BILL ANALYSIS

DIGEST AND PURPOSE

Credit life insurance and credit accident and health insurance products are sold in conjunction with credit transactions. Generally, such products are made available to a consumer who purchases an item of substantial cost and intends to make payments on that purchase. The purpose of the insurance product is to protect the debtor during the term of the contract by ensuring the loan will be repaid if the debtor is unable to pay because of serious illness or death. Currently, the commissioner of insurance (commissioner) sets the applicable rates for this product. C.S.H.B. 2159 authorizes an insurer to establish rates if the rates comply with certain conditions determined by the commissioner.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the commissioner of insurance in SECTION 2 (Article 3.53(8)A, Insurance Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Article 3.28(3), Insurance Code, as follows:

> Sec. 3. Computation of Minimum Standard. Sets forth criteria regarding computation of minimum standard. Provides that notwithstanding any other law, the minimum reserve requirements applicable to a policy issued under Article 3.53 of this code are met if, in aggregate, the reserves are maintained at 100 percent of the 1980 Commissioner's Standard Ordinary Mortality Table, with interest not to exceed 5.5 percent. Provides that this subsection expires September 1, 2013.

SECTION 2. Amends Article 3.53(8)A, Insurance Code, as follows:

> A. (1) Authorizes any insurer to revise its schedules of premium rates for various classes of business from time to time, and to require to file such revised schedules and classes of business with the commissioner. Makes conforming changes.

>> (2) Authorizes the commissioner, rather than the State Board of Insurance, after notice and hearing, to by rule adopt a presumptive premium rate for various classes of business and terms of coverage. Requires an insurer that does not file a different rate under Subdivision (5) of this subsection to file the presumptive rate adopted by the commissioner. Requires any hearing conducted or order adopting a presumptive rate pursuant to this section, except as provided in this article, to be held in accordance with the rulemaking authority provisions of Chapter 2001 (Administrative Procedure), Government Code. Requires the commissioner, in the commissioner's order adopting a presumptive rate, to set forth findings and conclusions on all material issues presented at the hearing. Deletes text regarding promulgate and presumed coverage and presumption. Deletes text regarding the Administrative Procedure and Texas Register Act.

(3) Makes conforming changes.

(4) Authorizes any person aggrieved by the action of the commissioner, rather than board, in the setting of a presumptive rate or any other action taken with regard to the setting of such presumptive rate, not later than the 30th day after the date the commissioner adopts a presumptive rate order, to file a petition for judicial review in a district court in Travis County. Provides that judicial review under this subdivision is governed by Chapter 2001B, Government Code. Deletes text regarding the board.

(5) Requires an insurer electing to deviate from the presumptive rate to file with the commissioner the insurer's proposed rate for credit life and credit health and accident insurance. Authorizes the insurer, on filing the rate with the commissioner, to use the filed rate until the insurer elects to file a different rate. Prohibits an insurer, except as provided by Subdivision (6) of this subsection, from using a rate that is more than 30 percent higher or more than 30 percent lower than the presumptive rate. Provides that except as provided by this section, a rate that complies with this subdivision is valid and in compliance with the requirements of this section and other applicable law.

(6) Authorizes an insurer to file with the commissioner a proposed rate for credit life and credit accident and health insurance that is more than 30 percent higher than or more than 30 percent lower than the presumptive rate adopted by the commissioner under this section. Authorizes the commissioner to disapprove a rate filed under this subdivision on the ground that the rate is not actuarially justified. Authorizes a rate filed under this subdivision to be considered to be approved and the insurer to use the rate if the rate is not disapproved by the commissioner before the 60th day after the date the insurer filed the rate.

(7) Provides that a rate filed under this section is not excessive unless the rate is unreasonably high for the coverage provided and a reasonable degree of competition does not exist with respect to the classification to which the rate is applicable. Provides that a rate filed under this section is not inadequate unless either the rate is insufficient to sustain projected losses and expenses, or the rate substantially impairs, or is likely to impair substantially, competition with respect to the sale of the product.

(8) Requires a hearing under Subdivision (6) is a contested case hearing conducted under Chapter 2001, Government Code. Requires a judicial review of any action of the commissioner under Subdivision (6) is governed by Chapter 36D, of this code.

SECTION 3. (a) Amends Section 40.003(c), Insurance Code, to provide that this chapter does not apply to a proceeding conducted under Article 1.04D or to a preceding relating to certain criteria.

SECTION 4. Requires the commissioner of insurance, before January 31, 2005, to submit a report to the 79th Legislature on certain topics.

SECTION 5. Effective date: upon passage or September 1, 2001.

SUMMARY OF COMMITTEE CHANGES

SECTION 1. Amends As Filed H.B. 2159, Article 3.28(3), Insurance Code, by amending proposed Subsection (h).

SECTION 2. Amends proposed Section 8(A), Article 3.53, Insurance Code.

SECTION 3. Deletes previously proposed Subsection (b).