

By: Hancock

S.B. No. 548

A BILL TO BE ENTITLED

AN ACT

relating to the abolishment of the office of public insurance
counsel.

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

ARTICLE 1. OFFICE OF PUBLIC INSURANCE COUNSEL ABOLISHED

SECTION 1.01. Subtitle A, Title 5, Insurance Code, is
repealed.

SECTION 1.02. On September 1, 2013:

(1) a complaint, investigation, or other proceeding
involving the office of public insurance counsel is transferred to
the Texas Department of Insurance;

(2) all property in the custody of the office of public
insurance counsel is transferred to the Texas Department of
Insurance;

(3) the unexpended and unobligated balance of any
money appropriated by the legislature for the office of public
insurance counsel is transferred to the Texas Department of
Insurance; and

(4) all money, contracts, leases, rights, and
obligations of the office of public insurance counsel are
transferred to the Texas Department of Insurance.

ARTICLE 2. CONFORMING AMENDMENTS

SECTION 2.01. Article 5.35(k)(2), Insurance Code, is
amended to read as follows:

1 (2) The comparison form shall be developed with ~~[the~~
2 ~~assistance of the office of public insurance counsel and with]~~
3 input from the public and shall be designed to explain the features
4 and limitations of the policy compared to other approved policies.
5 An insurer using a policy form may be required to develop the
6 comparison form and submit it for approval by the commissioner. The
7 comparison form shall be made available by an insurer to anyone
8 inquiring about the policy and shall be made available by the
9 department via the Internet and other means as prescribed by the
10 commissioner.

11 SECTION 2.02. Article 5.96(1), Insurance Code, is amended
12 to read as follows:

13 (1) The board ~~[or the office of public insurance counsel]~~
14 may require that a person who has filed a petition under Subsection
15 (b) of this article or who has otherwise presented materials to the
16 board in connection with a proceeding under this article provide
17 additional information to the board ~~[or office]~~, including any
18 statistical, actuarial, or other information on which the petition
19 or other materials were based.

20 SECTION 2.03. Article 5.97(m), Insurance Code, is amended
21 to read as follows:

22 (m) The department ~~[or the office of public insurance~~
23 ~~counsel]~~ may require that a person who has filed a petition under
24 Subsection (b) of this article or who has otherwise presented
25 materials to the department in connection with a proceeding under
26 this article provide additional information to the department ~~[or~~
27 ~~office]~~, including any statistical, actuarial, or other

1 information on which the petition or other materials were based.

2 SECTION 2.04. Section 32.102, Insurance Code, is amended to
3 read as follows:

4 Sec. 32.102. INTERNET WEBSITE. (a) The department [~~in~~
5 ~~conjunction with the office of public insurance counsel,~~] shall
6 establish and maintain a single Internet website that provides
7 information to enable consumers to make informed decisions relating
8 to the purchase of residential property insurance and personal
9 automobile insurance. The website must include:

10 (1) a description of each type of residential property
11 insurance policy and personal automobile insurance policy issued in
12 this state, including a comparison of the coverage, exclusions, and
13 restrictions of each policy that allows a side-by-side comparison
14 of the features of the policy forms;

15 (2) a listing of each insurer writing residential
16 property insurance or personal automobile insurance in this state,
17 indexed by each county or zip code in which the insurer is actively
18 writing that insurance, and a profile of the insurer that includes:

19 (A) contact information for the insurer,
20 including the insurer's full name, address, and telephone number
21 and the insurer's fax number and e-mail address, if available;

22 (B) information on rates charged by the insurer,
23 including:

24 (i) sample rates for different policyholder
25 profiles in each county or zip code; and

26 (ii) the percentage by which the sample
27 rate has fallen or risen due to filings in the previous 12, 24, and

1 36 months;

2 (C) a list of policy forms, exclusions,
3 endorsements, and discounts offered by the insurer;

4 (D) an indication of whether the insurer uses
5 credit scoring in underwriting, rating, or tiering, and a link to
6 the insurer's credit model or a link explaining how to request the
7 insurer's credit model;

8 (E) the insurer's financial rating determined by
9 A. M. Best or similar rating organization and an explanation of the
10 meaning and importance of the rating;

11 (F) a complaint ratio or similar complaint rating
12 system for the insurer for each of the previous three years and an
13 explanation of the meaning of the rating system; and

