

BILL ANALYSIS

Senate Research Center

C.S.S.B. 14
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Committee Report (Substituted)

DIGEST AND PURPOSE

Currently, the commissioner of insurance (commissioner) 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. C.S.S.B. 14 regulates the rates of personal automobile and homeowners insurance under a prior approval system with a 30-day review period by the Texas Department of Insurance (TDI) and one 30-day extension. If the rate has not been approved or disapproved during the first 30-day review period, and TDI does not request an extension, the rate is deemed approved. If the rate has not been approved or disapproved during either the first 30-day review period or the 30-day extension, the rate is deemed approved. The prior approval system would apply to insurers writing homeowners and personal auto insurance in Texas, including county mutuals, Lloyd's plan companies, and reciprocal or interinsurance exchanges. Under the prior approval system, an insurer is required to file rates, rating manuals, supplementary supporting data, and policy and service fees. The bill also addresses rate standards, public disclosure requirements, rights of insureds and the public insurance counsel, required quarterly legislative reports, rate hearings, appeals, judicial review, and circumstances for refund of overcharged premiums.

Policy forms for automobile insurance are currently promulgated by the commissioner, and all insurers writing automobile insurance in the state are required to use the promulgated standard forms. Currently, residential property insurers may use either promulgated standard forms or forms of national insurers or national organizations of insurers that have been approved or adopted by the commissioner. C.S.S.B. 14 regulates both personal automobile and residential property insurance forms under a prior approval system with a 60-day period for review by the insurance department. If a filed form is not approved or disapproved during the 60-day review period, the form is deemed approved and may be used by the insurer. The bill also addresses form standards, public disclosure requirements, and the public insurance counsel's participation in the form filing process.

The bill also regulates commercial automobile insurance rates and forms under the same system as commercial property insurance.

Currently, the use of credit scoring by automobile and residential property insurers is not regulated, and many insurers use credit scoring in determining whether to write a risk or how to rate the risk. C.S.S.B. 14 regulates the use of credit scoring through specified restrictions, disclosure requirements, filing of credit models, and required appeal procedures. The bill restricts the use of credit information by insurers including prohibitions on (1) using disputed credit information subject to a pending dispute, medical bill collection information, and number of insurance inquiries or non-consumer-initiated credit inquiries; (2) making a determination in whole or in part on the fact that a person has little or no credit history or on a person's ownership or possession of a particular type of credit card, charge card, or debit card; (3) using credit information that is arbitrary, capricious, or unfairly discriminatory; (4) using the race, color, religion, or national origin of an insured or applicant; and (5) using the gender of an insured or applicant. The bill requires insurers to file credit scoring models with the insurance department; such models are subject to disclosure under the public information act. The bill prohibits consumer reporting agencies, with certain exceptions, from providing or selling data or lists that include any information submitted in conjunction with an insurance inquiry about a consumer's credit information or a request for a credit report or insurance score. The bill requires an insurer to indemnify, defend, and hold its agents harmless from and against all

liability, fees, and costs that arise out of or relate to the actions, errors, or omissions of an agent who obtains or uses credit information or insurance scores for the insurer if the agent follows the instructions of or procedures established by the insurer and complies with applicable law or rule.

C.S.S.B. 14 requires residential property insurers to file the insurer's initial rates, supporting information, and supplementary rating information not later than the 10th day after the effective date of the article. The insurer may notify TDI that the insurer is using the rate filing required under S.B. 310 passed earlier this session or the insurer may file a new rate and supporting information. The filed rates are subject to approval or modification by TDI not later than the 20th day after the effective date of this article for each insurer with \$10 million or more in direct written premium during 2002, and not later than the 80th day after the effective date of this article for each insurer with less than \$10 million in direct written premium during 2002. The insurer may appeal TDI's modification of its rates to the commissioner not later than the 10th day after the date of receipt by the insurer of the notification of the modification. The bill addresses hearing procedures for the appealed rates, judicial review procedures, and use of existing rates or modified rates during the pendency of the appeal. The bill requires an insurer writing personal automobile insurance in this state to file its initial rates with TDI in accordance with a schedule determined by the commissioner.

Currently, insurers for all lines of insurance must file their underwriting guidelines with TDI upon request. The filed guidelines are confidential. C.S.S.B. 14 requires all personal automobile and residential property insurers to file their underwriting guidelines with TDI. The guidelines are subject to disclosure under the public information act. The bill continues TDI's authority to request underwriting guidelines for other lines of insurance.

Currently, some insurers are exempt from the filing of a withdrawal plan upon withdrawing from writing insurance in the state or reducing the insurer's total annual premium volume by 75 percent or more in any line, including Lloyd's plan insurers, reciprocals or interinsurance exchanges, and county mutuals. Currently, the commissioner is required to approve a withdrawal plan unless the commissioner holds a hearing before the 31st day after the date the plan is filed. C.S.S.B. 14 provides that all insurers, including Lloyd's plan insurers, reciprocals or interinsurance exchanges, and county mutuals, are subject to the requirements of the withdrawal plan statute. The bill authorizes the commissioner to determine the date that the withdrawal is to begin and to modify, restrict, or limit the withdrawal in any manner if the commissioner finds that any line of insurance described in the filed withdrawal plan is not offered in the state in a quantity or manner adequate to cover the risks or protect the interests of the citizens of Texas.

The bill creates a property and casualty legislative oversight committee comprised of seven members, including the chair of the Senate Business and Commerce Committee, the chair of the House Committee on Insurance, two members of the senate appointed by the lieutenant governor, two members of the house of representatives appointed by the speaker of the house, and the public insurance counsel. The purpose of the committee is to (1) monitor the progress of property and casualty insurance regulation reform, including the fairness of rates, underwriting guidelines, rating manuals, the availability of coverage, the effect of rate rollbacks, credit scoring, and regulation of the homeowners and auto insurance markets; (2) receive information about rules relating to property and casualty insurance; and (3) review insurance department legislative recommendations. The committee shall report not later than November 15 of each even-numbered year to the governor, lieutenant governor, and speaker of the house of representatives on an analysis of any problems caused by property and casualty insurance regulation reform and make legislative recommendations to address problems and foster stability and availability within the industry. The committee is abolished September 1, 2007.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the commissioner of insurance in SECTION 1.01 (Section 3, Section 4, and Section 15, Article 5.142, Insurance Code), SECTION 2.01 (Section 9, Article 5.143, Insurance Code), SECTION 3.01 (Section 3 and Section 9, Article 21.21-10, Insurance Code), SECTION 7.49 (Section 912.002, Insurance Code, and Article 17.22(b), Insurance Code), SECTION 7.51 (Article 18.23, Insurance Code), and SECTION 7.52 (Article 19.12, Insurance Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1.01. Amends Chapter 5, Insurance Code, by adding Subchapter Q, as follows:

SUBCHAPTER Q. RATES FOR CERTAIN LINES

Art. 5.142. RATES FOR PERSONAL AUTOMOBILE AND RESIDENTIAL PROPERTY INSURANCE COVERAGE

Sec. 1. SCOPE. (a) Provides that this article governs the regulation of rates for personal automobile insurance and residential property insurance.

(b) Provides that this article does not apply to premium rates for motor vehicle insurance computed using a mile-based rating plan under Article 5.01-4 of this code, notwithstanding Subsection (a).

