

By: Schaefer

H.B. No. 4141

A BILL TO BE ENTITLED

AN ACT

relating to commercial insurance rates and forms.

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

SECTION 1. Section 2251.003(b), Insurance Code, is amended to read as follows:

(b) Except as provided by Section 2251.0031, this ~~[This]~~ subchapter and Subchapters B, C, and D apply to all lines of the following kinds of insurance written under an insurance policy or contract issued by an insurer authorized to engage in the business of insurance in this state:

(1) general liability insurance;

(2) residential and commercial property insurance, including farm and ranch insurance and farm and ranch owners insurance;

(3) personal and commercial casualty insurance, except as provided by Section 2251.004;

(4) medical professional liability insurance;

(5) fidelity, guaranty, and surety bonds other than criminal court appearance bonds;

(6) personal umbrella insurance;

(7) personal liability insurance;

(8) guaranteed auto protection (GAP) insurance;

(9) involuntary unemployment insurance;

(10) financial guaranty insurance;

- 1 (11) inland marine insurance;
- 2 (12) rain insurance;
- 3 (13) hail insurance on farm crops;
- 4 (14) personal and commercial automobile insurance;
- 5 (15) multi-peril insurance; and
- 6 (16) identity theft insurance issued under Chapter
- 7 706.

8 SECTION 2. Subchapter A, Chapter 2251, Insurance Code, is  
9 amended by adding Section 2251.0031 to read as follows:

10 Sec. 2251.0031. EXCEPTIONS FOR CERTAIN LINES. (a) Except  
11 as provided by Subsection (c), Subchapter C does not apply to any  
12 line of the following kinds of insurance written under an insurance  
13 policy or contract issued by an insurer authorized to engage in the  
14 business of insurance in this state:

- 15 (1) aircraft liability and hull;
- 16 (2) surety bonds;
- 17 (3) fidelity bonds;
- 18 (4) commercial inland marine;
- 19 (5) boiler and machinery;
- 20 (6) environmental impairment or pollution liability;
- 21 (7) kidnap and ransom;
- 22 (8) political risk or expropriation;
- 23 (9) commercial excess liability or umbrella
- 24 liability;
- 25 (10) directors' and officers' liability;
- 26 (11) fiduciary liability;
- 27 (12) employment practices liability;

1           (13) errors and omission and professional liability  
2 other than medical malpractice;

3           (14) media liability;

4           (15) product liability, product recall, or completed  
5 operations;

6           (16) cybersecurity, including first and third party  
7 commercial lines coverage for losses arising out of or relating to  
8 data privacy breaches, network security, computer viruses, and  
9 similar exposures;

10           (17) highly protected commercial property; or

11           (18) commercial flood insurance not provided through  
12 the National Flood Insurance Program.

13           (b) The commissioner by rule may exempt a commercial line of  
14 insurance or commercial risk not listed in Subsection (a) from the  
15 rate filing requirements of Subchapter C to promote enhanced  
16 competition or more effectively use the resources of the department  
17 that might otherwise be used to review commercial lines filings.

18           (c) Notwithstanding Subsection (a), the commissioner may  
19 require rate filings under Subchapter C for a specific kind of  
20 insurance listed in Subsection (a) for a period of not longer than  
21 one year if, after notice and hearing, the commissioner issues an  
22 order that:

23           (1) includes a finding that a reasonable degree of  
24 competition does not exist for that specific kind of insurance; and

25           (2) specifies the relevant tests and test results used  
26 to determine the degree of competition for that kind of insurance.

27           (d) In the absence of a finding described by Subsection (c)

1 with respect to a specific kind of insurance, a competitive market  
2 is presumed to exist for that kind of insurance.

3 SECTION 3. Section 2251.004, Insurance Code, is amended to  
4 read as follows:

5 Sec. 2251.004. REGULATION OF INLAND MARINE RATES. The  
6 commissioner shall adopt rules governing the manner in which rates  
7 for the various classifications of risks insured under personal  
8 lines inland marine insurance, as determined by the commissioner,  
9 are regulated.

