

By: Lucio

S.B. No. 871

A BILL TO BE ENTITLED

AN ACT

relating to corrective action with regard to excessive or unfairly discriminatory residential property or personal automobile premium rates.

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

SECTION 1. Section 2254.003, Insurance Code, is amended by amending Subsection (a) and adding Subsections (a-1), (a-2), and (a-3) to read as follows:

(a) This section applies to a rate for personal automobile insurance or residential property insurance filed on or after the effective date of Chapter 206, Acts of the 78th Legislature, Regular Session, 2003.

(a-1) If the department provides an insurer with formal written notice that a rate is excessive or unfairly discriminatory, then the insurer may file a new rate or take other corrective action to substantially address the departments concerns. The new rate or other corrective action must be filed on or before the 60th day following the date of formal written notice. At the commissioner's discretion, the commissioner may extend the deadline to file by an additional 30 days. If the department accepts the new rate or other corrective action, then the insurer shall, according to commissioner order, refund or issue a premium discount directly to each affected policyholder on the portion of the premium found to be excessive or unfairly discriminatory, plus interest on that amount.

1 The interest rate to be paid on refunds or discounts under this  
2 subsection is the sum of six percent and the prime rate for the  
3 calendar year in which formal written notice is given. For purposes  
4 of this subsection, the prime rate is the prime rate as published in  
5 The Wall Street Journal for the first day of the calendar year that  
6 is not a Saturday, Sunday, or legal holiday.

7       (a-2) If the insurer does not file or take, or the  
8 department does not accept, a new rate or other corrective action as  
9 provided under Subsection (a-1), and the commissioner issues an  
10 order disapproving the rate as excessive or unfairly discriminatory  
11 under Section 2251.104, then the insurer must refund or issue a  
12 premium discount directly to each affected policyholder on the  
13 portion of the premium found to be excessive or unfairly  
14 discriminatory, plus interest on that amount. The interest rate to  
15 be paid on refunds or discounts under this subsection is 18 percent.  
16 An insurer is not required to pay any interest penalty if the  
17 insurer prevails in an appeal of the commissioner's order under  
18 Subchapter D, Chapter 36.

19       (a-3) The period for the refund and interest begins on the  
20 date the department first provides the insurer with formal written  
21 notice that the insurer's filed rate is excessive or unfairly  
22 discriminatory, and interest continues to accrue until the refund  
23 or discount is paid or issued.

24       SECTION 2. This Act takes effect immediately if it receives  
25 a vote of two-thirds of all the members elected to each house, as  
26 provided by Section 39, Article III, Texas Constitution. If this  
27 Act does not receive the vote necessary for immediate effect, this

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1 Act takes effect September 1, 2011.