14 (G) information, other than information made
15 confidential by law, on the insurer's regulatory and administrative
16 experience with the department~~[, the office of public insurance~~
17 ~~counsel]~~ and insurance regulatory authorities in other states; and

18 (3) if feasible, as determined by the commissioner
19 ~~[and the public insurance counsel]~~:

20 (A) a side-by-side comparison of credit scoring
21 models, including factors, key variables, and weights, of
22 residential property insurers in this state; and

23 (B) a side-by-side comparison of credit scoring
24 models, including factors, key variables, and weights, of private
25 passenger automobile insurers in this state.

26 (b) The Internet website required by this section may link
27 to and be linked from the department's ~~[and the office of public~~

1 ~~insurance counsel's~~] main website [~~websites~~], but must have its own
2 Internet address distinct from the address of the [~~these~~] main site
3 [~~sites~~].

4 (c) The department [~~and the office of public insurance~~
5 ~~counsel~~] may include on the Internet website or by link to another
6 site any other information the department determines [~~and the~~
7 ~~office of public insurance counsel determine~~] is helpful to
8 consumers of residential property insurance or personal automobile
9 insurance or that the department [~~or the office of public insurance~~
10 ~~counsel~~] is authorized or required to publish under this code that
11 relates to residential property insurance or personal automobile
12 insurance.

13 SECTION 2.05. Section 32.104(a), Insurance Code, is amended
14 to read as follows:

15 (a) On the request of the department, an insurer shall
16 provide to the department any information the department determines
17 [~~and the office of public insurance counsel determine~~] is
18 reasonable or necessary to fulfill the department's [~~and the office~~
19 ~~of the public insurance counsel's~~] duties under this subchapter.

20 SECTION 2.06. (a) Section 33.007(a), Insurance Code, is
21 amended to read as follows:

22 (a) A person who served as the commissioner, the general
23 counsel to the commissioner, [~~or the public insurance counsel,~~] or
24 as an employee of the State Office of Administrative Hearings who
25 was involved in hearing cases under this code, another insurance
26 law of this state, or Title 5, Labor Code, commits an offense if the
27 person represents another person in a matter before the department

1 or receives compensation for services performed on behalf of
2 another person regarding a matter pending before the department
3 during the one-year period after the date the person ceased to be
4 the commissioner, the general counsel to the commissioner, [~~the~~
5 ~~public insurance counsel,~~] or an employee of the State Office of
6 Administrative Hearings.

7 (b) The change in law made by this section applies only to
8 representation or other services performed on or after September 1,
9 2014, by a former public insurance counsel. Representation or
10 other services performed before that date are governed by the law in
11 effect immediately before the effective date of this Act, and that
12 law is continued in effect for that purpose.

13 SECTION 2.07. Section 36.002, Insurance Code, is amended to
14 read as follows:

15 Sec. 36.002. ADDITIONAL RULEMAKING AUTHORITY. The
16 commissioner may adopt reasonable rules that are:

17 (1) necessary to effect the purposes of a provision
18 of:

19 (A) Subchapter B, Chapter 5;
20 (B) Subchapter C, Chapter 1806;
21 (C) Subchapter A, Chapter 2301;
22 (D) Chapter 251, as that chapter relates to
23 casualty insurance and fidelity, guaranty, and surety bond
24 insurance;

25 (E) Chapter 253;
26 (F) Chapter 2008, 2251, or 2252; or
27 (G) Subtitle B, Title 10; or

(2) appropriate to accomplish the purposes of a provision of:

(A) Section 37.051(a), 403.002, 492.051(b) or (c), ~~[501.159,]~~ 941.003(b)(1) or (c), or 942.003(b)(1) or (c);

(B) Subchapter H, Chapter 544;

(C) Chapter 251, as that chapter relates to:

(i) automobile insurance;

(ii) casualty insurance and fidelity, guaranty, and surety bond insurance;

(iii) fire insurance and allied lines;

(iv) workers' compensation insurance; or

(v) aircraft insurance;

(D) Chapter 5, 252, 253, 254, 255, 256, 426, 493, 494, 1804, 1805, 1806, 2171, 6001, 6002, or 6003;

(E) Subtitle B, C, D, E, F, H, or I, Title 10;

(F) Section 417.008, Government Code; or

(G) Chapter 2154, Occupations Code.

