

By: Lucio

S.B. No. 871

A BILL TO BE ENTITLED

AN ACT

relating to stay of requirement to provide refunds or discounts on excessive or unfairly discriminatory residential property premium rates.

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

SECTION 1. Chapter 2254, Insurance Code, is amended by adding Section 2254.005 to read as follows:

Sec. 2254.005. Requirement to Provide Refunds or Discounts on Excessive or Unfairly Discriminatory Premium Rates.

(a) Notwithstanding and in addition to any other provision of this code or other law, if an insurer files a petition under Subchapter D, Chapter 36, for judicial review of an order disapproving a rate under Chapter 2251 without providing refunds or discounts under Section 2254.003, the insurer must, not later than the 30th day after the date the order becomes final:

(1) stay the requirement to provide refunds or discounts by:

(A) paying the amount of the refunds, discounts, and interest to the court for placement in an escrow account; or

(B) giving the court a bond approved by the court that:

(i) is for the amount of the refunds, discounts, and interest; and

(ii) is effective until all judicial review

1 of the commissioner's order is final; or

2 (2) obtain from the court in which the petition for
3 judicial review is pending an order staying the requirement to
4 provide refunds or discounts by:

5 (A) filing with the court an affidavit stating
6 that the insurer is financially unable to provide refunds or
7 discounts and is financially unable to give the bond; and

8 (B) giving a copy of the affidavit to the
9 commissioner by certified mail.

10 (b) If the commissioner receives a copy of an affidavit
11 under Subsection (a)(3), the commissioner may file with the court,
12 not later than the fifth day after the date the copy is received, a
13 contest to the affidavit. The court shall hold a hearing on the
14 facts alleged in the affidavit as soon as practicable and shall stay
15 the requirement to provide of refunds or discounts on finding that
16 the alleged facts are true. The insurer that files an affidavit has
17 the burden of proving that the insurer is financially unable to
18 provide refunds or discounts and to give a bond.

19 (c) If the insurer fails to comply with subsection (a), the
20 insurer shall provide to each affected policyholder the refunds or
21 discounts ordered pursuant to Section 2254.003.

22 SECTION 2. This Act applies to an insurer that files a
23 petition for judicial review under Subchapter D, Chapter 36,
24 Insurance Code, on or after the effective date of this Act. An
25 insurer that files a petition for judicial review prior to the
26 effective date of this Act is governed by the law as it existed
27 immediately before the effective date of this Act, and that law is

1 continued in effect for that purpose.

2 SECTION 3. This Act takes effect immediately if it receives
3 a vote of two-thirds of all the members elected to each house, as
4 provided by Section 39, Article III, Texas Constitution. If this
5 Act does not receive the vote necessary for immediate effect, this
6 Act takes effect September 1, 2011.