

AN ACT

relating to rebates regarding certain insurance coverage.

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

SECTION 1. Article 5.13(a), Insurance Code, is amended to read as follows:

(a) This subchapter applies to every insurance company, corporation, interinsurance exchange, mutual, reciprocal, association, Lloyd's plan, or other organization or insurer writing any of the characters of insurance business herein set forth, hereinafter called "Insurer"; provided that nothing in this entire subchapter shall be construed to apply to any county or farm mutual insurance company or association, as regulated under Chapters 911 and 912 of this code, except that:

(1) Article 5.13-2 of this code shall apply to a county mutual insurance company with respect to personal automobile and commercial automobile insurance, residential and commercial property insurance, and inland marine insurance;

(2) Article 5.20 of this code shall apply to a county mutual insurance company with respect to each line of insurance that a county mutual insurance company is authorized to write under Section 912.151; and

(3) Article 5.20 of this code shall apply to a farm mutual insurance company with respect to each line of insurance that a farm mutual insurance company is authorized to write under

1 Section 911.151.

2 SECTION 2. Articles 5.20(a) and (d), Insurance Code, are  
3 amended to read as follows:

4 (a) Except as provided by this article, no insurer or  
5 employee thereof, and no broker or agent shall knowingly issue any  
6 policy of insurance nor charge, demand or receive a premium thereon  
7 except in accordance with the applicable filing [~~which has been~~  
8 ~~approved by the commissioner~~]. No insurer or employee thereof, and  
9 no broker or agent shall pay, allow or give, or offer to pay, allow,  
10 or give, directly or indirectly, as an inducement to insurance, or  
11 after insurance has been effected, any rebate, discount, abatement,  
12 credit or reduction of the premium named in a policy of insurance,  
13 or any special favor or advantage in the dividends or other benefits  
14 to accrue thereon, or any valuable consideration or inducement  
15 whatever, not specified in the policy of insurance, except to the  
16 extent provided for in such applicable filing. No insured named in  
17 a policy of insurance, nor any employee of such insured shall  
18 knowingly receive or accept, directly or indirectly, any such  
19 rebate, discount, abatements, or reduction of premium, or any  
20 special favor or advantage or valuable consideration or inducement.

21 (d) As used in this article:

22 (1) "Insurance" [~~the word "insurance"~~] includes  
23 suretyship.

24 (2) "Insurer" means an insurance company or other  
25 legal entity described by Subsection (a), Article 5.13, of this  
26 code.

27 (3) "Policy" [~~, and the word "policy"~~] includes a

1 bond.

2 SECTION 3. Section 911.001(c), Insurance Code, is amended  
3 to read as follows:

4 (c) Except to the extent of any conflict with this chapter,  
5 the following provisions apply to a farm mutual insurance company:

6 (1) Subchapter A, Chapter 32;

7 (2) Subchapter D, Chapter 36;

8 (3) Sections 31.002(2), 32.021(c), 32.023, 32.041,  
9 33.002, 38.001, 81.001-81.004, 201.005, 201.055, 801.051-801.055,  
10 801.057, 801.101, 801.102, 822.204, 841.004, 841.251, 841.252, and  
11 862.101;

12 (4) Chapter 541;

13 (5) Chapter 802;

14 (6) [~~5~~] Subchapter A, Chapter 805;

15 (7) [~~6~~] Chapter 824; and

16 (8) [~~7~~] Sections 2, 5, 6, and 17, Article 1.10, and  
17 Articles 1.09-1, [~~1.11~~] 1.12, 1.13, 1.15, 1.15A, 1.16, 1.17, 1.18,  
18 1.19, [~~1.20, 1.21, 1.22~~] 2.10, 5.20 [~~21.21~~], 21.28, 21.28-A,  
19 21.28-C, 21.39, and 21.39-A.

20 SECTION 4. Section 912.002(b), Insurance Code, is amended  
21 to read as follows:

22 (b) A county mutual insurance company is subject to:

23 (1) Sections 38.001, 501.202, 501.203, and 822.204;

24 (2) Chapters 221, 251, 252, 254, and 541; and

25 (3) [~~2~~] Articles 1.15, 1.15A, 1.16, [~~1.35B~~] 2.10,  
26 5.20, [~~4.10, 5.12~~] 5.37, 5.38, 5.39, 5.40, [~~5.49, 21.21~~] and  
27 21.49.