SECTION 2.08. Section 38.002(d), Insurance Code, is amended to read as follows:

(d) The department ~~[or the office of public insurance counsel]~~ may disclose to the public a summary of an insurer's underwriting guidelines in a manner that does not directly or indirectly identify the insurer.

SECTION 2.09. Sections 38.003(c), (d), (e), and (f), Insurance Code, are amended to read as follows:

(c) The department ~~[or the office of public insurance counsel]~~ may obtain a copy of an insurer's underwriting guidelines.

1 (d) Underwriting guidelines are confidential, and the
2 department ~~[or the office of public insurance counsel]~~ may not make
3 the guidelines available to the public.

4 (e) The department ~~[or the office of public insurance~~
5 ~~counsel]~~ may disclose to the public a summary of an insurer's
6 underwriting guidelines in a manner that does not directly or
7 indirectly identify the insurer.

8 (f) When underwriting guidelines are furnished to the
9 department ~~[or the office of public insurance counsel]~~, only a
10 person within the department ~~[or the office of public insurance~~
11 ~~counsel]~~ with a need to know may have access to the guidelines. The
12 department ~~[and the office of public insurance counsel]~~ shall
13 establish internal control systems to limit access to the
14 guidelines and shall keep records of the access provided.

15 SECTION 2.10. Section 425.107(a), Insurance Code, is
16 amended to read as follows:

17 (a) The department shall, after consulting with the
18 insurance industry of this state ~~[and the office of public~~
19 ~~insurance counsel]~~, develop a report of insurance industry
20 community investments in this state.

21 SECTION 2.11. Section 912.002(b), Insurance Code, is
22 amended to read as follows:

23 (b) A county mutual insurance company is subject to:

24 (1) Sections 38.001, 401.051, 401.052,
25 401.054-401.062, 401.151, 401.152, 401.155, 401.156, ~~[501.159,~~
26 ~~501.202, 501.203]~~ 822.204, 1806.001, 1806.101, 1806.103(b),
27 1806.104-1806.107, 2002.002, and 2002.005;

- (2) Subchapter A, Chapter 86;
- (3) Subchapter A, Chapter 401;
- (4) the provisions of Subchapter B, Chapter 424, other than Sections 424.052, 424.072, and 424.073;
- (5) Chapters 221, 251, 252, 254, 541, and 2210; and
- (6) Articles 5.39 and 5.40.

SECTION 2.12. Section 941.003(b), Insurance Code, is amended to read as follows:

(b) A Lloyd's plan is subject to:

- (1) Subchapter A, Chapter 5, Chapter 254, Subchapters A and B, Chapter 1806, and Subtitle C, Title 10;
- (2) Articles 5.35, 5.39, and 5.40;
- (3) Article 5.13-2, as provided by that article, Chapter 2251, as provided by that chapter, and Chapter 2301, as provided by that chapter;
- (4) Chapters 251, 252, 402, 541, and 2253;
- (5) Subchapter A, Chapter 401;
- (6) Subchapter B, Chapter 404;
- (7) Subchapter C, Chapter 1806; and
- (8) Sections 38.001, ~~[501.159]~~ 822.203, 822.205, 822.210, 822.212, 2002.005, 2002.051, and 2002.052.

SECTION 2.13. Section 942.003(b), Insurance Code, is amended to read as follows:

(b) An exchange is subject to:

- (1) Subchapter A, Chapter 5, Chapter 254, Subchapters A and B, Chapter 1806, and Subtitle C, Title 10;
- (2) Articles 5.35, 5.39, and 5.40;

(3) Article 5.13-2, as provided by that article, Chapter 2251, as provided by that chapter, and Chapter 2301, as provided by that chapter;

(4) Chapters 402, 541, and 2253;

(5) Subchapter A, Chapter 401, and Sections 401.051, 401.052, 401.054, 401.055, 401.056, 401.057, 401.058, 401.059, 401.060, 401.061, 401.062, 401.151, 401.152, 401.155, and 401.156;

(6) Subchapter B, Chapter 404;

(7) Subchapter C, Chapter 1806; and

(8) Sections 38.001, ~~[501.159]~~ 822.203, 822.205, 822.210, 822.212, 861.254(a)-(f), 861.255, 862.001(b), 862.003, 2002.002, 2002.005, 2002.051, and 2002.052.