Sec. 2. DEFINITIONS. Defines “advisory organization,” “classification,” “disallowed expenses,” “filer,” “insurer,” “line,” “personal automobile insurance,” “rate,” “rating manual,” “residential property insurance,” and “supplementary rating information” and “supporting information.”

Sec. 3. RATE STANDARDS. (a) Requires an insurer to set rates for each line in accordance with this section.

(b) Requires an insurer to consider certain factors in setting rates.

(c) Authorizes an insurer to group risks by classification for the establishment of rates and minimum premiums and modify classification rates to produce rates for individual risks in accordance with rating plans that establish standards for measuring variations in those risks on the basis of any factors listed in Subsection (b) of this section.

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

(e) Requires an insurer to use its own historical premium and loss data, as well as its own data for expenses and for profit and contingency factors, in setting rates applicable to policyholders in this state. Authorizes the commissioner of insurance (commissioner) to require an audit of the insurer’s historical premium and loss data. Authorizes the insurer to separately supplement its own historical premium and loss data with industry-wide historical premium and loss data for this state as necessary. Authorizes the commissioner by rule to establish requirements for reporting historical premium and loss data under this subsection.

Sec. 4. RATE FILINGS. (a) Requires an insurer to file with the Texas Department of Insurance (TDI) all rates, supplementary rating information, supporting information, and all applicable rating manuals for risks written in this state. Requires the insurer to include in the filing any statistics or other information to support the rates to be used by the insurer and as required by the commissioner by rule, including information necessary to evidence that the computation of the rate does not include disallowed expenses. Requires an insurer to include in the filing all information concerning policy fees, service fees, and other fees that are charged or collected by the insurer under Article 21.35B of this code.

(b) Requires the commissioner by rule to determine which insurers constitute “small insurers” for purposes of this article and what a small insurer is required to file to constitute a filing sufficient for the small insurer to comply with the filing requirements adopted under this article.

Sec. 5. PRIOR APPROVAL REQUIRED. (a) Prohibits an insurer from using a rate until the rate has been filed with TDI and approved by the commissioner as provided by this section. Provides that for purposes of this section, a rate is filed with TDI the date the rate filing is received by TDI.

(b) Requires the commissioner, not later than the 30th day after the date the rate is filed with TDI to approve the rate if the commissioner determines that the rate complies with the requirements of this article or disapprove the rate if the commissioner determines that the rate does not comply with the requirements of this article.

(c) Requires the commissioner to provide written or electronic notification of the approval to the insurer, if the commissioner approves a rate filing. Authorizes the insurer to use the rate, on receipt of the notice of the commissioner's approval of a rate.

(d) Provides that the rate is deemed approved and authorizes the insurer to use the rate, except as provided by Subsection (e) of this section or Section 9 of this article, if the rate has not been approved or disapproved by the commissioner before the expiration of the 30-day period described by Subsection (b) of this section.

(e) Authorizes the commissioner to extend the period for approval or disapproval of a rate filing for an additional 30-day period on the expiration of the 30-day period described by Subsection (b) of this section. Provides that if the rate has not been approved or disapproved by the commissioner before the expiration of the additional 30-day period described in this subsection, the rate is deemed approved and the insurer is authorized to use the rate. Prohibits the commissioner from extending the period for approval or disapproval of a rate filing beyond the additional 30-day period described in this subsection.

(f) Requires that if TDI has requested additional information from the insurer during the first 30-day review period provided under Subsection (b) of this section or under the second 30-day review period provided under Subsection (e) of this section, the period of time between the date of TDI's submission of the request for additional information to the insurer and the date of the receipt of the additional information by TDI from the insurer not be counted in the days to determine what constitutes the first 30-day review period or the second 30-day review period. Provides that for purposes of this subsection, the date of TDI's submission of the request for additional information is the date of the email or telephone call or postmarked date on the letter pertaining to the request for additional information.

(g) Requires that from the date of the filing of the rate with the commissioner to the effective date of the new rate, the insurer's previously filed rate that is in effect as provided in this article remain in effect.

Sec. 6. DISAPPROVAL; WITHDRAWAL OF APPROVAL. (a) Requires the commissioner to disapprove a rate filed under this article if the commissioner determines that the rate does not meet the requirements of this article. Authorizes the commissioner to consider the extent and nature of market competition in the personal automobile insurance and residential property insurance markets and the availability or lack of availability of personal automobile insurance and residential property insurance in determining whether to disapprove any rates filed under this article.

(b) Requires the commissioner to issue an order specifying in what respects the rate filing fails to meet the requirements of this article, if the commissioner disapproves a rate filing before the 30th day after the date of the filing of the rate with TDI, as provided in Section 5(b)(2) of this article and Subsection (e) of this section, or before the expiration of the additional 30-day period as provided in Section 5(e) of this article and Subsection (e) of

this section. Requires the commissioner's order to include the rates and terms which the commissioner would approve for use by the insurer, if the insurer has filed all of the information required to be filed under Section 4 of this article. Provides that filer is entitled to a hearing on written request to the commissioner not later than the 30th day after the effective date of the disapproval order.

(c) Requires the commissioner to notify in writing the insurer that made the filing and authorizes issuance of a withdrawal of approval order only after a hearing held not sooner than the 20th day after the date of the written notice, if the commissioner withdraws approval of a rate that is in effect,. Requires the order to be issued not later than the 15th day after the close of the hearing and to specify how the rate fails to meet the requirements of this article. Requires the order to state the future date on which the further use of the disapproved rate is prohibited and, if applicable, specify the interim rate as provided in Subsection (d) of this section.

(d) Authorizes the commissioner to specify an interim rate at the time the order is issued, if an insurer has no legally effective rate because of an order withdrawing the approval of rates that are in effect. Authorizes the interim rate to be modified by the commissioner on the commissioner's own motion or on motion by the insurer. Requires the interim rate or any modification of that rate to take effect on the date specified in the commissioner's order.

(e) Requires a commissioner's order disapproving a rate or withdrawing the previous approval of a rate, and any notice of the commissioner's intent to withdraw a previous approval, to state the grounds for the disapproval or for the withdrawal of previous approval in sufficient detail to reasonably inform the filer of the grounds.

(f) Prohibits an insurer from using a rate in this state after disapproval or withdrawal of approval of the rate by the commissioner, except as provided by Section 13(b) of this article.

Sec. 7. SUPERVISION REQUIREMENT. Authorizes the commissioner to require the insurer to file with the commissioner all rates, supplementary rating information, and any supporting information prescribed by the commissioner, if the commissioner determines after a hearing that an insurer's rates require supervision because of the insurer's financial condition or the insurer's rating practices.

Sec. 8. PUBLIC INFORMATION. Provides that each rate filing and any supporting information filed under this article are subject to disclosure under Chapter 552 (Public Information), Government Code, as of the date the filing is received by the commissioner.