10 SECTION 4. Section 2301.003(b), Insurance Code, is amended  
11 to read as follows:

12 (b) Except as provided by Section 2301.0031, this [~~This~~]  
13 subchapter applies to all lines of the following kinds of insurance  
14 written under an insurance policy or contract issued by an insurer  
15 authorized to engage in the business of insurance in this state:

- 16 (1) general liability insurance;
- 17 (2) residential and commercial property insurance,  
18 including farm and ranch insurance and farm and ranch owners  
19 insurance;
- 20 (3) personal and commercial casualty insurance,  
21 except as provided by Section 2301.005;
- 22 (4) medical professional liability insurance;
- 23 (5) fidelity, guaranty, and surety bonds other than  
24 criminal court appearance bonds;
- 25 (6) personal umbrella insurance;
- 26 (7) personal liability insurance;
- 27 (8) guaranteed auto protection (GAP) insurance;

- 1 (9) involuntary unemployment insurance;
- 2 (10) financial guaranty insurance;
- 3 (11) inland marine insurance;
- 4 (12) rain insurance;
- 5 (13) hail insurance on farm crops;
- 6 (14) personal and commercial automobile insurance;
- 7 (15) multi-peril insurance; and
- 8 (16) identity theft insurance issued under Chapter
- 9 [706](#).

10 SECTION 5. Subchapter A, Chapter [2301](#), Insurance Code, is  
11 amended by adding Section 2301.0031 to read as follows:

12 Sec. 2301.0031. EXCEPTIONS FOR CERTAIN LINES. (a) Except  
13 as provided by Subsection (c), Sections [2301.006](#), [2301.007](#)(a) and  
14 (b), and [2301.008](#) do not apply to any line of the following kinds of  
15 insurance written under an insurance policy or contract issued by  
16 an insurer authorized to engage in the business of insurance in this  
17 state:

- 18 (1) aircraft liability and hull;
- 19 (2) surety bonds;
- 20 (3) fidelity bonds;
- 21 (4) commercial inland marine;
- 22 (5) boiler and machinery;
- 23 (6) environmental impairment or pollution liability;
- 24 (7) kidnap and ransom;
- 25 (8) political risk or expropriation;
- 26 (9) commercial excess liability or umbrella  
27 liability;

1           (10) directors' and officers' liability;

2           (11) fiduciary liability;

3           (12) employment practices liability;

4           (13) errors and omission and professional liability  
5 other than medical malpractice;

6           (14) media liability;

7           (15) product liability, product recall, or completed  
8 operations;

9           (16) cybersecurity, including first and third party  
10 commercial lines coverage for losses arising out of or relating to  
11 data privacy breaches, network security, computer viruses, and  
12 similar exposures;

13           (17) highly protected commercial property; or

14           (18) commercial flood insurance not provided through  
15 the National Flood Insurance Program.

16           (b) The commissioner by rule may exempt a commercial line of  
17 insurance or commercial risk not listed in Subsection (a) from the  
18 form filing requirements of this subchapter to promote enhanced  
19 competition or more effectively use the resources of the department  
20 that might otherwise be used to review commercial lines filings.

21           (c) Notwithstanding Subsection (a), the commissioner may  
22 require form filings under this subchapter for a specific kind of  
23 insurance listed in Subsection (a) for a period of not longer than  
24 one year if, after notice and hearing, the commissioner issues an  
25 order that:

26           (1) includes a finding that a reasonable degree of  
27 competition does not exist for that specific kind of insurance; and

1           (2) specifies the relevant tests and test results used  
2 to determine the degree of competition for that kind of insurance.

3           (d) In the absence of a finding described by Subsection (c)  
4 with respect to a specific kind of insurance, a competitive market  
5 is presumed to exist for that kind of insurance.

6           SECTION 6. Section 2301.005, Insurance Code, is amended to  
7 read as follows:

8           Sec. 2301.005. REGULATION OF INLAND MARINE FORMS. The  
9 commissioner shall adopt rules governing the manner in which forms  
10 for the various classifications of risks insured under personal  
11 lines inland marine insurance, as determined by the commissioner,  
12 are regulated.

13           SECTION 7. The changes in law made by this Act apply only to  
14 an insurance policy that is delivered, issued for delivery, or  
15 renewed on or after January 1, 2018. An insurance policy  
16 delivered, issued for delivery, or renewed before January 1, 2018,  
17 is governed by the law as it existed immediately before the  
18 effective date of this Act, and that law is continued in effect for  
19 that purpose.

20           SECTION 8. This Act takes effect September 1, 2017.