

By: Davis

S.B. No. 1064

A BILL TO BE ENTITLED

AN ACT

relating to the collection and use of certain information by certain insurers; providing administrative penalties.

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

SECTION 1. Subtitle A, Title 10, Insurance Code, is amended by adding Chapter 1811 to read as follows:

CHAPTER 1811. DATA MINING AND PATTERN RECOGNITION

Sec. 1811.001. DEFINITIONS. In this chapter, "insurer," "personal automobile insurance," and "residential property insurance" have the meanings assigned by Section 2301.051.

Sec. 1811.002. COLLECTION OF INFORMATION CONCERNING DATA MINING AND PATTERN RECOGNITION. (a) The commissioner by rule shall require an insurer that writes personal automobile insurance or residential property insurance in this state to report to the department concerning:

(1) technologies to be used by the insurer to identify relationships among variables that are used to predict differences in expected losses of covered persons and perils or applicants for coverage or are otherwise used in the activities of regulated entities; and

(2) the manner in which the insurer intends to use the relationships derived from the technologies described by Subdivision (1) in:

(A) underwriting and creating and defining risk

1 classifications;

2 (B) setting rates and premiums, as applicable;

3 (C) detecting fraudulent claims;

4 (D) identifying subrogation opportunities;

5 (E) improving marketing; or

6 (F) performing other activities identified by
7 the commissioner.

8 (b) In exercising the commissioner's authority under this
9 section, the commissioner shall require that insurers report
10 specific uses of relationships derived from the technologies.

11 (c) Underwriting guidelines and related information
12 obtained by the commissioner under this section are subject to
13 Section 38.003. Other information obtained under this section is
14 commercial information not subject to the disclosure requirements
15 of Chapter 552, Government Code.

16 Sec. 1811.003. ADMINISTRATIVE PENALTIES. If the department
17 determines that an insurer has violated this chapter or a rule
18 adopted under this chapter, the department shall assess
19 administrative penalties against the insurer in the manner provided
20 by Chapter 84. The amount of an administrative penalty imposed
21 under this section shall be based on:

22 (1) the seriousness of the violation, including the
23 nature, circumstances, extent, or gravity of the violation; and

24 (2) the economic harm caused by the violation.

25 Sec. 1811.004. REPORT TO LEGISLATURE. The department shall
26 include in its biennial report to the legislature under Section
27 32.022 information concerning the use of relationships derived from

1 the technologies described by Section 1811.002 by insurers. The
2 information must include the impact of the use of those
3 relationships on insurance and other coverage to covered persons
4 and perils and applicants for coverage in this state. The report
5 must include, as applicable, recommendations for proposed
6 legislation appropriate to regulate the use of relationships
7 derived from the technologies and means to facilitate availability
8 of insurance in underserved markets.

9 SECTION 2. (a) In this section, "department" means the
10 Texas Department of Insurance.

11 (b) The department shall conduct a study of:

12 (1) technologies such as statistical techniques,
13 devices, or models that may be used by or on behalf of an insurer
14 that writes personal automobile insurance or residential property
15 insurance in this state to establish new classifications or to
16 change methods of classification for rating, tiering, or
17 underwriting; and

18 (2) the manner in which insurers use the relationships
19 derived from the technologies described by Subdivision (1) in:

20 (A) predicting differences in expected losses of
21 covered persons and perils or applicants for coverage;

22 (B) underwriting and creating and defining risk
23 classifications or changing a method of classification;

24 (C) setting or determining rates and premiums; or

25 (D) using classifications or a change in a method
26 of classification to deny coverage, limit coverage, or refuse to
27 renew or cancel coverage under personal automobile or residential

1 property insurance policies.

2 (c) The department shall include the results of the study
3 conducted under this section in the biennial report to the 83rd
4 Legislature made under Section 32.022, Insurance Code. The report
5 must describe the impact that the use of the relationships derived
6 from technologies described by Subsection (b) of this section has
7 on insurance, policyholders, and applicants for insurance in this
8 state, and may include recommendations for proposed legislation
9 appropriate to regulate or mitigate the use of those technologies.

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