

1-1 By: Lucio S.B. No. 871  
1-2 (In the Senate - Filed February 23, 2011; March 1, 2011,  
1-3 read first time and referred to Committee on Business and Commerce;  
1-4 March 24, 2011, reported adversely, with favorable Committee  
1-5 Substitute by the following vote: Yeas 9, Nays 0; March 24, 2011,  
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 871 By: Lucio

1-8 A BILL TO BE ENTITLED  
1-9 AN ACT

1-10 relating to a stay of the requirement to provide refunds or  
1-11 discounts on excessive or unfairly discriminatory residential  
1-12 property premium rates.

1-13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-14 SECTION 1. Chapter 2254, Insurance Code, is amended by  
1-15 adding Section 2254.005 to read as follows:

1-16 Sec. 2254.005. REQUIREMENT TO PROVIDE REFUNDS OR DISCOUNTS  
1-17 ON EXCESSIVE OR UNFAIRLY DISCRIMINATORY PREMIUM RATES.

1-18 (a) Notwithstanding and in addition to any other provision of this  
1-19 code or other law, if an insurer files a petition under Subchapter  
1-20 D, Chapter 36, for judicial review of an order disapproving a rate  
1-21 under Chapter 2251 without providing refunds or discounts under  
1-22 Section 2254.003, the insurer must, not later than the 30th day  
1-23 after the date the order becomes final:

1-24 (1) stay the requirement to provide refunds or  
1-25 discounts by:

1-26 (A) paying the amount of the refunds, discounts,  
1-27 and interest to the court for placement in an escrow account; or

1-28 (B) giving the court a bond approved by the court  
1-29 that:

1-30 (i) is for the amount of the refunds,  
1-31 discounts, and interest; and

1-32 (ii) is effective until all judicial review  
1-33 of the commissioner's order is final; or

1-34 (2) obtain from the court in which the petition for  
1-35 judicial review is pending an order staying the requirement to  
1-36 provide refunds or discounts by:

1-37 (A) filing with the court an affidavit stating  
1-38 that the insurer is financially unable to provide refunds or  
1-39 discounts and is financially unable to give the bond; and

1-40 (B) giving a copy of the affidavit to the  
1-41 commissioner by certified mail.

1-42 (b) If the commissioner receives a copy of an affidavit  
1-43 under Subsection (a)(2), the commissioner may file with the court,  
1-44 not later than the fifth day after the date the copy is received, a  
1-45 contest to the affidavit. The court shall hold a hearing on the  
1-46 facts alleged in the affidavit as soon as practicable and shall stay  
1-47 the requirement to provide refunds or discounts on finding that the  
1-48 alleged facts are true. The insurer that files an affidavit has the  
1-49 burden of proving that the insurer is financially unable to provide  
1-50 refunds or discounts and to give a bond.

1-51 (c) If the insurer fails to comply with Subsection (a), the  
1-52 insurer shall provide to each affected policyholder the refunds or  
1-53 discounts ordered pursuant to Section 2254.003.

1-54 SECTION 2. This Act applies to an insurer that files a  
1-55 petition for judicial review under Subchapter D, Chapter 36,  
1-56 Insurance Code, on or after the effective date of this Act. An  
1-57 insurer that files a petition for judicial review prior to the  
1-58 effective date of this Act is governed by the law as it existed  
1-59 immediately before the effective date of this Act, and that law is  
1-60 continued in effect for that purpose.

1-61 SECTION 3. This Act takes effect immediately if it receives  
1-62 a vote of two-thirds of all the members elected to each house, as  
1-63 provided by Section 39, Article III, Texas Constitution. If this

2-1 Act does not receive the vote necessary for immediate effect, this  
2-2 Act takes effect September 1, 2011.

2-3 \* \* \* \* \*