

By: Anchia

H.B. No. 1594

A BILL TO BE ENTITLED

AN ACT

relating to regulation of property and casualty insurance rates.

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

SECTION 1. Section 912.002(c), Insurance Code, as effective April 1, 2009, is amended to read as follows:

(c) ~~[Rate regulation for a residential fire and allied lines insurance policy written by a county mutual insurance company is subject to Chapter 2253.]~~ Rate ~~[On and after December 1, 2004, rate]~~ regulation for a personal automobile insurance policy and a residential ~~[fire and allied lines]~~ property insurance policy written by a county mutual insurance company is subject to Article 5.13-2, ~~and~~ Chapter 2251, and Chapter 2253. A county mutual insurance company is subject to Chapter 2253. The commissioner may adopt rules as necessary to implement this subsection.

SECTION 2. Section 1806.052, Insurance Code, is amended to read as follows:

Sec. 1806.052. CONSTRUCTION OF SUBCHAPTER. This subchapter may not be construed to prohibit the modification of rates by a rating plan that complies ~~[is filed in accordance]~~ with the requirements of Chapter 2251 or Article 5.13-2, as applicable, ~~[that has not been disapproved by the commissioner,]~~ and that is designed to encourage the prevention of accidents, and to account for all relevant factors inside and outside this state, including the peculiar hazards and experience of past and prospective

1 individual risks.

2 SECTION 3. Section 2251.002(7), Insurance Code, is amended
3 to read as follows:

4 (7) "Supplementary rating information" means any
5 manual, rating schedule, plan of rules, rating rules,
6 classification systems, territory codes and descriptions, rating
7 plans, and other similar information used by the insurer to
8 determine the applicable premium for an insured. The term includes
9 the number of policyholders that would be affected by the rating
10 information change and factors and relativities, including
11 increased limits factors, classification relativities, deductible
12 relativities, premium discount, and other similar factors and
13 rating plans such as experience, schedule, and retrospective
14 rating.

15 SECTION 4. Section 2251.003(c), Insurance Code, is amended
16 to read as follows:

17 (c) Sections 2251.008, 2251.052, 2251.101, 2251.102,
18 ~~[2251.103,]~~ 2251.104, 2251.105, and 2251.107 do not apply to a
19 Lloyd's plan or a reciprocal or interinsurance exchange with
20 respect to commercial property insurance, inland marine insurance,
21 rain insurance, or hail insurance on farm crops.

22 SECTION 5. Section 2251.101(a), Insurance Code, is amended
23 to read as follows:

24 (a) For ~~[Except as provided by Subchapter D, for]~~ risks
25 written in this state, each insurer shall file with the
26 commissioner all rates, applicable rating manuals, supplementary
27 rating information, and additional information as required by the

1 commissioner.

2 SECTION 6. The heading of Subchapter D, Chapter 2251,
3 Insurance Code, is amended to read as follows:

4 SUBCHAPTER D. PRIOR APPROVAL OF RATES [~~UNDER CERTAIN~~
5 ~~CIRCUMSTANCES~~]

6 SECTION 7. Section 2251.151, Insurance Code, is amended to
7 read as follows:

8 Sec. 2251.151. REQUIREMENT TO FILE RATES FOR PRIOR APPROVAL
9 [~~UNDER CERTAIN CIRCUMSTANCES~~]. (a) An insurer may not use a rate
10 for a personal automobile insurance policy or a residential
11 property insurance policy until the rate has been filed with the
12 department in accordance with Subchapter C and approved by the
13 commissioner in accordance with this subchapter. This subsection
14 does not apply to a county mutual insurance company with respect to
15 personal automobile insurance rates.

16 (b) For rates applicable to personal automobile insurance
17 policies offered by county mutual insurance companies and for all
18 other rates that are not included in Subsection (a), the [The]
19 commissioner by order may require an insurer to file with the
20 department for the commissioner's approval all rates,
21 supplementary rating information, and any supporting information
22 in accordance with this subchapter if the commissioner determines
23 that:

24 (1) the insurer's rates require supervision because of
25 the insurer's financial condition or rating practices; or

26 (2) a statewide insurance emergency exists.

27 (c) [~~(a-1)~~] If an insurer subject to an order under

1 Subsection (b) files a petition under Subchapter D, Chapter 36, for
 2 judicial review of an order disapproving a rate under this chapter,
 3 the insurer must use the rates in effect for the insurer at the time
 4 the petition is filed and may not file and use any higher rate for
 5 the same line of insurance subject to this chapter before the matter
 6 subject to judicial review is finally resolved unless the insurer,
 7 in accordance with this subchapter, files the new rate with the
 8 department, along with any applicable supplementary rating
 9 information and supporting information, and obtains the
 10 commissioner's approval of the rate.

11 (d) ~~[(b)]~~ From the date a ~~[of the filing of the]~~ rate is
 12 filed with the department under this section to the effective date
 13 of the new rate, the insurer's previously filed rate that is in
 14 effect on the date of the filing remains in effect.

15 (e) ~~[(c)]~~ The commissioner may require an insurer to file
 16 the insurer's rates under Subsection (b) ~~[this section]~~ until the
 17 commissioner determines that the conditions described by that
 18 subsection ~~[Subsection (a)]~~ no longer exist.