Sec. 9. RIGHTS OF INSUREDS, PUBLIC INSURANCE COUNSEL, AND OTHERS. Authorizes an insured, the public insurance counsel, and any other interested person to make a written application to the commissioner not later than the 20th day after the date of a rate filing under Section 5 of this article requesting a hearing on the rate filing. Requires the application to specify the grounds on which the applicant is requesting the hearing. Requires the commissioner to conduct a hearing under Chapter 2001 (Administrative Procedure), Government Code, if the commissioner finds that the application is made in good faith and that the applicant establishes reasonable grounds to justify holding the hearing. Provides that after that hearing, the commissioner has 30 days to disapprove the filing under Section 6 of this article, or it is deemed approved.

Sec. 10. QUARTERLY LEGISLATIVE REPORT. (a) Requires each insurer subject to this article to file with the commissioner on a quarterly basis information relating to changes in losses, premiums, and market share.

(b) Requires the commissioner to report on a quarterly basis to the governor, the lieutenant governor, and the speaker of the house of representatives on the information provided by the insurers' reports, summary information obtained from market conduct examinations and analyses to the extent such information is not confidential by law, and consumer complaints received by the TDI.

Sec. 11. RATE HEARINGS; ADMINISTRATIVE PROCEDURES. Provides that Chapter 2001, Government Code, applies to all hearings on rates conducted under this article. Provides that to the extent of any conflict between this article and Chapter 2001, Government Code, this article prevails.

Sec. 12. APPEAL. Authorizes an insurer, the public insurance counsel, or an interested person described by Section 9 of this article aggrieved by an order of the commissioner issued under this article to, not later than the 30th day after the date the commissioner issued the order, appeal the order in accordance with Chapter 36 D, of this code.

Sec. 13. JUDICIAL REVIEW. (a) Authorizes an insurer to file a petition for judicial review in a district court in Travis County not later than the 10th day after the date of receipt of the commissioner's order under Section 6(c) of this article. Provides that the standard of review of the commissioner's order is substantial evidence.

(b) Authorizes an insurer to charge either its existing rates or the rates as ordered by the commissioner, during the pendency of the appeal.

Sec. 14. REFUND REQUIRED. Requires an insurer to refund the difference in overcharged premium to each policyholder, plus interest, if on final appeal the court upholds the commissioner's determination as to rates. Provides that the interest rate is the prime rate plus one percent as published in *The Wall Street Journal* on the first day of each calendar year that is not a Saturday, Sunday, or legal holiday.

Sec. 15. RULES. Requires the commissioner to adopt rules as necessary to implement this article.

PART B. TRANSITION

SECTION 1.02. Requires an insurer's initial filing under Section 10, Article 5.142, Insurance Code, as added by this article, to include the information required under that section beginning with the calendar quarter beginning January 1, 2003.

ARTICLE 2. POLICY FORMS AND ENDORSEMENTS

PART A. FORM FILINGS

SECTION 2.01. Amends Chapter 5, Insurance Code, by adding Subchapter R, as follows:

SUBCHAPTER R. POLICY FORMS FOR CERTAIN LINES

Art. 5.143. POLICY FORMS FOR PERSONAL AUTOMOBILE INSURANCE COVERAGE AND RESIDENTIAL PROPERTY INSURANCE COVERAGE

Sec. 1. SCOPE. Provides that this article governs the regulation of policy forms and endorsements for personal automobile insurance and residential property insurance.

Sec. 2. DEFINITIONS. Defines "filer," "form," "insurer," "personal automobile insurance," and "residential property insurance."

Sec. 3. PRIOR APPROVAL REQUIRED. (a) Requires each insurer to file its forms with

TDI. Prohibits the forms from being delivered or issued for delivery in this state unless the forms have been filed with TDI and approved by the commissioner as provided by this article.

(b) Authorizes an insurer to continue to use the policy forms and endorsements promulgated, approved, or adopted under Articles 5.06 and 5.35 of this code on notification to the commissioner in writing that the insurer will continue to use those forms.

(c) Provides that for the purposes of this article, the date the form is received by TDI is the date of filing of the form with the commissioner.

(d) Requires the commissioner, not later than the 60th day after the date the form is filed with TDI, to approve the form if the commissioner determines that the form complies with the requirements of this article or disapprove the form if the commissioner determines that the form does not comply with the requirements of this article.

(e) Requires the commissioner to provide written or electronic notification of the approval to the insurer, if the commissioner approves a form. Authorizes, on receipt of the notice of the commissioner's approval of a form, the insurer to use the form.

(f) Provides that if the form has not been approved or disapproved by the commissioner before the expiration of the 60-day period described by Subsection (d) of this section, the form is deemed approved and authorizes the insurer to use the form. Prohibits the commissioner from extending the 60-day period for approval or disapproval of a form.

(g) Requires that if TDI has requested additional information from the insurer during the 60-day review period provided under Subsection (d) of this section, the period of time between the date of TDI's submission of the request for additional information to the insurer and the date of the receipt of the additional information by TDI from the insurer not be counted in the days to determine what constitutes the 60-day review period. Provides that for purposes of this subsection, the date of TDI's submission of the request for additional information is the date of the email or telephone call or postmarked date on the letter pertaining to the request for additional information.

Sec. 4. REQUIREMENTS FOR FORMS; PLAIN LANGUAGE REQUIREMENT. (a) Requires each form filed under this article to comply with applicable state and federal law.

(b) Requires each form for a policy of personal automobile insurance to provide the coverages mandated under Articles 5.06-1 and 5.06-3 of this code unless the coverages are rejected by the named insured in the manner provided by those articles.

(c) Prohibits a form from being used if it is not in plain language. Provides that for the purposes of this section, a form is written in plain language if it achieves the minimum score established by the commissioner on the Flesch reading ease test or an equivalent test selected by the commissioner or, at the option of the commissioner, if it conforms to the language requirements in a National Association of Insurance Commissioners model act relating to plain language. Provides that this section does not apply to policy language that is mandated by state or federal law.

Sec. 5. PERSONAL AUTOMOBILE INSURANCE. (a) Provides that a contract or agreement that is not written into the application for insurance coverage and the personal automobile insurance policy is void and of no effect and violates this article and Subchapter A of this chapter.

(b) Provides that a contract or agreement described by Subsection (a) of this section

constitutes grounds for the revocation of the certificate of authority of an insurer to write personal automobile insurance in this state.

Sec. 6. PUBLIC INFORMATION. Provides that each form filing and any supporting information filed under this article are subject to Chapter 552, Government Code, as of the date the filing is received by TDI.

Sec. 7. DISAPPROVAL; WITHDRAWAL OF APPROVAL. (a) Authorizes the commissioner to disapprove a form filed under this article or withdraw any previous approval of a form filed under this article if the form violates or does not comply with this code or a valid rule duly adopted by the commissioner or is otherwise contrary to law or contains provisions or has any titles or headings that are unjust, encourage misrepresentation, are deceptive, or violate public policy.

(b) Requires the commissioner to issue an order specifying in what respects the form fails to meet the requirements of this article, if the commissioner disapproves a filing before the 60th day after the date of the filing of the form with TDI. Provides that the filer is entitled to a hearing on written request made to the commissioner not later than the 30th day after the effective date of the disapproval order.

(c) Requires the commissioner to notify in writing the insurer that made the filing, if the commissioner withdraws approval of a form that is in effect and authorizes issuance of a withdrawal of approval order only after a hearing held not sooner than the 20th day after the date of the written notice. Requires the order to be issued not later than the 15th day after the close of the hearing and to specify how the form fails to meet the requirements of this article. Requires the order to state the date on which the further use of the form is prohibited.

