

BILL ANALYSIS

Senate Research Center
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S.B. 828
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

An increasing trend in insurance rating and underwriting is the combined use of data mining and pattern recognition technologies. These technologies have the potential to far exceed the use of anything else in practice today. Their combined use can be characterized as a means of identifying relationships among variables used to predict differences in the expected losses of insured entities, thereby allowing insurers to create newer, more refined risk classifications. Although insurers currently deploy similar technologies to detect fraudulent claims, identify subrogation opportunities, and improve marketing effectiveness, the use of these new technologies for new and different purposes may pose significant policy issues, as their use has already shown the potential to be controversial.

As proposed, S.B. 828 authorizes the commissioner of insurance (commissioner) to require an insurance company to report how and what data mining technologies it uses for underwriting, setting rates and premiums, detecting fraud, and marketing. The bill also authorizes the commissioner to limit the use of these technologies if the commissioner finds that they use any factors not previously used for underwriting purposes, and requires the Department of Insurance to report to the legislature on the use and impact of these technologies.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the commissioner of insurance in SECTION 1 (Section 752.002, Insurance Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subtitle G, Title 5, Insurance Code, by adding Chapter 752, as follows:

CHAPTER 752. DATA MINING AND PATTERN RECOGNITION

Sec. 752.001. DEFINITION. Defines "regulated entity."

Sec. 752.002. COLLECTION OF INFORMATION CONCERNING DATA MINING AND PATTERN RECOGNITION TECHNOLOGY. (a) Authorizes the commissioner of insurance (commissioner) by rule to require a regulated entity to report to the Texas Department of Insurance (TDI) concerning the technologies and uses of technologies set forth in this subsection.

(b) Authorizes the commissioner, in exercising authority under this section, to require regulated entities to report with respect to selected lines of insurance or selected segments of the market and to limit the reporting of specific uses of relationships derived from the technologies.

(c) Provides that the underwriting guidelines and related information obtained by the commissioner under this section are subject to Sections 38.002 (Underwriting Guidelines for Personal and Residential Property Insurance; Filing Confidentiality) or 38.003 (Underwriting Guidelines for Other Lines; Confidentiality) as appropriate. Provides that Chapter 552 (Public Information), Government Code, governs disclosure of information under this section.

Sec. 752.003. OVERSIGHT OF DATA MINING AND PATTERN RECOGNITION TECHNOLOGY. (a) Authorizes the commissioner to limit the use of relationships derived from a technology described in Section 752.002 if the commissioner finds that the technology incorporates any factor not previously used by the regulated entity in underwriting or establishing rates or rating tiers.

(b) Sets forth the authorizations of a limitation adopted under Subsection (a).

Sec. 752.004. REPORT TO LEGISLATURE. Requires TDI to include information concerning the use of relationships derived from technologies described by Section 752.002(a)(1) by regulated entities in its biennial report to the legislature under Section 32.002. Requires the report to describe the impact that the use of such relationships has on insurance and other coverage for covered persons and applicants for coverage in this state. Authorizes the report to include recommendations for proposed legislation appropriate to regulate these technologies.

SECTION 2. Effective date: upon passage or September 1, 2007.