By: Van de Putte, Ellis, Lucio S.B. No. 91

A BILL TO BE ENTITLED

AN ACT

relating to regulation of property and casualty insurance rates.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 706.004, Insurance Code, as effective April 1, 2009, is amended to read as follows:

Sec. 706.004. RATES AND FORMS. Notwithstanding any other law, rates and forms for insurance coverage issued under this chapter are governed by:

(1) Subchapters A-D [~~A-E~~], Chapter 2251;

(2) Subchapter A, Chapter 2301; and

(3) Article 5.13-2.

SECTION 2. Section 912.002(c), Insurance Code, as effective April 1, 2009, is amended to read as follows:

(c) Rate regulation for a residential fire and allied lines insurance policy written by a county mutual insurance company is subject to Chapters 2251 and [~~Chapter~~] 2253. Rate [~~On and after December 1, 2004, rate~~] regulation for a personal automobile insurance policy and a residential fire and allied lines insurance policy written by a county mutual insurance company is subject to Article 5.13-2 and Chapter 2251. A county mutual insurance company is subject to Chapter 2253. The commissioner may adopt rules as necessary to implement this subsection.

SECTION 3. Section 1806.052, Insurance Code, is amended to read as follows:

Sec. 1806.052. CONSTRUCTION OF SUBCHAPTER. This subchapter may not be construed to prohibit the modification of rates by a rating plan that complies [~~is filed in accordance~~] with the requirements of Chapter 2251 or Article 5.13-2, as applicable, [~~that has not been disapproved by the commissioner,~~] and that is designed to encourage the prevention of accidents, and to account for all relevant factors inside and outside this state, including the peculiar hazards and experience of past and prospective individual risks.

SECTION 4. Section 2151.001(2), Insurance Code, is amended to read as follows:

(2) "Authorized insurer" means an insurer authorized by the department to write automobile liability coverage under this title. The [~~Except as provided by Section 2251.204, the~~] term does not include a county mutual insurance company organized under Chapter 912.

SECTION 5. Section 2251.003(c), Insurance Code, is amended to read as follows:

(c) Sections 2251.008, 2251.052, 2251.101, 2251.102, [~~2251.103,~~] 2251.104, 2251.105, [~~and~~] 2251.107, and 2251.151(a) do not apply to a Lloyd's plan or a reciprocal or interinsurance exchange with respect to commercial property insurance, inland marine insurance, rain insurance, or hail insurance on farm crops.

SECTION 6. Section 2251.101(a), Insurance Code, is amended to read as follows:

(a) For [~~Except as provided by Subchapter D, for~~] risks written in this state, each insurer shall file with the

commissioner all rates, applicable rating manuals, supplementary rating information, and additional information as required by the commissioner.

SECTION 7. The heading of Subchapter D, Chapter 2251, Insurance Code, is amended to read as follows:

SUBCHAPTER D. PRIOR APPROVAL OF RATES [~~UNDER CERTAIN CIRCUMSTANCES~~]

SECTION 8. Section 2251.151, Insurance Code, is amended to read as follows:

Sec. 2251.151. FILING OF [~~REQUIREMENT TO FILE~~] RATES FOR PRIOR APPROVAL [~~UNDER CERTAIN CIRCUMSTANCES~~]. (a) An insurer may not use a rate until the rate has been filed with the department in accordance with Subchapter C and approved by the commissioner in accordance with this subchapter.

(b) For rates that are exempt from Subsection (a) under Section 2251.003(c), the [~~The~~] commissioner by order may require an insurer to file with the department for the commissioner's approval all rates, supplementary rating information, and any supporting information in accordance with this subchapter if the commissioner determines that:

(1) the insurer's rates require supervision because of the insurer's financial condition or rating practices; or

(2) a statewide insurance emergency exists.

(c) [~~(a-1)~~] If an insurer subject to an order under Subsection (b) files a petition under Subchapter D, Chapter 36, for judicial review of an order disapproving a rate under this chapter, the insurer must use the rates in effect for the insurer at the time

the petition is filed and may not file and use any higher rate for the same line of insurance subject to this chapter before the matter subject to judicial review is finally resolved unless the insurer, in accordance with this subchapter, files the new rate with the department, along with any applicable supplementary rating information and supporting information, and obtains the commissioner's approval of the rate.

