

**SUBJECT:** Requiring insurers to report data on residential property insurance rates

**COMMITTEE:** Insurance — favorable, without amendment

**VOTE:** 8 ayes — Smithee, Seaman, Bonnen, Gallego, B. Keffer, Taylor, Thompson, Van Arsdale

0 nays

1 absent — Eiland

**SENATE VOTE:** On final passage, February 11 — 31-0

**WITNESSES:** *(On House companion bill, CSHB 639 by Smithee, et al.)*  
For — None

Against — None

On — Beaman Floyd, Texas Coalition for Affordable Insurance Solutions;  
Rob Schneider, Consumers Union

**DIGEST:** SB 310 would require, on a one-time basis, certain insurers writing residential property insurance in Texas to file rates and supporting data, including current rates and projected rates for the next six months, with the insurance commissioner, according to requirements determined by the commissioner. Within 30 days of the bill's effective date, the commissioner would have to submit a summary report of this information to the governor, the lieutenant governor, the House speaker, and members of the Legislature. The report would have to provide a summary review of current and six-month prospective rates, presented so as to protect the identity of individual insurers, to inform the Legislature whether the rates were just, adequate, and reasonable and not excessive or unfairly discriminatory and to help the Legislature determine the most effective and efficient regulatory system for residential property insurance.

Definitions within the bill would not limit the report to the personal line of homeowners insurance, but rather to the broader term "residential property

insurance,” which includes a tenant policy, a condominium owner’s policy, or a residential fire and allied lines policy.

**Rates and rating information.** The commissioner would have to determine which insurers must file the required information and what type of information their filings must include. Insurers would have to file current residential rates and estimated rates for the next six months, as well as supporting information, as directed by the commissioner. The commissioner could request all reasonable and pertinent information for risks written in Texas, including

- supplementary rating information and all applicable rating manuals;
- statistics or other information to support the rates, including underwriting guidelines;
- policy fees, service fees, and other fees allowed by law; and
- information on credit scoring formulas and methodologies used to determine residential property insurance premiums or underwriting.

**Procedures for filings.** The commissioner would have to issue an order specifying what information insurers must submit and a due date within 30 days of the bill’s effective date. The commissioner would not have to hold a hearing before issuing this order but would have to notify affected insurers of the order on the day it was issued. After the initial rate submission, the commissioner could request additional, reasonable information of an insurer for purposes of clarification or completeness of the rate data.

**Confidentiality.** Information submitted by an insurer that was, by law, confidential before the effective date of SB 310 would remain confidential and would not be subject to disclosure, except for legislative purposes as allowed under the Texas Public Information Act.

The bill would not preclude the use of this information as evidence in prosecuting a violation of the Insurance Code. Confidential information that was used to prosecute a violation would be subject to a protective order until all appeals were exhausted. Upon conclusion of all appeals, if an insurer were found in violation, the confidential information allowed as evidence no longer would be confidential.

**Notification and noncompliance.** On the fourth day following the due date for filings, the commissioner would have to notify the governor, the lieutenant governor, the House speaker, and members of the Legislature of the names of insurers requested to make filings and the names of insurers who had not responded in whole or in part.

An insurer that failed to comply with any request for information issued under SB 310 would be subject to sanctions as provided under Insurance Code, chapters 82 and 84, which may be as high as \$25,000 per violation.

SB 310 would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2003.

**SUPPORTERS  
SAY:**

SB 310 is a necessary first step to establish a baseline of information as the Legislature addresses the spectrum of problems related to residential property insurance. It would require residential property insurers to file immediately their current rates and six-month projected rates with the commissioner, who would have to make summary information available to the Legislature within 30 days. The bill also would allow the commissioner to seek information on credit scoring formulas and other methodologies that insurers use to determine homeowners insurance premiums. The report required by this bill would be a useful diagnostic tool to help the 78th Legislature evaluate the most effective and efficient insurance regulatory system.

In recent months, some insurers have declined voluntarily to submit this information to the Department of Insurance. As 95 percent of companies writing residential property insurance in Texas have moved to the unregulated market, homeowners insurance premiums have soared. Many constituents complain that their premiums have doubled within the past year or two, while some premiums have tripled. Lawmakers need these data on rates to assess whether rates are unreasonable or excessive.

SB 310 would apply to every insurance company that writes homeowners policies in Texas, including those that have avoided regulation of the rates they charge. The Legislature must exert its authority to obtain this critical rate information immediately in order to obtain the data necessary to make informed choices on how to deal with this issue during the regular session.

OPPONENTS  
SAY:

SB 310 is an overreaction to recent trends in the residential homeowners insurance market. The Legislature never before has requested special reporting of rates and supporting data for any line of property and casualty insurance outside of the regulatory process. Homeowners insurers have moved into the non-rate-regulated market gradually over 15 years for legitimate business reasons. Increases in residential property rates have resulted largely from widespread claims for water and mold damage, as well as from increases in external expenses, such as construction costs. The insurance industry has suffered enormous losses in the past three years while paying Texas residential policyholders more than \$3 billion in claims.

The language in SB 310 requiring the insurance commissioner's report to inform the Legislature whether rates are "just, adequate, and reasonable and not excessive or unfairly discriminatory" is too vague. Different actuaries could analyze the requested data and arrive at different conclusions. The bill should define such terms more clearly.

OTHER  
OPPONENTS  
SAY:

While SB 310 would represent a significant step toward obtaining data on rates and rate methodology, the insurance crisis is about more than rates. It is also a crisis of confidence. Except for trade secrets, all the information specified by this bill should be available to the public as well as to the commissioner and the Legislature.

NOTES:

The Senate amended the bill on the floor to expand the data reporting requirement to include underwriting information; establish that insurers would not receive immunity if their filings revealed violations of the law; require notification to the Legislature of all insurers from whom the commissioner had requested data and of those who had failed to comply; and remove requirements for requesting members, agencies, and committees of the Legislature and their employees to sign confidentiality agreements regarding the information.

The House companion bill, CSHB 639 by Smithee, et al., was reported favorably by the House Insurance Committee on February 11 and sent to the Calendars Committee.