

By: Hunter

H.B. No. 2175

A BILL TO BE ENTITLED

AN ACT

relating to the operation of the Texas Department of Insurance.

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

SECTION 1. Section 31.004, Insurance Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a) The Texas Department of Insurance is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the department is abolished September 1, 2019 [~~2023~~].

(a-1) Notwithstanding Section 325.015, Government Code, the legislature may not continue the department in existence for a period that exceeds four years. The department is abolished on September 1 of the fourth calendar year after the year in which the department was last continued in existence by law as provided by Chapter 325, Government Code.

SECTION 2. Subchapter C, Chapter 31, Insurance Code, is amended by adding Section 31.040 to read as follows:

Sec. 31.040. DEFINITION. In this subchapter, "employ" includes any arrangement under which an individual renders or performs a service or labor for compensation, including an individual hired on a part-time or temporary basis or a full-time or permanent basis.

SECTION 3. Section 31.041, Insurance Code, is amended by

1 amending Subsections (a) and (b) and adding Subsections (d) and (e)
2 to read as follows:

3 (a) Subject to the General Appropriations Act or other law,
4 the commissioner shall appoint or employ deputies, assistants, and
5 other personnel as necessary to carry out the powers and duties of
6 the commissioner and the department under this code, other
7 insurance laws of this state, and other laws granting jurisdiction
8 or applicable to the department or the commissioner.

9 (b) A person appointed or employed under this section must
10 have the professional, administrative, and insurance experience
11 necessary to qualify the person for the position to which the person
12 is appointed or employed.

13 (d) The commissioner shall comply with Section 31.046
14 before appointing or employing an individual.

15 (e) The commissioner shall appoint or employ an individual
16 based primarily on criteria established by this section.

17 SECTION 4. Subchapter C, Chapter 31, Insurance Code, is
18 amended by adding Section 31.046 to read as follows:

19 Sec. 31.046. JUSTIFICATION FOR APPOINTMENTS AND
20 EMPLOYMENT. (a) The commissioner shall justify in writing the
21 appointment or employment of an individual as an officer or
22 employee of the department.

23 (b) The written justification described by Subsection (a)
24 must:

25 (1) demonstrate that the appointment or employment of
26 the individual complies with Sections 31.041 and 31.043; and

27 (2) disclose the departmental workload that

1 necessitates the creation or continuation of the position filled by
2 the individual.

3 SECTION 5. Subchapter A, Chapter 32, Insurance Code, is
4 amended by adding Section 32.005 to read as follows:

5 Sec. 32.005. RECORD OF EXPENDITURES. (a) The department
6 shall conspicuously post on the department's Internet website a
7 link to the searchable state expenditure database established by
8 Section 403.024, Government Code, as it relates to expenditures by
9 the department.

10 (b) The department shall conspicuously post on the
11 department's Internet website with respect to an expenditure listed
12 in the database described by Subsection (a):

13 (1) a copy of the contract for the expenditure; and

14 (2) a copy of the payee's financial statement prepared
15 by a certified public accountant and current at the time the
16 contract is executed.

17 SECTION 6. Section 32.102(a), Insurance Code, is amended to
18 read as follows:

19 (a) The department, in conjunction with the office of public
20 insurance counsel, shall establish and maintain a single Internet
21 website that provides information to enable consumers to make
22 informed decisions relating to the purchase of residential property
23 insurance and personal automobile insurance. The website must
24 include:

25 (1) a description of each type of residential property
26 insurance policy and personal automobile insurance policy issued in
27 this state, including a comparison of the coverage, exclusions, and

1 restrictions of each policy that allows a side-by-side comparison
2 of the features of the policy forms;

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

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

10 (B) information on rates charged by the insurer,
11 including:

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

14 (ii) the percentage by which the sample
15 rate has fallen or risen due to filings in the previous 12, 24, and
16 36 months;

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

19 (D) an indication of whether the insurer uses
20 credit scoring in underwriting, rating, or tiering, and a link to
21 the insurer's credit model or a link explaining how to request the
22 insurer's credit model;

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

26 (F) a complaint ratio or similar complaint rating
27 system for the insurer for each of the previous three years and an

1 explanation of the meaning of the rating system; [~~and~~]

2 (G) information, other than information made
3 confidential by law, on the insurer's regulatory and administrative
4 experience with the department, the office of public insurance
5 counsel, and insurance regulatory authorities in other states; and

6 (H) a list of all names under which the insurer is
7 doing business under the insurer's certificate of authority; and