(d) Requires a commissioner's order disapproving a form or withdrawing the previous approval of a form, and any notice of the commissioner's intent to withdraw a previous approval, to state the grounds for the disapproval or withdrawal of previous approval in sufficient detail to reasonably inform the filer of the grounds.

(e) Prohibits an insurer from using a form in this state after disapproval or withdrawal of approval of the form by the commissioner.

Sec. 8. PUBLIC INSURANCE COUNSEL. Authorizes the office of public insurance counsel to submit written comments to the commissioner and otherwise participate regarding individual company filings made under this article, notwithstanding Article 1.35A of this code.

Sec. 9. RULEMAKING. Authorizes the commissioner to adopt reasonable and necessary rules to implement this article.

PART B. TRANSITION

SECTION 2.02. Requires the commissioner of insurance to adopt rules necessary to implement Article 5.143, Insurance Code, as added by this article, not later than the 120th day after the effective date of this Act.

SECTION 2.03. Authorizes the commissioner of insurance to determine a schedule of staggered filings for insurers required to make filings under that article in the initial filing of forms under Article 5.143, Insurance Code, as added by this article. Requires the commissioner to notify the insurers of the schedule not later than the 10th day after the effective date of this Act. Prohibits the period for staggered filings under this section from exceeding 120 days after the effective date of this Act.

ARTICLE 3. USE OF CREDIT SCORING

PART A. CREDIT SCORING

SECTION 3.01. Amends Chapter 21B, Insurance Code, by adding Article 21.21-10, as follows:

Art. 21.21-10. CREDIT SCORING BY INSURERS OF RESIDENTIAL PROPERTY AND PERSONAL AUTOMOBILES; SANCTIONS

Sec. 1. DEFINITIONS. Defines "adverse action," "credit information," "insurance credit score," "insurance credit score model," "insurer," "personal automobile insurance," and "residential property insurance."

Sec. 2. USE OF CREDIT INFORMATION BY INSURER. Requires an insurer that uses credit information in whole or in part in connection with a determination regarding certain items to comply with the requirements of this article.

Sec. 3. RESTRICTIONS ON THE USE OF CREDIT INFORMATION. (a) Prohibits an insurer from making a determination based in whole or in part on a credit score that includes certain information.

(b) Prohibits an insurer from making a determination based in whole or in part on the fact that a person has little or no credit history.

(c) Prohibits an insurer from making a determination based in whole or in part on the fact that the insurer is unable to determine a person's credit score, if the insurer has received complete and accurate information from the person.

(d) Prohibits an insurer from making a determination based in whole or in part on a person's ownership or possession of a particular type of credit card, charge card, or debit card.

(e) Requires, at the request of an insured or an applicant for insurance, an insurer to rerun a credit check if a previous credit check on an insured or an applicant for insurance provided incorrect credit information and to recalculate the credit score if the credit information changes.

(f) Prohibits an insurer from rejecting an application for, cancelling, or refusing to renew, or determine the rate and fees to be charged for a personal automobile insurance policy or a residential property insurance policy predominately on the basis of a credit score. Requires the commissioner by rule to define the term "predominately."

Sec. 4. IMPROPER USES OF CREDIT INFORMATION AND SCORING. (a) Prohibits an insurer from using credit information that is arbitrary, capricious, or unfairly discriminatory.

(b) Prohibits an insurer from using insurance credit scoring or an insurance credit score model or methodology that incorporates the race, color, religion, or national origin of an insured or an applicant for insurance.

(c) Prohibits an insurer from using insurance credit scoring or an insurance credit score model or methodology that incorporates the gender of an insured or an applicant for insurance.

(d) Prohibits an insurer from using insurance inquiries or non-consumer-initiated credit inquiries as part of the insurance credit scoring process.

Sec. 5. DISCLOSURE REQUIREMENTS. (a) Requires an insurer to fully explain to the insured or applicant each specific item or factor which resulted in or contributed to the adverse action and the weight given to each item or factor. Requires the insurer to provide such explanation to the insured or applicant at or near the time the adverse action is taken or as soon as practicable thereafter.

(b) Provides that contracting with a vendor to develop insurance credit scores does not relieve an insurer of its duties under this article. Requires a contract between an insurer and a vendor to specify how the information required by this section will be made available to the insured or the applicant.

(c) Prohibits an insured or applicant from being charged a fee for the information.

(d) Requires an insurer to require its agents to disclose to its customers whether credit information will be obtained on the applicant or insured or on any other member or members of the applicant's or insured's household and used as part of the insurance credit scoring process. Requires the insurer to disclose to the applicant the name of each person on whom credit information was obtained or used, if credit information is obtained or used on the applicant or insured, or on any member of the applicant's or insured's household.

Sec. 6. FILING OF CREDIT SCORING MODELS. Requires an insurer that uses insurance credit scoring in whole or in part in deciding whether to take any action described by this article to file with the commissioner the insurance credit score models or methodologies for residential property insurance and personal automobile insurance used by the insurer. Requires an insurer to file the vendor's credit scoring models or methodologies with the commissioner, if an insurer contracts with a vendor to develop insurance credit scores.

Sec. 7. PUBLIC INFORMATION. Provides that a credit scoring model filed with the commissioner for purposes of compliance with this article is subject to Chapter 552, Government Code.

Sec. 8. RIGHT TO APPEAL. (a) Requires an insurer to reconsider an adverse action by the insurer that has been appealed by an insured or an applicant for insurance.

(b) Authorizes an appeal to be filed under this section on the basis of catastrophic illness or injury, temporary loss of employment, death of an immediate family member or any other grounds as determined by the commissioner by rule as provided by Section 9 of this article.

(c) Requires the insurer to make reasonable exceptions for credit scores that are adversely affected by any of the factors specified under Subsection (b) of this section, in considering an appeal.

(d) Requires an insurer to implement a procedure for appeals that conforms with rules for appeals adopted by the commissioner under Section 9 of this article.

Sec. 9. RULES; PROCEDURES. (a) Requires the commissioner to adopt rules governing the procedure for appeals under Section 8 of this article, including certain other items.

(b) Requires the commissioner to adopt any other rules as necessary to implement the provisions of this article.

Sec. 10. SALE OF POLICY TERM INFORMATION BY CONSUMER REPORTING AGENCY PROHIBITED. (a) Prohibits a consumer reporting agency from providing or selling data or lists that include any information that, in whole or in part, was submitted in

conjunction with an insurance inquiry about a consumer's credit information or a request for a credit report or insurance score, including certain information.

(b) Provides that the restriction under Subsection (a) of this section does not apply to data or lists that the consumer reporting agency provides to certain entities.

(c) Prohibits this section from being construed to restrict the ability of an insurer to obtain a claims history report or a report regarding a motor vehicle.

Sec. 11. INDEMNIFICATION. (a) Requires an insurer to indemnify, defend, and hold its agent harmless from and against all liability, fees, and costs that arise out of or relate to the actions, errors, or omissions of an agent who obtains or uses credit information or insurance scores for the insurer if the agent follows the instructions of or procedures established by the insurer and complies with any applicable law or rule.

