

SUBJECT: Allowing insurers to use certain forms; continuing advisory organizations

COMMITTEE: Insurance— favorable, without amendment

VOTE: 5 ayes — Smithee, Averitt, Bonnen, Eiland, Wise
3 nays — Van de Putte, Burnam, Olivo
1 absent — G. Lewis

SENATE VOTE: On final passage, April 10 — 31-0

WITNESSES: (*On House companion, HB 3264*):
For — James E. Langford, Texas Farm Bureau Insurance Companies;
Robert Watkins, State Farm Insurance Company; Jay Thompson,
Association of Fire and Casualty Companies of Texas; Robert Huxel, Texas
Association of Insurance Agents

Against — Rob Schneider, Consumers Union

On — Lyndon Anderson, Texas Department of Insurance; Rod Bordelon,
Office of Public Insurance Counsel

BACKGROUND
:
Insurers who sell homeowners and farm and ranch insurance policies in Texas are required to use a standard form established by the insurance commissioner. These standard forms include the minimum coverage that may be provided. Insurers can add endorsements to the policy to provide additional coverage.

Rates for farm and ranch policies are set by the insurance commissioner under a system known as the flexrating or flexband system. Under this system, the insurance commissioner sets a benchmark rate each year, and insurers can charge rates at a certain percentage above or below that rate.

Under the Insurance Code, insurers can belong to advisory organizations that provide members with historical data, rate information, policy forms and endorsements, and other information. Between 1991 and 1993, insurers were prohibited from participating in advisory organizations. The provision

of the code allowing insurers to participate in advisory organizations is scheduled to expire on September 1, 1997.

DIGEST: SB 1499 would allow insurers to use for homeowners and farm and ranch insurance any form that was adopted or approved by the insurance commissioner. Insurers could also use any endorsement forms adopted or approved by the commissioner.

Forms would have to be filed at least 60 days before they were used or delivered for use. If the commissioner did not disallow the form within this time period, it would be considered approved. The commissioner could extend the review period for up to 30 days and could withdraw approval any time after providing notice and a hearing.

The commissioner could disapprove a policy form or endorsement or withdraw approval if a form did not comply with the Insurance Code or any valid rule relating to insurance or if the policy contained provisions or had any headings that were unjust, encouraged misrepresentation, deceptive, or violated public policy. The commissioner's order disapproving a form would have to state the grounds for disapproval.

The Office of Public Insurance Counsel could submit written comments to the commissioner and otherwise participate in matters regarding the forms of individual companies.

Insurers selling farm and ranch policies would no longer be subject to the flexrating system, but would be required to file their rates for farm and ranch insurance with the insurance commissioner on a quarterly basis. A rate could be disapproved if, after a hearing, the commissioner found that it was excessive, inadequate, unfairly discriminatory, or otherwise did not meet standards outlined in the Insurance Code.

CSSB 1499 would allow insurers to continue to participate in advisory organizations indefinitely and require that this participation be reviewed during the normal Sunset cycle of the Texas Department of Insurance.

SB 1499 would take effect September 1, 1997 and would apply to policies delivered issued, or renewed on or after January 1, 1998.

**SUPPORTERS
SAY:**

SB 1499 would give insurers needed flexibility while protecting the interests of homeowners. The bill would allow insurers that sell homeowners insurance in a number of states to use the same form rather than having to develop a separate form just for Texas policyholders. This is expensive and unnecessary and increases the cost of insurance for policyholders. The commissioner would have the authority to prohibit insurers from using forms that were deceptive, misleading, or violated public policy. This would provide sufficient protection for consumers against fraudulent or misleading policy forms.

As a practical matter, SB 1499 would not lead insurers to change their forms significantly, so consumers would not find it any more difficult to shop for homeowners insurance coverage. Any changes to policies would probably be made to meet the needs of consumers. Consumers would benefit from having a policy that was more closely tailored to their needs.

SB 1499 also would allow insurers to continue to collectively gather information and share data through participation in advisory organizations. This is an important part of the ratesetting process, particularly for smaller companies. Small companies often do not have the information they need about past losses to set accurate rates. Advisory organizations allow insurers to pool such information as the cost of past losses. Insurers need this information to set appropriate rates. The insurance industry has a federal antitrust exemption allowing them to share this information.

SB 1499 would also allow farm and ranch insurance to be treated like other commercial policies, with a file and use system for both rates and forms. This would allow insurers to offer a broader range of policies and rates to different segments of the agricultural industry.

**OPPONENTS
SAY:**

SB 1499 would allow insurers to continue to share information critical to the ratesetting process through participation in advisory organizations. This amounts to price-fixing, which is illegal in every other industry besides insurance. One of the most significant elements of major insurance reform legislation passed in 1991 was that insurers were prohibited from participating in advisory organizations. Between 1991 and 1993, when insurers were again allowed to join advisory organizations on a more limited basis, companies managed to compete without sharing the information

provided by advisory organizations. The law allowing advisory organizations should be allowed to expire, and insurers should be required to compete with each other under the same terms as companies in other industries do.

Deregulating homeowners insurance forms would make it more difficult for consumers to compare policies and coverages. Having one standard form makes it easy to shop on the basis of price. Policies can be customized to a homeowner's needs by adding specific endorsements to the standard policy. Texas laws that protect consumers should not be changed just to make business easier for multi-state insurance companies.

Prices for farm and ranch insurance coverage could increase under the bill if companies all chose to charge higher prices, rather than competing by charging lower rates.