8 (3) if feasible, as determined by the commissioner and
9 the public insurance counsel:

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

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

16 SECTION 7. Chapter 32, Insurance Code, is amended by adding
17 Subchapter F to read as follows:

18 SUBCHAPTER F. TRANSPARENCY

19 Sec. 32.201. APPLICABILITY OF SUBCHAPTER. This subchapter
20 applies to residential property insurance or personal automobile
21 insurance policies in this state, including policies issued by a
22 Lloyd's plan, a reciprocal or interinsurance exchange, a county
23 mutual insurance company, a farm mutual insurance company, the
24 Texas Windstorm Insurance Association, the FAIR Plan Association,
25 and the Texas Automobile Insurance Plan Association.

26 Sec. 32.202. DEFINITIONS. In this subchapter:

27 (1) "Contact" means an incident of oral communication

1 in person, through electronic means, by telephone, or otherwise.

2 (2) "Individual" means a natural person, acting in an
3 individual capacity or representing another person or a legal
4 entity, including a department, agency, or officer of a state or the
5 federal government, a corporation, a trust, a partnership, an
6 interest group, or an association.

7 Sec. 32.203. DISCLOSURE OF CONTACT WITH COMMISSIONER. (a)
8 The commissioner shall, substantially contemporaneously with the
9 contact, conspicuously post and maintain on the department's
10 Internet website a written disclosure of any contact between an
11 individual and the commissioner if the contact:

12 (1) occurs while the commissioner is acting within the
13 course and scope of the commissioner's office as it relates to
14 residential property insurance or personal automobile insurance;

15 (2) relates to the business of residential property
16 insurance or personal automobile insurance; or

17 (3) involves an individual engaged in the business of
18 residential property insurance or personal automobile insurance.

19 (b) The disclosure required by Subsection (a) must include:

20 (1) the identity of each individual involved in the
21 contact with the commissioner, and, if acting in a representative
22 capacity, the identity of each person or entity represented;

23 (2) the date and time of the contact; and

24 (3) the subject matter of the contact, if known when
25 the contact is initiated.

26 (c) On conclusion of the contact, the commissioner shall
27 supplement the written disclosure required by Subsection (a) with a

1 statement of:

2 (1) the duration of the contact;

3 (2) the actual subject matter of the contact; and

4 (3) in detail, all information exchanged during the
5 contact.

6 (d) In disclosing the subject matter of the contact, the
7 commissioner shall specifically identify the order, rule, proposed
8 rule, bulletin, publication, rate, or procedure, or decision or
9 proposed decision of or action or proposed action by the
10 commissioner or the department, if any, that is the subject matter
11 of the contact.

12 Sec. 32.204. DISCLOSURE OF CERTAIN CONTACT WITH DEPARTMENT.

13 (a) With regard to a contact other than a contact described by
14 Section 32.203 between the department and an individual relating to
15 a bulletin or a proposed or adopted rule related to an insurance
16 policy to which this subchapter applies, the department shall,
17 substantially contemporaneously with the contact, conspicuously
18 post and maintain on the department's Internet website a written
19 disclosure of:

20 (1) the identity of each person representing the
21 department involved in the contact;

22 (2) the identity of each other individual involved in
23 the contact and, if acting in a representative capacity, the
24 identity of each person or entity represented;

25 (3) the date and time of the contact; and

26 (4) each bulletin or proposed or adopted rule that is
27 the subject matter of the contact, if known at the time contact is

1 initiated.

2 (b) On conclusion of the contact, the department shall
3 supplement the written disclosure required by Subsection (a) with a
4 statement of:

5 (1) the duration of the contact;

6 (2) the identification of each bulletin or proposed or
7 adopted rule that was the subject matter of the contact; and

8 (3) in detail, all information exchanged during the
9 contact.

10 Sec. 32.205. DISCLOSURE RELATING TO RULEMAKING. With
11 regard to a rule related to an insurance policy to which this
12 subchapter applies proposed or adopted by the commissioner, the
13 department shall include in the notice required under Section
14 2001.023 or 2008.053, Government Code, and any order adopting the
15 rule described by Section 2001.033, Government Code:

16 (1) all information related to the rule disclosed
17 under Sections 32.203 and 32.204 as of the date of the notice or
18 order; and

19 (2) a link to the department's Internet website to
20 provide public access to the supplemental information related to
21 the rule required under Sections 32.203(c) and 32.204(b).

