

## **BILL ANALYSIS**

Senate Research Center

S.B. 14  
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### **DIGEST AND PURPOSE**

Currently, the commissioner of insurance establishes benchmark rates for automobile and residential property insurance. Most homeowners and many automobile owners are insured by companies not subject to benchmark rate regulation. As proposed, S.B. 14 regulates the rates of personal automobile and homeowners insurance under a file and use system with a 60-day waiting period. The file and use regulation would apply to all insurers writing homeowners and personal auto insurance in Texas, including county mutuals, Lloyd's plan companies, and reciprocal or interinsurance exchanges.

Under a file and use system, an insurer is required to file rates, rating manuals, supplementary supporting data, and policy and service fees. The filed rate becomes effective 60 days after the rate is filed with the commissioner unless the rate is disapproved. To enable rates to be used more quickly and therefore be more responsive to current market conditions, the commissioner may approve a filed rate on written or electronic notification to the insurer at any time before the 60th day after the date of filing of the rate or before the effective date specified by the insurer in the filing. The new rate may then take effect upon receipt of the approval notice.

The bill also addresses rate standards, public disclosure requirements, rights of insureds and the public insurance counsel, required quarterly legislative reports, rate hearings and appeals. The bill also regulates commercial automobile insurance rates and forms under the same system as commercial property insurance.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the Commissioner of Insurance in SECTION 1 (Article 5.141, Sections 3 and 4, Insurance Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Chapter 5, Insurance Code, by adding Subchapter P, as follows:

#### **SUBCHAPTER P. PERSONAL AUTOMOBILE AND RESIDENTIAL PROPERTY INSURANCE RATES AND FORMS**

##### **Art. 5.141. RATES FOR PERSONAL AUTOMOBILE AND RESIDENTIAL PROPERTY INSURANCE COVERAGE**

Sec. 1. SCOPE; PURPOSE. Provides that this article's purpose is to regulate personal automobile and residential property insurance rates in order to prohibit excessive or unfair rates, promote the availability of insurance, promote price competition, and prohibit anticompetitive behavior. Exempts from the terms of this article premium rates for motor vehicle insurance computed using a mile-based rating plan.

Sec. 2. DEFINITIONS. Defines "classification," "disallowed expenses," "filer," "insurer," "line," "personal automobile insurance," "rate," "residential property insurance," "supplementary

rating information,” and “supporting information.”

Sec. 3. RATE STANDARDS. (a) Requires rates under this article to be set according to the provisions of this section.

(b) Sets forth factors that an insurer must consider when setting rates.

(c) Authorizes the insurer to group risks by classifications when setting rates and minimum premiums. Authorizes the insurer to modify classification rates for individual risks in accordance with rating plans that set standards for measuring risk variations based upon factors listed in Subsection (b).

(d) Prohibits rates from being excessive, inadequate, unreasonable, or unfairly discriminatory for the risks to which they apply.

(e) Requires an insurer to use certain types of its own historical data when setting rates applicable solely to policyholders in this state. Authorizes the commissioner of insurance (commissioner) to require an audit of the insurer’s data. Authorizes the insurer to supplement its own historical premium and loss data with historical premium and loss data. Authorizes the commissioner to establish, by rule, requirements for reporting such data under this subsection.

Sec. 4. RATE FILINGS. (a) Requires an insurer to provide the commissioner with certain information and materials pertaining to rates and supplementary rating information.

(b) Provides that a new rate takes effect on the date specified by the insurer in the filing, unless disapproved by the commissioner under Section 9 of this article. Provides that the new rate cannot take effect before the 60th day after filing the rate with the commissioner, except as provided by Subsection (c). Provides that the date the rate is received by the commissioner is the date the rate is filed with the commissioner. Provides that the insurer’s previously filed rate is in effect between the time the rate is filed and the effective date of the new rate.

(c) Authorizes the commissioner to approve a filing at any time before the 60th day after the date that the rate was filed, or before the effective date specified by the insurer. Provides that the new rate may take effect on receipt of the commissioner’s approval.

Sec. 5. SUPERVISION REQUIREMENT. Authorizes the commissioner to require an insurer to file certain information upon determining that the insurer’s rates require supervision due to the insurer’s financial condition or rating practices.

Sec. 6. PUBLIC INFORMATION. Provides that each filing and any supporting information filed under this article is open to public inspection upon filing.