(b) Prohibits this section from being construed to establish a cause of action that does not exist in the absence of this section.

Sec. 12. SANCTIONS. Provides that if the commissioner determines that an insurer has violated any provision of this article, the insurer is subject, after notice and opportunity for hearing, to sanctions as provided by Chapters 82 and 84 of this code.

PART B. TRANSITION

SECTION 3.02. Requires, not later than the 120th day after the effective date of this Act, the commissioner of insurance to adopt rules governing the procedures for appeal as provided by Section 9(a), Article 21.21-10, Insurance Code, as added by this article, and any other rules as necessary to implement the provisions of Article 21.21-10, as provided by Section 9(b), Article 21.21-10, Insurance Code, as added by this article.

SECTION 3.03. Requires an insurer that is using an insurance credit score system on the effective date of this Act to file the insurance credit scoring models described by Section 6, Article 21.21-10, Insurance Code, as added by this article, with the commissioner of insurance not later than the 30th day after the effective date of this Act. Requires an insurer that uses an insurance credit score system after the effective date of this Act to file the insurer's insurance credit scoring models with the commissioner of insurance before using those models.

SECTION 3.04. (a) and (b) Make application of this article prospective to the effective date of this Act.

ARTICLE 4. INITIAL RATE FILINGS; RATE REDUCTION

SECTION 4.01. Amends Chapter 5C, Insurance Code, by adding Articles 5.26-1 and 5.26-2, as follows:

Art. 5.26-1. RESIDENTIAL PROPERTY INSURANCE INITIAL RATE FILINGS; RATE REDUCTION

Sec. 1. APPLICATION; DEFINITIONS. (a) Provides that this article applies only to residential property insurance.

(b) Provides that the definitions adopted under Article 5.142 of this code apply to this article.

Sec. 2. INITIAL RATE FILING. (a) Requires, not later than the 10th day after the effective

date of this article, each insurer subject to Article 5.142 of this code to file the insurer's rates, supporting information, and supplementary rating information with the commissioner.

Authorizes the insurer to notify TDI that the insurer is using the rate filing submitted under Article 5.141 of this code to comply with the requirements of this article, or authorizes the insurer to file a completely new rate in accordance with the provisions of Section 4, Article 5.142 of this code.

(b) Authorizes TDI to approve the rate filed by an insurer under Subsection (a) of this section or modify a filed rate not later than the 20th day after the effective date of this article for each insurer with \$10 million in direct written residential property insurance premium or more in this state during 2002 and not later than the 80th day after the effective date of this article for each insurer with less than \$10 million in direct written residential property insurance premium. Requires an approved or modified rate under this subsection to be just, reasonable, adequate, not excessive, and not unfairly discriminatory for the risks to which it applies. Provides that TDI has exclusive jurisdiction to determine a rate under this subsection. Requires TDI to notify the insurer of the applicable rate.

Sec. 3. APPEAL TO COMMISSIONER. Authorizes an insurer to appeal TDI's decision to the commissioner, not later than the 10th day after the date of receipt by the insurer of notification from TDI of rates determined by TDI under Section 2(b) of this article.

Sec. 4. HEARING. Requires the commissioner to conduct a hearing and issue an order on the insurer's appeal, not later than the 30th day after the date of receipt of notification of an insurer's appeal under Section 3 of this article. Provides that the burden of proof is on the insurer to show, by clear and convincing evidence, that the rate reduction specified by TDI would produce inadequate rates. Prohibits the hearing from being conducted by the State Office of Administrative Hearings, but directly by the commissioner, notwithstanding any other provision of this code or the Government Code. Authorizes the commissioner, by order, to affirm the rate reduction, grant a lesser rate reduction, or order a greater rate reduction than the rate reduction imposed under Section 2(b) of this article.

Sec. 5. JUDICIAL REVIEW. (a) Authorizes an insurer to file a petition for judicial review in a district court of Travis County district court, not later than the 10th day after the date of receipt of the commissioner's order under Section 4 of this article. Provides that the standard of review of the commissioner's order is substantial evidence.

(b) Authorizes an insurer to charge either its existing rates or the rates as ordered by the commissioner, during the pendency of the appeal.

Sec. 6. REFUND REQUIRED. Requires the insurer to refund the difference in overcharged premium to each policyholder, plus interest, if on final appeal the court upholds the commissioner's determination that the insurer's rates are excessive. Provides that the interest rate is the prime rate plus one percent as published in *The Wall Street Journal* on the first day of each calendar year that is not a Saturday, Sunday, or legal holiday.

Art. 5.26-2. PERSONAL AUTOMOBILE INSURANCE INITIAL RATE FILINGS

Sec. 1. APPLICATION; DEFINITIONS. (a) Provides that this article applies only to personal automobile insurance.

(b) Provides that the definitions adopted under Article 5.142 of this code apply to this article.

Sec. 2. (a) Requires an insurer writing personal automobile insurance in this state to file its

rates for that insurance coverage with TDI in accordance with a schedule determined by the commissioner.

(b) Provides that rates filed under this section are subject to Article 5.142 of this code.

ARTICLE 5. REGULATION OF UNDERWRITING GUIDELINES

SECTION 5.01. Amends Chapter 38A, Insurance Code, by amending Section 38.002 and adding Section 38.003, as follows:

Sec. 38.002. New heading: UNDERWRITING GUIDELINES FOR PERSONAL AUTOMOBILE AND RESIDENTIAL PROPERTY INSURANCE; FILING; CONFIDENTIALITY. (a) Defines "insurer," "personal automobile insurance," "residential property insurance," and "underwriting guideline."

(b) Requires each insurer to file with TDI a copy of the insurer's underwriting guidelines. Requires the insurer to update its filing each time the underwriting guidelines are changed. Requires a group of insurers which files one set of underwriting guidelines for the group, to identify which underwriting guidelines apply to each company in the group.

(c) Authorizes the office of public insurance counsel to obtain a copy of each insurer's underwriting guidelines.

(d) Requires underwriting guidelines to be sound, actuarially justified, or otherwise substantially commensurate with the contemplated risk. Prohibits underwriting guidelines from being unfairly discriminatory.

(e) Provides that the underwriting guidelines are subject to Chapter 552, Government Code.

Sec. 38.003. New heading: UNDERWRITING GUIDELINES FOR OTHER LINES; CONFIDENTIALITY. (a) Provides that this section applies to all underwriting guidelines that are not subject to Section 38.002.

(b) Defines "insurer" for purposes of this section.

(c) Creates this subsection from existing text.

(d) Redesignates Subsections (b)-(f) as (d)-(h).

ARTICLE 6. WITHDRAWAL REQUIREMENTS

SECTION 6.01. (a) Amends Section 827.001, Insurance Code, as effective June 1, 2003, as follows:

Sec. 827.001. New Heading: DEFINITIONS. Defines "affiliate," "insurer," and "rating territory."

(b) Amends Subsection (a), Article 21.49-2C, Insurance Code, as effective until June 1, 2003, by adding Subdivisions (4) and (5), to define "affiliate" and "insurer."

SECTION 6.02. (a) Amends Section 827.002, Insurance Code, as effective June 1, 2003, as follows:

Sec. 827.002. EXEMPTION. Includes in the list of companies that this chapter does not apply to, a transfer of business from an insurer to a company that is not a reciprocal or interinsurance exchange, a Lloyd's plan, a county mutual insurance company, or a farm mutual insurance company.