(d) [~~(b)~~] From the date a [~~of the filing of the~~] rate is filed with the department under this section to the effective date of the new rate, the insurer's previously filed rate that is in effect on the date of the filing remains in effect.

(e) [~~(c)~~] The commissioner may require an insurer to file the insurer's rates under Subsection (b) [~~this section~~] until the commissioner determines that the conditions described by that subsection [~~Subsection (a)~~] no longer exist.

(f) [~~(d)~~] For purposes of this section, a rate is filed with the department on the date the department receives the rate filing.

(g) [~~(e)~~] If the commissioner requires an insurer to file the insurer's rates under Subsection (b) [~~this section~~], the commissioner shall issue an order specifying the commissioner's reasons for requiring the rate filing. An affected insurer is entitled to a hearing on written request made to the commissioner not later than the 30th day after the date the order is issued.

SECTION 9. Section 2251.152, Insurance Code, is amended to read as follows:

Sec. 2251.152. [~~RATE APPROVAL REQUIRED;~~] EXCEPTION TO CERTAIN RATE APPROVAL REQUIREMENTS. (a) After [~~An insurer subject~~

~~to this subchapter may not use a rate until the rate has been filed with the department and approved by the commissioner in accordance with this subchapter.~~

[~~(b) Notwithstanding Subsection (a), after~~] a rate filing required of an insurer under Section 2251.151(b) is approved under this subchapter, the [~~an~~] insurer, without prior approval of the commissioner, may use any rate subsequently filed by the insurer if the subsequently filed rate does not exceed the lesser of:

(1) 107.5 percent of the rate approved by the commissioner; or

(2) 110 percent of any rate used by the insurer in the previous 12-month period.

(b) [~~(c)~~] Filed rates under Subsection (a) [~~(b)~~] take effect on the date specified by the insurer.

SECTION 10. Section 2251.153(a), Insurance Code, is amended to read as follows:

(a) Not later than the 30th day after the date a rate is filed with the department under this subchapter, the commissioner shall:

(1) approve the rate if the commissioner determines that the rate complies with the requirements of this chapter and any other provision of this code governing the setting of the rate by the insurer; or

(2) disapprove the rate if the commissioner determines that the rate does not comply with the requirements of this chapter or any other provision of this code governing the setting of the rate by the insurer.

SECTION 11. Section 2251.156, Insurance Code, is amended to read as follows:

Sec. 2251.156. RATE FILING DISAPPROVAL BY COMMISSIONER; HEARING. (a) If the commissioner disapproves a rate filing under this chapter [~~Section 2251.153(a)(2)~~], the commissioner shall issue an order specifying in what respects the filing fails to meet the requirements of this chapter or another provision of this code applicable to the setting of the rate by the insurer [~~disapproving the filing in accordance with Section 2251.103(b)~~].

(b) An insurer whose rate filing is disapproved is entitled to a hearing on written request made to the commissioner not later than the 30th day after the date the order disapproving the rate filing takes effect [~~in accordance with Section 2251.103(c)~~].

SECTION 12. Section 2251.104, Insurance Code, is transferred to Subchapter D, Chapter 2251, Insurance Code, and redesignated as Section 2251.157 to read as follows:

Sec. 2251.157 [~~2251.104~~]. DISAPPROVAL OF RATE IN EFFECT; HEARING. (a) The commissioner may disapprove a rate that is in effect only after a hearing. The commissioner shall provide the filer at least 20 days' written notice.

(b) The commissioner must issue an order disapproving a rate under Subsection (a) not later than the 15th day after the close of the hearing. The order must:

(1) specify in what respects the rate fails to meet the requirements of this chapter; and

(2) state the date on which further use of the rate is prohibited, which may not be earlier than the 45th day after the

close of the hearing under this section.

SECTION 13. The following provisions of the Insurance Code are repealed:

(1) Section 2251.103;

(2) Subchapter E, Chapter 2251; and

(3) Chapter 2254.

SECTION 14. The commissioner of insurance shall adopt all rules necessary to implement this Act on or before December 1, 2009.

SECTION 15. The change in law made by this Act applies to insurance policies delivered, issued for delivery, or renewed on or after January 1, 2010, and to rates for those policies. An insurance policy delivered, issued for delivery, or renewed before January 1, 2010, and rates for the policy are governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 16. This Act takes effect September 1, 2009.