Sec. 7. RIGHTS OF INSUREDS AND PUBLIC INSURANCE COUNSEL. (a) Authorizes an aggrieved insured or the public insurance counsel to apply to the commissioner for a hearing on the filing. Requires the application to specify the grounds on which the grievance is based. Requires the commissioner to hold a hearing within 30 days of receiving the application if the commissioner determines that the grievance is justified and merits a hearing. Requires the commissioner to give 10 days’ written notice of the hearing to the applicant and the insurer.

(b) Requires the commissioner, after finding that the filing does not meet this article’s requirements in a hearing, to issue an order specifying how the filing fails to meet those

requirements and stating the date on which the filing is no longer in effect. Requires the commissioner to send copies of the order to the applicant and each affected insurer.

Sec. 8. QUARTERLY LEGISLATIVE REPORT. Requires each insurer subject to this article to file certain information with the commissioner on a quarterly basis, including information beginning with January 1, 2003. Requires the commissioner to report to certain individuals on a quarterly basis information pertaining to market conduct and consumer complaints.

Sec. 9. DISAPPROVAL. (a) Requires the commissioner to disapprove a rate upon determining that the rate filing does not meet the requirements of this article. Authorizes the commissioner to consider the extent and nature of market competition in insurance markets affected by this article and the extent of availability of such insurance when making such a determination.

(b) Requires the commissioner to issue an order specifying how a filing fails to meet the requirements of this article, if such a disapproval is made within 60 days of the filing. Entitles the filer to a hearing upon making a written request within 30 days of the disapproval order's effective date.

(c) Authorizes the commissioner to issue a disapproval order of a rate in effect after holding a hearing after at least 20 days written notice to the insurer that made the filing. Requires the commissioner to issue the disapproval order including certain information within 15 days of the hearing's close. Requires the commissioner, upon disapproving a rate in effect, to require the insurer to refund certain funds to policyholders if they have been overcharged. Provides a de minimis exception.

(d) Requires the commissioner to specify an interim rate if a disapproval has left an insurer with no legally effective rate. Authorizes the commissioner to modify the interim rate, and establishes that the interim rate and any modifications shall take effect upon the commissioner's decision. Requires the commissioner to order any overcharge in the interim rates to be refunded to policyholders, once rates are finally determined. Provides a de minimis exception.

Sec. 10. RATE HEARINGS. Provides that all rate hearings are to be conducted under Chapter 2001, Government Code, subject to Chapter 40 of this code. Provides that the provisions of this article prevail in the event of any conflict with Chapter 2001, Government Code.

Sec. 11. APPEAL. Authorizes certain parties aggrieved by an order of the commissioner to appeal the order under Chapter 36D of this code within 30 days of the date the commissioner issued the order.

SECTION 2. Amends Article 5.01(f), Insurance Code, to establish June 1, 2003, as the date on which motor vehicle insurance rates are to be determined under Article 5.141 of this code, notwithstanding Subsections (a)-(d) of this article.

SECTION 3. Amends Article 5.13, Insurance Code, to exempt entities regulated under Chapters 911 and 912 of this code from this subchapter, except that Section 8, Article 5.13-2, shall apply to a county mutual insurance company with respect to commercial automobile insurance. Grants regulatory power previously held by the Board of Insurance Commissioners of the State of Texas to the commissioner. Creates subsections (a)-(e) from existing text. Makes nonsubstantive changes.

SECTION 4. Amends the heading to Article 5.13-2, Insurance Code, to read:

Art. 5.13-2. RATES FOR GENERAL LIABILITY, COMMERCIAL AUTOMOBILE, AND  
COMMERCIAL PROPERTY INSURANCE COVERAGE.

SECTION 5. Amends Sections 1 and 2, Article 5.13-2, Insurance Code, to include commercial automobile insurance among the types of insurance rates and forms regulated by this article.

SECTION 6. Amends Section 3(2), Article 5.13-2, Insurance Code, to provide that Section 8 of this article shall apply to county mutual insurance companies with respect to commercial automobile insurance.

SECTION 7. Amends Section 912.002, Insurance Code, to remove a clause exempting a county mutual insurance company from the flexible rating program under Article 5.101. Makes county mutual insurance companies subject to Section 8 of Article 5.13-2 with respect to commercial automobile insurance.

SECTION 8. Repealer: Section (a-1), Article 5.96 (pertaining to the setting of benchmark rates for certain types of insurance), Insurance Code; Article 5.101 (Flexible Rating Program for Certain Insurance Lines), Insurance Code; and Section 40.061 (Flexible Rating Program), Insurance Code.

SECTION 9. Effective date: June 1, 2003, or September 1, 2003.