(b) Amends Subsection (b), Article 21.49-2C, Insurance Code, as effective until June 1, 2003, to provide that this article does not apply to the transfer of the business from an insurer to a company that is under common ownership, is admitted to do business in this state, and is not a reciprocal or interinsurance exchange, a Lloyd's plan, a county mutual insurance company, or a farm mutual insurance company.

SECTION 6.03. (a) Amends Section 827.003, Insurance Code, as effective June 1, 2003, to delete the term "authorized" in reference to an insurer and change the terminology "personal line of motor vehicle comprehensive" to "personal automobile."

(b) Amends Subsections (a) and (g), Article 21.49-2C, Insurance Code, as effective until June 1, 2003, as follows:

(a)(1) Makes a conforming change.

(2) Requires an insurer, if within six months after a catastrophic event of natural origin an insurer, in response to such catastrophic event, the insurer wishes to restrict its writing of new business in a line of personal automobile or residential property insurance in a rating territory, to prepare and file a plan as to such proposed plan of restriction with the commissioner for the commissioner's review and approval, unless the commissioner finds that any line of insurance described in the filed withdrawal plan is not offered in the state in a quantity or manner adequate to cover the risks or protect the interests of the citizens or potential policyholders of the state in consideration of the impact of the catastrophic event. Authorizes the commissioner to order the date that the withdrawal begins and authorizes modifying, restricting, or limiting the withdrawal in any manner the commissioner decides, in the discretion of the commissioner, if the commissioner makes this finding. Defines "insurer" and makes conforming changes.

(g) Makes a conforming change.

SECTION 6.04. (a) Amends Section 827.005, Insurance Code, as effective June 1, 2003, as follows:

Sec. 827.005. New Heading: APPROVAL OF WITHDRAWAL PLAN REQUIRED. (a) Requires the commissioner to approve a withdrawal plan that adequately provides for meeting the requirements prescribed by Section 827.004(3), unless the commissioner finds that any line of insurance described in the filed withdrawal plan is not offered in the state in a quantity or manner adequate to cover the risks or protect the interests of the citizens or potential policyholders of the state. Authorizes the commissioner to order the date that the withdrawal begins and authorizes modifying, restricting, or limiting the withdrawal in any manner the commissioner decides, in the discretion of the commissioner, the commissioner to order the date that the withdrawal begins and to modify, restrict, or limit the withdrawal in any manner the commissioner decides, in the discretion of the commissioner, if the commissioner makes such a finding.

(b) Increases from the 31st day to the 61st day after the date the plan is filed with the commissioner as the date a withdrawal plan is deemed approved if the commissioner does not hold a hearing on the plan or does not deny approval after the date a hearing on the plan is held.

(b) Amends Subsections (e) and (f), Article 21.49-2C, Insurance Code, as effective until June

1, 2003, as follows:

(e)(1) Redesignates Subsection (e) as (e)(1) and Subdivisions (1)-(3) as (A)-(C).

(e)(2) Authorizes the commissioner to order the date that the withdrawal begins and authorizes modifying, restricting, or limiting the withdrawal in any manner the commissioner decides, in the discretion of the commissioner, notwithstanding the provisions of Subdivision (1), if the commissioner finds that any line of insurance described in the filed withdrawal plan is not offered in the state in a quantity or manner adequate to cover the risks or protect the interests of the citizens or potential policyholders of the state.

(f) Makes a conforming change.

SECTION 6.05. Amends Section 827.008, Insurance Code, as effective June 1, 2003, as follows:

Sec. 827.008. RESTRICTION PLAN. (a) Requires an insurer to file a proposed restriction plan with the commissioner for the commissioner's review and approval, unless the commissioner finds that any line of insurance described in the filed withdrawal plan is not offered in the state in a quantity or manner adequate to cover the risks or protect the interests of the citizens or potential policyholders of the state in consideration of the impact of the catastrophic event, before an insurer, in response to a catastrophic natural event that occurred during the preceding six months, is authorized to restrict writing new business in a rating territory in a line of personal automobile or residential property insurance. Authorizes the commissioner to order the date that the withdrawal begins and authorizes modifying, restricting, or limiting the withdrawal in any manner the commissioner decides, in the discretion of the commissioner, if the commissioner makes this finding.

(b) Creates this subsection from existing Subsection (c). Deletes language requiring the commissioner's approval of a restriction plan and authorizing an insurer to institute a restriction plan. makes a conforming change.

SECTION 6.06. Amends Section 827.010(d), Insurance Code, as effective June 1, 2003, to make a conforming change.

SECTION 6.07. Amends Subsections (a) and (b), Article 21.11-1, Insurance Code, as follows:

(a) Prohibits an insurance company writing fire and casualty insurance in this state, specifically including a reciprocal or interinsurance exchange, mutual insurance company, capital stock company, county mutual insurance company, association, or Lloyd's plan company, from terminating or suspending an agency contract or terminating one or more lines of insurance included within the agency contract with any appointed agent unless the company gives the agent notice in writing of the termination or suspension at least six months in advance, after an agency contract has been in effect for a period of two years. Makes a conforming change.

(b) Includes the phrase "or lines of insurance included within the agency contract" in addition to contracts that a company is required to renew. Makes conforming changes.

SECTION 6.08. Amends Subsection (a), Article 17.22, Insurance Code, to include Article 21.21-1 in the list of articles to which county mutual insurance companies are subject.

SECTION 6.09. Amends Subsection (b), Article 18.23, Insurance Code, to make a conforming change.

SECTION 6.10. (a) Makes application of this article prospective to the effective date of this Act.

(b) Requires the change in law made by this article to Article 21.49-2C, Insurance Code, not to be construed as affecting the repeal of that article by Chapter 1419, Acts of the 77th Legislature, Regular Session, 2001.

ARTICLE 7. CONFORMING AMENDMENTS; REPEALER

SECTION 7.01. Amends Subsection (f), Article 5.01, Insurance Code, to provide that notwithstanding Subsections (a) through (d) of this article, on and after the effective date of Subchapter Q of this chapter, rather than March 1, 1992, rates for personal automobile insurance in this state are determined as provided by that subchapter, and rates for commercial automobile insurance in this state are determined as provided by Article 5.13-2, rather than by the flexible rating program adopted under Subchapter M of this code.

SECTION 7.02. Amends Section 4, Article 5.01C, Insurance Code, to require an insurer selling short-term liability insurance policies under this article to use the policy forms adopted by the commissioner under Article 5.06 of this code or filed and approved as provided by Article 5.143 of this code. Deletes the phrase “unless the insurer is exempt from using those forms.”

SECTION 7.03. Amends Subsection (b), Article 5.01-2, Insurance Code, as effective until June 1, 2003, to make a conforming change.

SECTION 7.04. Amends Section 4, Article 5.01-4, Insurance Code, as follows:

(a) Deletes the phrase “ subchapter, Subchapter M of this chapter, or Chapter 17” relating to reporting incurred losses and earned premiums and leaves “as required under this code.”

(b) Makes a conforming change.

SECTION 7.05. Amends Subsection (g), Article 5.03, Insurance Code, to make a conforming change.