SECTION 2.14. Section 1807.002(a), Insurance Code, is amended to read as follows:

(a) The following provisions do not apply to marine insurance:

(1) Sections 36.002, 37.051, 403.002, and 492.051~~[7 and 501.159]~~;

(2) Subchapter H, Chapter 544;

(3) Chapters 5, 252, 253, 493, 494, 1804, 1805, 1806, and 2171; and

(4) Subtitles B, C, D, E, F, H, and I.

SECTION 2.15. Section 2053.009(a), Insurance Code, is amended to read as follows:

(a) An ~~[The office of public insurance counsel or an]~~ insured who is aggrieved with respect to a filing made under Section 2053.003 that is in effect may apply to the department in writing

1 for a hearing on the filing. The application must specify the
2 grounds for the applicant's grievance.

3 SECTION 2.16. Section 2151.053, Insurance Code, is amended
4 to read as follows:

5 Sec. 2151.053. MEMBERSHIP OF GOVERNING COMMITTEE. The
6 governing committee is composed of 15 members selected as follows:

7 (1) eight members who represent the interests of
8 insurers, elected by the association members according to a method
9 the members determine;

10 (2) five public members[~~, nominated by the office of~~
11 ~~public insurance counsel and~~] selected by the commissioner; and

12 (3) two members who are general or personal
13 lines property and casualty agents, as required by the plan of
14 operation.

15 SECTION 2.17. Section 2151.206(b), Insurance Code, is
16 amended to read as follows:

17 (b) The association[~~, the public insurance counsel,~~] and
18 any other interested person or entity that submits proposed changes
19 or actuarial analyses may ask questions of any person testifying at
20 the hearing.

21 SECTION 2.18. Section 2251.105(a), Insurance Code, is
22 amended to read as follows:

23 (a) An insured who is aggrieved with respect to any filing
24 under this chapter that is in effect[~~, or the public insurance~~
25 ~~counsel,~~] may apply to the commissioner in writing for a hearing on
26 the filing. The application must specify the grounds for the
27 applicant's grievance.

SECTION 2.19. Section 2703.202(b), Insurance Code, is amended to read as follows:

(b) The commissioner shall order a public hearing to consider changing a premium rate, including fixing a new premium rate, in response to a written request of:

(1) a title insurance company;

(2) an association composed of at least 50 percent of the number of title insurance agents and title insurance companies licensed or authorized by the department; or

(3) an association composed of at least 20 percent of the number of title insurance agents licensed or authorized by the department~~[, or~~

~~[(4) the office of public insurance counsel].~~

SECTION 2.20. Section 404.110(a), Labor Code, is amended to read as follows:

(a) Confidentiality requirements applicable to examination reports and to the commissioner of insurance under Sections 401.058, 401.105, 401.106, and 441.201~~[, and 501.158]~~, Insurance Code, as applicable, and Section 404.111, apply to the public counsel.

SECTION 2.21. Section 407.122(b), Labor Code, is amended to read as follows:

(b) The board of directors is composed of the following voting members:

(1) three certified self-insurers; and

(2) one member designated by the commissioner~~[, and~~

~~[(3) the public counsel of the office of public~~

1 ~~insurance counsel~~].

2 SECTION 2.22. Section 407A.453(b), Labor Code, is amended
3 to read as follows:

4 (b) The board is composed of the following voting members:

5 (1) three members elected as provided by Subsection
6 (c), each of whom represents a different group certified under this
7 chapter;

8 (2) one member to represent wage earners designated by
9 the commission; and

10 (3) one member designated by the commissioner [~~, and~~
11 [~~(4) the public counsel of the office of public~~
12 ~~insurance counsel~~].

13 SECTION 2.23. Article 5.35(j) and Sections 38.002(c),
14 2251.106, and 2254.004(b), Insurance Code, are repealed.

15 SECTION 2.24. Notwithstanding any law that requires a
16 representative of the office of public insurance counsel to serve
17 on a task force, that representative is not required to serve on or
18 after the effective date of this Act.

19 ARTICLE 3. EFFECTIVE DATE

20 SECTION 3.01. This Act takes effect September 1, 2013.