19 (f) ~~[(d)]~~ For purposes of this chapter ~~[section]~~, a rate is
 20 filed with the department on the date ~~[the department receives the~~
 21 ~~rate filing]~~ the commissioner determines that all information
 22 necessary to evaluate the rate has been received by the department.

23 (g) ~~[(e)]~~ If the commissioner requires an insurer to file
 24 the insurer's rates under Subsection (b) ~~[this section]~~, the
 25 commissioner shall issue an order specifying the commissioner's
 26 reasons for requiring the rate filing. An affected insurer is
 27 entitled to a hearing on written request made to the commissioner

not later than the 30th day after the date the order is issued.

SECTION 8. Section 2251.152, Insurance Code, is amended to read as follows:

Sec. 2251.152. ~~[RATE APPROVAL REQUIRED,]~~ EXCEPTION TO CERTAIN RATE APPROVAL REQUIREMENTS. (a) After ~~[An insurer subject to this subchapter may not use a rate until the rate has been filed with the department and approved by the commissioner in accordance with this subchapter.]~~

~~[(b) Notwithstanding Subsection (a), after]~~ a rate filing required of an insurer under Section 2251.151(b) is approved under this subchapter, the ~~[an]~~ insurer, without prior approval of the commissioner, may use any rate subsequently filed by the insurer if the subsequently filed rate does not exceed the lesser of:

(1) 107.5 percent of the rate approved by the commissioner; or

(2) 110 percent of any rate used by the insurer in the previous 12-month period.

(b) ~~[(c)]~~ Filed rates under Subsection (a) ~~[(b)]~~ take effect on the date specified by the insurer.

SECTION 9. Section 2251.153, Insurance Code, is amended to read as follows:

(a) Not later than the 120th ~~[30th]~~ day after the date a rate is filed with the department under this subchapter, the commissioner shall:

(1) approve the rate if the commissioner determines that the rate complies with the requirements of this chapter and any other provision of this code governing the setting of the rate by

1 the insurer; or

2 (2) disapprove the rate if the commissioner determines
3 that the rate does not comply with the requirements of this chapter
4 or any other provision of this code governing the setting of the
5 rate by the insurer.

6 (b) Except as provided by Subsection (c), if a rate has not
7 been approved or disapproved by the commissioner before the
8 expiration of the 120 ~~[30]~~-day period described in Subsection (a),
9 the rate is considered approved and the insurer may use the rate
10 unless the rate proposed in the filing represents an increase of
11 12.5 percent or more from the insurer's previously filed rate.

12 (c) For good cause, the commissioner may, on the expiration
13 of the 120 ~~[30]~~-day period described by Subsection (a), extend the
14 period for approval or disapproval of a rate for a ~~[one additional]~~
15 30-day period ~~[The commissioner and the insurer may not by~~
16 ~~agreement extend the 30-day period described in Subsection (a)].~~

17 SECTION 10. Section 2251.156, Insurance Code, is amended to
18 read as follows:

19 Sec. 2251.156. RATE FILING DISAPPROVAL BY COMMISSIONER;
20 HEARING. (a) The commissioner shall disapprove a rate filing if
21 the commissioner determines that the rate filing made under this
22 chapter does not meet the standards under Subchapter B.

23 (b) [(a)] If the commissioner disapproves a rate filing
24 under this chapter [Section 2251.153(a)(2)], the commissioner
25 shall issue an order specifying in what respects the filing fails to
26 meet the requirements of this chapter or another provision of this
27 code applicable to the setting of the rate by the insurer

1 ~~[disapproving the filing in accordance with Section 2251.103(b)].~~

2 (c) ~~[(b)]~~ An insurer whose rate filing is disapproved is
3 entitled to a hearing on written request made to the commissioner
4 not later than the 30th day after the date the order disapproving
5 the rate filing takes effect ~~[in accordance with Section~~
6 ~~2251.103(c)]~~.

7 SECTION 11. Section 2251.104, Insurance Code, is transferred
8 to Subchapter D, Chapter 2251, Insurance Code, and redesignated as
9 Section 2251.157 to read as follows:

10 Sec. 2251.157 ~~[2251.104]~~. DISAPPROVAL OF RATE IN EFFECT;
11 HEARING. (a) The commissioner may disapprove a rate that is in
12 effect only after a hearing. The commissioner shall provide the
13 filer at least 20 days' written notice.

14 (b) The commissioner must issue an order disapproving a rate
15 under Subsection (a) not later than the 15th day after the close of
16 the hearing. The order must:

17 (1) specify in what respects the rate fails to meet the
18 requirements of this chapter; and

19 (2) state the date on which further use of the rate is
20 prohibited, which may not be earlier than the 45th day after the
21 close of the hearing under this section.

22 SECTION 12. Section 2251.155, Insurance Code, is repealed.

23 SECTION 13. The commissioner of insurance shall adopt all
24 rules necessary to implement this Act on or before December 1, 2009.

25 SECTION 14. The change in law made by this Act applies to
26 insurance policies delivered, issued for delivery, or renewed on or
27 after January 1, 2010, and to rates for those policies. An

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1 insurance policy delivered, issued for delivery, or renewed before
2 January 1, 2010, and rates for the policy are governed by the law as
3 it existed immediately before the effective date of this Act, and
4 that law is continued in effect for that purpose.

5 SECTION 15. This Act takes effect September 1, 2009.