22 Sec. 32.206. DISCLOSURE RELATING TO BULLETINS. The
23 department shall include in any bulletin related to an insurance
24 policy to which this subchapter applies issued by the department or
25 the commissioner:

26 (1) all information related to the bulletin disclosed
27 under Sections 32.203 and 32.204 as of the date of the bulletin; and

1 (2) a link to the department's Internet website to
2 provide public access to the supplemental information related to
3 the bulletin required under Sections 32.203(c) and 32.204(b).

4 Sec. 32.207. DEPARTMENT DISCLOSURES TO INSURED. (a) The
5 department shall prepare a written notice of a rate change for or
6 imposition of a surcharge on an insurance policy to which this
7 subchapter applies.

8 (b) The notice required by Subsection (a) must include:

9 (1) an explanation of the rate change or surcharge;

10 (2) a justification for the rate change or surcharge;

11 and

12 (3) an estimate of the annual change in cost to the
13 insured as a result of the rate change or surcharge.

14 (c) The department shall notify the insureds affected by the
15 rate change or surcharge by:

16 (1) having the notice prepared under Subsection (a)
17 published in a newspaper of general circulation in each county in
18 this state in which the last known address of any affected insured
19 is located; and

20 (2) mailing by first class prepaid mail the notice
21 prepared under Subsection (a) to each affected insured at the
22 insured's last known address provided by the insurer.

23 Sec. 32.208. PUBLIC DISCLOSURE BY DEPARTMENT. (a) The
24 department shall conspicuously post and maintain on the
25 department's Internet website a concise summary of any rate change
26 for or imposition of a surcharge on an insurance policy to which
27 this subchapter applies. The summary must disclose:

1 (1) the geographic or rating area affected by the
2 filing;

3 (2) the coverage and, if applicable, the change in
4 coverage to which the rate filing and supporting information apply;
5 and

6 (3) whether the rate filing results in an increase or
7 decrease of the overall rates for coverage in a specific geographic
8 or rating area.

9 (b) The department must post on the department's Internet
10 website the summary required by Subsection (a) not later than the
11 10th day after the date the rate change is effective or the
12 surcharge is imposed, as applicable.

13 Sec. 32.209. DUTIES OF INSURER. On the request of the
14 department, an insurer shall provide to the department any
15 information the department determines is reasonable or necessary to
16 fulfill the department's duties under this subchapter.

17 SECTION 8. Chapter 81, Insurance Code, is amended by adding
18 Section 81.005 to read as follows:

19 Sec. 81.005. PUBLIC DISCLOSURE BY DEPARTMENT. (a) The
20 department shall conspicuously post on the department's Internet
21 website a summary of each action imposing a sanction, penalty, or
22 fine, including an administrative penalty, against an insurer,
23 agent, or license holder. Unless the information is made
24 confidential by other law, the summary must disclose:

25 (1) the identity of the insurer, agent, or license
26 holder subject to the sanction, penalty, or fine;

27 (2) the statutory authority for the imposition of the

1 sanction, penalty, or fine;

2 (3) the grounds for the imposition of the sanction,
3 penalty, or fine;

4 (4) the amount, duration, extent, or other measure of
5 the sanction, penalty, or fine imposed; and

6 (5) whether an appeal of the sanction, penalty, or
7 fine has been filed.

8 (b) The department shall post the summary required by
9 Subsection (a) not later than the 10th day after the date the
10 sanction, penalty, or fine is imposed.

11 SECTION 9. (a) This Act applies to an appointment or
12 employment of an individual commencing on or after the effective
13 date of this Act. An appointment or employment commencing before
14 the effective date of this Act is governed by the law as it existed
15 immediately before the effective date of this Act, and that law is
16 continued in effect for that purpose.

17 (b) This Act applies to a contract for an expenditure
18 entered into on or after the effective date of this Act. A contract
19 entered into before the effective date of this Act is governed by
20 the law as it existed immediately before the effective date of this
21 Act, and that law is continued in effect for that purpose.

22 (c) This Act applies to a rate filing made or surcharge
23 imposed on or after the effective date of this Act. A rate filing
24 made or surcharge imposed before the effective date of this Act is
25 governed by the law as it existed immediately before the effective
26 date of this Act, and that law is continued in effect for that
27 purpose.

1 SECTION 10. This Act takes effect immediately if it
2 receives a vote of two-thirds of all the members elected to each
3 house, as provided by Section 39, Article III, Texas Constitution.
4 If this Act does not receive the vote necessary for immediate
5 effect, this Act takes effect September 1, 2015.