SECTION 7.06. Amends Subsections (b) and (c), Section 2, Article 5.03-2, Insurance Code, to read as follows:

(b) Replaces State Board of Insurance with department (TDI).

(c) Requires that the discounts under this article be set by TDI based on sound actuarial principles, rather than by the State Board of Insurance.

SECTION 7.07. Amends Section 2(c), Article 5.03-3, Insurance Code, to make a conforming change.

SECTION 7.08. Amends Subsection (a), Article 5.03-4, Insurance Code, to delete the requirement of a five percent premium discount applicable to a personal motor vehicle insurance policy for completion of a drug and alcohol driving awareness program. Makes a conforming change.

SECTION 7.09. Amends Section 2(f), Article 5.03-5, Insurance Code, to make a conforming change.

SECTION 7.10. Amends Subsection (c), Article 5.04, Insurance Code, to make a conforming change.

SECTION 7.11. Amends Article 5.06, Insurance Code, by adding Subsection (12) to provide that notwithstanding Subsections (1)-(8) of this article, policy forms and endorsements for personal automobile insurance in this state are regulated as provided by Article 5.143 of this code. Authorizes

an insurer to continue to use the policy forms and endorsements adopted or approved by the commissioner under this article that the insurer used immediately before the effective date of Article 5.143 of this code on notification to the commissioner in writing that the policy forms and endorsements will continue to be used.

SECTION 7.12. Amends Subsection (2), Article 5.06-1, Insurance Code, as follows:

- (a) No changes.
- (b) No changes.
- (c) Replaces “Board” with “commissioner.” Authorizes the commissioner in the policy forms filed and approved under Article 5.143 of this code to allow the term "uninsured motor vehicle" to be defined to exclude certain motor vehicles whose operators are in fact uninsured.
- (d) Makes a conforming change.

SECTION 7.13. Amends Article 5.06-6, Insurance Code, to make conforming changes.

SECTION 7.14. Amends Subsection (c), Article 5.09, Insurance Code, to make conforming changes.

SECTION 7.15. Amends Subsection (c), Article 5.11, Insurance Code, to make conforming changes.

SECTION 7.16. Amends Article 5.13, Insurance Code, to provide an exception and make nonsubstantive changes.

- (b) Makes a conforming change.
- (c) Makes conforming and nonsubstantive changes.
- (d) Makes nonsubstantive changes.
- (e) Provides that the regulatory power herein conferred is vested in the commissioner, rather than the Board of Insurance Commissioners of the State of Texas. Deletes the requirement that within the Board, the Casualty Insurance Commissioner have primary supervision of regulation herein provided, subject however to the final authority of the entire Board.

SECTION 7.17. Amends the heading to Article 5.13-2, Insurance Code, to read as follows:

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

SECTION 7.18. Amends Sections 1 and 2, Article 5.13-2, Insurance Code, as follows:

- Sec. 1. Includes commercial automobile in the list of items for which this article governs the regulation of general liability and removes automobile from the list that it does not govern.
- Sec. 2. SCOPE. Makes a conforming change.

SECTION 7.19. Amends Subdivision (2), Section 3, Article 5.13-2, Insurance Code, to require the provisions of Section 8 of this article to apply to county mutual insurance companies with respect to commercial automobile insurance and make a conforming change.

SECTION 7.20. Amends Subsection (b), Article 5.25, Insurance Code, to make conforming changes.

SECTION 7.21. Amends Subsection (b), Article 5.25A, Insurance Code, to make a conforming change.

SECTION 7.22. Amends Article 5.25-2, Insurance Code, as follows:

Sec. 1. Redefines “list” and deletes the definition of “board.”

Sec. 2. (a) Makes conforming changes.

(b) and (c) Makes conforming changes.

Sec. 3. Makes conforming and nonsubstantive changes.

Sec. 4. Makes a conforming change.

Sec. 5. Makes conforming changes.

Sec. 6. Makes conforming changes.

Sec. 7. Makes a conforming change.

Sec. 8. Makes a conforming change.

SECTION 7.23. Amends Subsection (i), Article 5.26, Insurance Code, to make a conforming change.

SECTION 7.24. Amends Subsection (d), Article 5.28, Insurance Code, to make a conforming change.

SECTION 7.25. Amends Subsection (b), Article 5.29, Insurance Code, to make a conforming change.

SECTION 7.26. Amends Subsection (b), Article 5.30, Insurance Code, to make a conforming change.

SECTION 7.27. Amends Subsection (b), Article 5.31, Insurance Code, to make conforming changes.

SECTION 7.28. Amends Subsection (b), Article 5.32, Insurance Code, to make conforming changes.

SECTION 7.29. Amends Subdivision (3), Section 1, Article 5.33A, Insurance Code, to replace the definition of “board” with the definition of "department."

SECTION 7.30. Amends Section 3(c), Article 5.33A, Insurance Code, to make a conforming change.

SECTION 7.31. Amends Section 4(a), Article 5.33A, Insurance Code, to make a conforming change.

SECTION 7.32. Amends Section 5, Article 5.33A, Insurance Code, to make conforming changes.

SECTION 7.33. Amends Section 6(e), Article 5.33A, Insurance Code, to make a conforming change.

SECTION 7.34. Amends Section 9, Article 5.33A, Insurance Code, to make a conforming change.

SECTION 7.35. Amends Section 5, Article 5.33B, Insurance Code, to make a conforming change.

SECTION 7.36. Amends Section 3(b), Article 5.33C, Insurance Code, to make a conforming change.

SECTION 7.37. Amends Subsection (b), Article 5.34, Insurance Code, to make a conforming change.

SECTION 7.38. Amends Article 5.35, Insurance Code, by adding Subsection (k) as follows:

(k) Provides that notwithstanding Subsections (a)-(j) of this article, policy forms and endorsements for residential property insurance in this state are regulated as provided by Article 5.143 of this code. Authorizes an insurer to continue to use the policy forms and endorsements adopted or approved by the commissioner under this article that the insurer used immediately before the effective date of Article 5.143 of this code on notification to the commissioner in writing that the policy forms and endorsements will continue to be used.

SECTION 7.39. Amends Article 5.35-1, Insurance Code, to make a conforming change.

SECTION 7.40. Amends Article 5.36, Insurance Code, to make a conforming change.

SECTION 7.41. Amends Subsection (b), Article 5.39, Insurance Code, to make a conforming change.

SECTION 7.42. Amends Subsection (d), Article 5.40, Insurance Code, to make a conforming change.

SECTION 7.43. Amends Subsection (b), Article 5.41, Insurance Code, to make a conforming change.

SECTION 7.44. Amends Subsection (g), Article 5.53, Insurance Code, to delete Notwithstanding any other provision of this subchapter, the flexible rating program created under Subchapter M of this chapter does not apply to this article.” Makes a nonsubstantive change.

SECTION 7.45. Amends Subsection (a-1), Article 5.96, Insurance Code, to delete the exception and the reference to a “benchmark” rate. Makes a conforming change.

