

By: Carona

S.B. No. 553

A BILL TO BE ENTITLED

AN ACT

relating to the nonrenewal of, and the assessment of premium surcharges against, certain insurance policies.

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

SECTION 1. Sections 551.107(b) and (e), Insurance Code, are amended to read as follows:

(b) A claim under this section does not include a claim:

(1) resulting from a loss caused by natural causes; or

(2) that is filed but is not paid or payable under the

policy[~~;~~ ~~or~~

~~[(3) that an insurer is prohibited from using under Section 544.353].~~

(e) An insurer may notify an insured who has filed two claims in a period of less than three years that the insurer may refuse to renew the policy if the insured files a third claim during the three-year period. If the insurer does not notify the insured in accordance with this subsection, the insurer may not refuse to renew the policy because of claims. The notice form must:

(1) list the policyholder's claims; and

(2) contain the sentence: "The filing by you of another claim, except for a claim resulting from a loss caused by natural causes or[~~;~~] a claim filed but not paid or payable under the policy under which it was filed, [~~or an appliance-related claim that we are prohibited from using under Section 544.353, Texas~~

1 ~~Insurance Code,~~] could cause us to refuse to renew your policy."

2 SECTION 2. Subchapter C, Chapter 551, Insurance Code, is
3 amended by adding Sections 551.1071 and 551.1072 to read as
4 follows:

5 Sec. 551.1071. ELECTION OF NONRENEWAL AND SURCHARGE
6 PRACTICE; REPORT; CONSTRUCTION OF LAW. (a) An insurer to which
7 Sections 551.107 and 551.1072 apply shall elect whether the insurer
8 will nonrenew policies and assess surcharges in accordance with
9 Section 551.107 or 551.1072.

10 (b) An election made under this section remains in effect
11 until an insurer notifies the department of a change in the
12 insurer's election. The department shall allow an insurer an
13 opportunity to change the insurer's election under this section
14 once every three years and may not allow an insurer to change the
15 insurer's election more frequently.

16 (c) An insurer that does not make an initial election under
17 this section is governed by Section 551.107.

18 (d) Not later than January 31 of each calendar year, an
19 insurer that elects to nonrenew policies and assess surcharges in
20 accordance with Section 551.1072 shall submit a report to the
21 department containing the total number of policies that the insurer
22 refused to renew in this state, and in each county of this state, in
23 the calendar year immediately preceding the year in which the
24 report is submitted.

25 (e) Sections 551.107 and 551.1072 may not be construed to
26 limit an insurer's authority to refuse to renew an insurance policy
27 for a reason other than the insured's claim history.

1 Sec. 551.1072. RENEWAL OF CERTAIN POLICIES; PREMIUM
2 SURCHARGE AUTHORIZED; ALTERNATIVE PRACTICE. (a) This section
3 applies only to a standard fire, homeowners, or farm or ranch owners
4 insurance policy.

5 (b) A claim under this section does not include a claim that
6 is filed but is not paid or payable under the policy.

7 (c) Subject to Subsection (d), an insurer may, consistent
8 with the insurer's underwriting standards, refuse to renew an
9 insurance policy for any reason related to:

10 (1) the insured's claim history under the policy; or

11 (2) an increased risk of hazard on the property
12 insured under the policy.

13 (d) The total number of policies an insurer refuses in a
14 calendar year to renew under Subsection (c) may not exceed:

15 (1) for the entire state, two percent of the total
16 number of standard fire, homeowners, or farm or ranch owners
17 insurance policies written by the insurer in this state in the
18 immediately preceding calendar year; and

19 (2) except as provided by Subsection (e), for each
20 county, two percent of the total number of standard fire,
21 homeowners, or farm or ranch owners insurance policies written by
22 the insurer in the county in the immediately preceding calendar
23 year.

24 (e) An insurer may, in each calendar year, refuse to renew
25 one policy in each county in which the insurer writes standard fire,
26 homeowners, or farm or ranch owners insurance policies if the two
27 percent limit described by Subsection (d)(2) is an amount that is

1 less than one.

2 (f) An insurer may assess a premium surcharge at the time an
3 insurance policy is renewed if the insured has filed one or more
4 claims in the preceding three policy years. The amount of the
5 surcharge must be based on sound actuarial principles.

6 (g) In this section, "premium surcharge" has the meaning
7 assigned by Section 551.107.

8 SECTION 3. Section 2006.052(c), Insurance Code, is amended
9 to read as follows:

10 (c) A residential property insurance claim under this
11 section does not include a claim:

12 (1) resulting from a loss caused by natural causes; or

13 (2) that is filed but is not paid or payable under the
14 policy[~~; or~~

15 [~~(3) that an insurer is prohibited from using under~~
16 ~~Section 544.353]~~.

17 SECTION 4. Section 2006.0521, Insurance Code, is amended to
18 read as follows:

19 Sec. 2006.0521. COMPLIANCE WITH OTHER LAW REQUIRED. Any
20 change in the amount of a premium discount provided under this
21 subchapter must comply with the requirements of Section 551.107 or
22 551.1072, as applicable.

23 SECTION 5. Subchapter H, Chapter 544, Insurance Code, is
24 repealed.

25 SECTION 6. The change in law made by this Act applies only
26 to an insurance policy that is delivered, issued for delivery,
27 renewed, or subject to nonrenewal on or after January 1, 2012. An

1 insurance policy that is delivered, issued for delivery, renewed,
2 or subject to nonrenewal before January 1, 2012, is governed by the
3 law as it existed immediately before January 1, 2012, and that law
4 is continued in effect for that purpose.

5 SECTION 7. This Act takes effect September 1, 2011.