1 SECTION 5. Section 941.003(b), Insurance Code, is amended  
2 to read as follows:

3 (b) A Lloyd's plan is subject to:

- 4 (1) Section 5, Article 1.10;
- 5 (2) Article 1.15A;
- 6 (3) Subchapters A, [~~Q~~T], and U, Chapter 5;
- 7 (4) Chapters 251, 252, and 541;
- 8 (5) Articles 5.20, 5.35, 5.38, 5.39, 5.40, [~~and 5.49,~~  
9 [~~(5) Articles 21.21~~] and 21.49-8;
- 10 (6) Sections 822.203, 822.205, 822.210, and 822.212;

11 and

- 12 (7) Article 5.13-2, as provided by that article.

13 SECTION 6. Section 942.003(b), Insurance Code, is amended  
14 to read as follows:

15 (b) An exchange is subject to:

- 16 (1) Section 5, Article 1.10;
- 17 (2) Articles 1.15, 1.15A, and 1.16;
- 18 (3) Subchapters A, [~~Q~~T], and U, Chapter 5;
- 19 (4) Articles 5.20, 5.35, 5.37, 5.38, 5.39, and 5.40;
- 20 (5) Article [Articles 21.21 and] 21.49-8;
- 21 (6) Chapter 541;
- 22 (7) Sections 822.203, 822.205, 822.210, 822.212,  
23 861.254(a)-(f), 861.255, 862.001(b), and 862.003; and
- 24 (8) [~~(7)~~] Article 5.13-2, as provided by that article.

25 SECTION 7. Section 2502.055, Insurance Code, is amended to  
26 read as follows:

27 Sec. 2502.055. [~~CERTAIN~~] PROMOTIONAL AND EDUCATIONAL

1 ACTIVITIES NOT REBATES [NOT PROHIBITED]. (a) The activities  
2 described in this section are not rebates. Nothing in this  
3 subchapter prohibits a title insurance company or a title insurance  
4 agent from:

5 (1) engaging in [This subchapter does not prohibit]  
6 legal promotional and educational activities that are not  
7 conditioned on the referral of title insurance business;

8 (2) purchasing advertising promoting the title  
9 insurance company or the title insurance agent at market rates from  
10 any person in any publication, event, or media;

11 (3) delivering to a party in the transaction or the  
12 party's representative legal documents or funds which are directly  
13 or indirectly related to a transaction closed by the title  
14 insurance company or title insurance agent; or

15 (4) participating in an association of attorneys,  
16 builders, developers, realtors, or other real estate practitioners  
17 provided that the level of such participation does not exceed  
18 normal participation of a volunteer member of the association and  
19 is not activity that would ordinarily be performed by paid staff of  
20 an association.

21 (b) "Market rate" means the price at which a seller, under  
22 no obligation or duress to sell, is willing to accept and a buyer,  
23 under no obligation or duress to buy, is willing to pay in an  
24 arms-length transaction. The market rate is determined by  
25 comparing the rights or items purchased or sold to similar rights or  
26 items that have been recently purchased by others or sold to others,  
27 including others not in the title insurance business.

1           SECTION 8. The changes in law made by this Act apply to  
2 conduct with respect to an insurance policy that is delivered,  
3 issued for delivery, or renewed on or after January 1, 2006.  
4 Conduct with respect to a policy delivered, issued for delivery, or  
5 renewed before January 1, 2006, is governed by the law as it existed  
6 immediately before the effective date of this Act, and that law is  
7 continued in effect for that purpose.

8           SECTION 9. This Act takes effect September 1, 2005.

David Newkum

President of the Senate

Tom Craddick

Speaker of the House

I certify that H.B. No. 2565 was passed by the House on April 14, 2005, by a non-record vote; and that the House concurred in Senate amendments to H.B. No. 2565 on May 17, 2005, by a non-record vote.

Robert Haney  
Chief Clerk of the House

I certify that H.B. No. 2565 was passed by the Senate, with amendments, on May 12, 2005, by the following vote: Yeas 31, Nays 0.

Letsy Spaw  
Secretary of the Senate

APPROVED: 17 JUNE '05

Date

RICK PERRY  
Governor

FILED IN THE OFFICE OF THE  
SECRETARY OF STATE  
11:20 AM O'CLOCK

Roger Williams  
Secretary of State