. An
17 insurance policy delivered, issued for delivery, or renewed before
18 January 1, 2012, and rates for the policy are governed by the law as
19 it existed immediately before the effective date of this Act, and
20 that law is continued in effect for that purpose.

21 SECTION 16. This Act takes effect September 1, 2011.