SECTION 7.46. (a) Amends Section 5, Article 17.25, Insurance Code, as effective until June 1, 2003, to require each county mutual insurance company to be subject to the provisions of Articles 5.06, 5.35, and 5.143 of this code. Requires county mutual insurance companies to file policy forms under Article 5.143 of this code or continue to use the standard policy forms and endorsements promulgated under Articles 5.06 and 5.35 of this code on notification to the commissioner in writing that the forms will continue to be used. Deletes reference to the Board of Insurance Commissioners in relation to uniform policies for county mutual insurance companies.

(b) Amends Section 912.152, Insurance Code, as effective June 1, 2003, as follows:

(a) Provides a county mutual insurance company is subject to Articles 5.06, 5.35, and 5.143.

(b) Requires county mutual insurance companies to file policy forms under Article 5.143 or continue to use the standard policy forms and endorsements promulgated under Articles 5.06 and 5.35 on notification to the commissioner in writing that the forms will continue to be used. Deletes language relating to uniform policy forms.

SECTION 7.47. (a) Amends Section 6, Article 17.25, Insurance Code, as effective until June 1, 2003, as follows:

Sec. 6. Requires a county mutual insurance company, as part of the rate filings required under Article 5.142 of this code to file with TDI a schedule of its rates, the amount of policy fee, inspection fee, membership fee, or initial charge by whatever name called, proposed to be charged to its policyholders or those applying for policies. Requires the filing of this information to be in accordance with the requirements of Article 5.142 of this code.

(b) Amends Section 912.201, Insurance Code, as effective June 1, 2003, to make conforming changes.

SECTION 7.48. Amends Section 8, Article 21.77, Insurance Code, to require all policy forms for insurance written under this article to be prescribed by the commissioner as provided in Article 5.06 of this code or filed and in effect as provided in Article 5.143 of this code.

SECTION 7.49. (a) Amends Section 912.002, Insurance Code, as effective June 1, 2003, by amending Subsection (a) and adding Subsection (c) as follows:

(a) Deletes reference to the flexible rating program under Article 5.101.

(c) Provides that rate regulation for a personal automobile insurance policy written by a county mutual insurance company is subject to Chapter 5Q. Provides that rate regulation for a residential property insurance policy written by a county mutual insurance company is subject to Chapter 5Q. Authorizes the commissioner to adopt rules as necessary to implement this subsection.

(b) Amends Subsection (b), Article 17.22, Insurance Code, as effective until June 1, 2003, to provide that rate regulation for a personal automobile insurance policy written by a county mutual insurance company is subject to Subchapter Q, Chapter 5 of this code. Provides that rate regulation for a residential property insurance policy written by a county mutual insurance company is subject to Subchapter Q, Chapter 5 of this code. Authorizes the commissioner to adopt rules as necessary to implement this subsection. Deletes language stating that the flexible rating program does not apply to county mutual insurance companies.

SECTION 7.50. Amends Section 912.152, Insurance Code, as follows:

(a) Makes a conforming change.

(b) Requires county mutual insurance companies to file policy forms under Article 5.143 or continue to use the standard policy forms and endorsements promulgated under Articles 5.06 and 5.35 on notification to the commissioner in writing in the manner prescribed by Article 5.143 that those forms will continue to be used. Makes a conforming change.

SECTION 7.51. (a) Amends Section 941.003(b), Insurance Code, as effective June 1, 2003, to include Articles 5.142 and 5.143 in the list of articles to which a Lloyd's plan is subject.

(b) Amends Article 18.23, Insurance Code, as effective until June 1, 2003, adding Subsection (c) to provide that rate regulation for a personal automobile insurance policy written by a Lloyd's plan is subject to Chapter 5Q of this code. Provides that rate regulation for a residential property insurance policy written by a Lloyd's plan is subject to Chapter 5Q of this code. Authorizes the commissioner to adopt rules as necessary to implement this subsection.

SECTION 7.52. (a) Amends Section 942.003(b), Insurance Code, as effective June 1, 2003, to make a conforming change.

(b) Amends Article 19.12, Insurance Code, as effective until June 1, 2003, by adding Subsection (c) to provide that rate regulation for a personal automobile insurance policy written

by a reciprocal or interinsurance exchange is subject to Chapter 5Q of this code. Provides that rate regulation for a residential property insurance policy written by a reciprocal or interinsurance exchange is subject to Chapter 5Q of this code. Authorizes the commissioner to adopt rules as necessary to implement this subsection.

SECTION 7.53. Amends Section 502.153(d), Transportation Code, to make a conforming change.

SECTION 7.54. Amends Section 521.143(c), Transportation Code, to make a conforming change.

SECTION 7.55. Repealer:

(1) Repealer: Subsection (h), Article 5.26 (Maximum Rate Fixed, and Deviations Therefrom), Insurance Code, and Articles 5.50 (Exceptions), 5.101 (Flexible Rating Program for Certain Insurance Lines), and 40.061 (Flexible Rating Program), Insurance Code.

(2) Repealer, as effective June 1, 2003, Subsection (c), Section 941.003 (Limited Exemption from Insurance Laws; Application of Certain Laws), and Subsection (c), Section 942.003 (Limited Exemption from Insurance Laws; Applicability of Certain Laws), Insurance Code.

(3) Repealer: Section 4C, Article 5.73 (Advisory Organizations), Insurance Code.

ARTICLE 8. LEGISLATIVE OVERSIGHT COMMITTEE

SECTION 8.01. Amends Chapter 21E, Insurance Code, by adding Article 21.49-20, as follows:

Art. 21.49-20. PROPERTY AND CASUALTY LEGISLATIVE OVERSIGHT COMMITTEE. (a) Defines "committee".

(b) Provides that the committee is composed of seven members as follows:

(1) the chair of the Senate Business and Commerce Committee and the chair of the House Committee on Insurance, who shall serve as joint chairs of the committee;

(2) two members of the senate appointed by the lieutenant governor;

(3) two members of the house of representatives appointed by the speaker of the house of representatives; and

(4) the public insurance counsel.

(c) Provides that an appointed member of the committee serves at the pleasure of the appointing official. Requires the appointing officials to attempt to appoint persons who represent the gender composition, minority populations, and geographic regions of the state, in making appointments to the committee.

(d) Provides that the committee is subject to Chapter 325, Government Code (Texas Sunset Act), and unless continued in existence as provided by that chapter, the committee is abolished September 1, 2007.

(e) Requires the committee to perform certain functions.

(f) Authorizes the committee to request reports and other information from TDI as necessary to carry out this section.

(g) Requires the committee, not later than November 15 of each even-numbered year, to report to the governor, lieutenant governor, and speaker of the house of representatives on the committee's activities under Subsection (e). Requires the report to include certain information.

ARTICLE 9. GENERAL TRANSITION; SEVERABILITY; EFFECTIVE DATE

SECTION 9.01. Provides that the amendment of statutory provisions by this Act does not affect the repeal of those provisions by Section 31, Chapter 1419, Acts of the 77th Legislature, Regular Session, 2001.

SECTION 9.02. Makes application of this Act prospective, except as provided by Section 3.04 of this Act.

SECTION 9.03. Provides that if any provision of this Act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

SECTION 9.04. Effective date: upon passage or September 1, 2003.

SUMMARY OF COMMITTEE CHANGES

Amends As Filed S.B. 14 by adding Subchapter Q, rather than Subchapter P, to Chapter 5 of the Insurance Code.