



OFFICE OF PUBLIC INSURANCE COUNSEL

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Interim Charge #2:

Study the adequacy of the state's insurance laws on regulating the introduction of insurtech products into the Texas insurance market. Include in the study the impact of big data, blockchain, internet of things, and artificial intelligence technologies on industry practices such as claims handling, underwriting, and policy writing. Study whether these technologies present challenges for any of the state's insurance laws, including the state's antidiscrimination, data privacy, anti-rebate, and licensing laws and regulations. Additionally, examine the pros and cons of adopting a regulatory sandbox and consider sandbox programs that are implemented in other states.

Office of Public Insurance Counsel (OPIC) Response:

Insurtech has the potential to make insurance more convenient for consumers. For example, smartphones are ubiquitous and available 24 hours a day for consumers to access apps that let them connect with their insurers to get information, choose or change coverages, file claims, and more. Insurer apps could also improve access to coverage for people who might otherwise be priced out or not think the cost of the coverage they need is worth the benefit. For example, a person who delivers goods or services part time could potentially "swipe on" coverage for business use only when delivering goods or providing livery service, instead of having to pay for business use coverage all the time or risk being uninsured.

As with any new product, however, there are risks. Insurtech is no exception. There are potential legal and consumer protection challenges to consider with new insurtech products and services. In addition to the more apparent issues like privacy concerns, here are a few issues for consideration in the discussion about or development of related legislation.

Insurtech can promote micro-tiering in the development of rates, especially personal auto rates, when companies use individual-specific data gathered electronically from consumers. Insurance depends on pooled risk. If it were merely a disaster savings account for each consumer, insurance would not be terribly useful, especially for disasters, because the amount the consumer paid/saved in premiums would probably not be enough to cover the loss. Instead, insurance depends on a large number of people paying premiums, and only some of those people needing to file claims, often at different points in time. When consumers are broken down into groups so small that they are essentially paying premiums only for their own risk level, the shared risk

system may be compromised. This could circumvent many of the rate standards set by the Texas Legislature in Chapter 2251 of the Insurance Code.

Certain features, like swiping on and off for coverage, may also circumvent consumer protections, such as notice of nonrenewal or cancellation in Chapter 551 of the Insurance Code. The potential limitations on the Texas Department of Insurance (TDI) and OPIC review of certain items also removes oversight needed to ensure that unlawful forms of discrimination against consumers do not take place, including those set forth in Chapter 544 of the Insurance Code.

Many of the existing insurance laws potentially conflict with, or do not address, insurtech products and uses. *See below a preliminary list of laws for property and casualty insurance that could be affected by insurtech.* Depending upon the extent to which the Texas Legislature chooses to allow insurtech as a market option, existing laws will likely need to be revised to resolve conflicts, address new issues, and provide adequate consumers protections for insurtech products. The same holds true for consideration of any regulatory sandbox—preserving consumer safeguards, such as those against discrimination, excessive rates, and disclosure of personal data, should be part of the conversation when considering the benefits of innovation.

OPIC stands ready to serve as a resource on this issue as requested by the Texas Legislature.

Potential Laws Impacted by Insurtech:

- Insurance Code Chapter 551 (Practices Relating to Declination, Cancellation, and Nonrenewal of Insurance Policies), especially Sections 551.054, 551.104, 551.105, 551.106
- Insurance Code Chapter 552 (Illegal Pricing Practices)
- Insurance Code Chapter 542 (Processing and Settlement of Claims)
- Insurance Code Chapter 543 (Prohibited Practices Related to Policy or Certificate of Membership), especially Section 543.003
- Insurance Code Chapter 544 (Prohibited Discrimination)
- Insurance Code Chapter 560 (Prohibited Rates)
- Insurance Code Chapter 601 (Privacy)
- Insurance Code Chapter 602 (Privacy of Health Information)
- Insurance Code Chapter 2251 (Rates)
- Insurance Code Chapter 2301 (Policy Forms)
- Insurance Code Chapter 35 (Electronic Transactions)
- Business and Commerce Code Chapter 322 (Uniform Electronic Transactions Act)
- Business and Commerce Code Chapter 521 (Unauthorized Use of Identifying Information)
- Business and Commerce Code Chapter 522 (Identity Theft by Electronic Device)