

1 AN ACT

2 relating to rate information to be filed by certain insurers of  
3 residential property; providing an administrative penalty.

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

5 SECTION 1. Chapter 5, Insurance Code, is amended by adding  
6 Subchapter P to read as follows:

7 SUBCHAPTER P. FILING OF RESIDENTIAL PROPERTY INSURANCE

8 RATES FOR REPORT TO LEGISLATURE

9 Art. 5.141. FILING OF RATE INFORMATION; REPORT

10 Sec. 1. PURPOSE. The purpose of this article is to require  
11 on a one-time basis that insurers writing residential property  
12 insurance in this state, immediately after the effective date of  
13 this article, file rates and supporting data, including current  
14 rates and estimated rates to be charged in the six-month period  
15 following the effective date of this article, with the commissioner  
16 of insurance for the purpose of the preparation of a summary report  
17 for submission to the 78th Legislature. The report shall contain a  
18 review of the rates, presented in a manner that protects the  
19 identity of individual insurers:

20 (1) to inform the legislature as to whether the rates  
21 are just, adequate, and reasonable and not excessive or unfairly  
22 discriminatory; and

23 (2) to assist in the determination of the most  
24 effective and efficient regulatory system for residential property

1 insurance in Texas.

2 Sec. 2. DEFINITIONS. In this article:

3 (1) "Insurer" means an insurance company, reciprocal  
4 or interinsurance exchange, mutual, capital stock company, county  
5 mutual insurance company, association, Lloyd's plan company, or  
6 other entity writing residential property insurance in the state.  
7 The term includes an affiliate as described by Section 823.003(a)  
8 of this code if that affiliate is writing residential property  
9 insurance in the state.

10 (2) "Residential property insurance" means insurance  
11 against loss to residential real property at a fixed location or  
12 tangible personal property provided in a homeowners policy, which  
13 includes a tenant policy, a condominium owners policy, or a  
14 residential fire and allied lines policy.

15 (3) "Supplementary rating information" means any  
16 manual, rating schedule, plan of rules, rating rules,  
17 classification systems, territory codes and descriptions, rating  
18 plans, and other similar information used by the insurer to  
19 determine the applicable premium for an insured. The term includes  
20 factors and relativities, such as increased limits factors,  
21 classification relativities, deductible relativities, premium  
22 discount, and other similar factors and rating plans such as  
23 experience, schedule, and retrospective rating.

24 (4) "Security" or "securities" has the meaning  
25 assigned by Section 4, The Securities Act (Article 581-4, Vernon's  
26 Texas Civil Statutes).

27 Sec. 3. RATE INFORMATION. (a) Insurers must file

1 residential property insurance rates and supporting information  
2 with the commissioner in accordance with the requirements  
3 determined by the commissioner under this article.

4 (b) Filings made by each insurer must be sufficient to  
5 respond to the commissioner's request for information under this  
6 article and must provide both current rates and estimated rates for  
7 the six-month period following the effective date of this article  
8 based upon information reasonably known to the insurer at the time  
9 of filing.

10 (c) The insurer shall file, in a format specified by the  
11 commissioner, including an electronic format:

12 (1) all residential property insurance rates,  
13 supplementary rating information, underwriting guidelines,  
14 reasonable and pertinent supporting information for risks written  
15 in the state, and all applicable rating manuals;

16 (2) actuarial support, including all statistics,  
17 data, or other information to support the rates, supplementary  
18 rating information, use of credit scoring, and underwriting  
19 guidelines used by the insurer;

20 (3) the policy fees, service fees, and other fees that  
21 are charged under Article 21.35A or 21.35B of this code;

22 (4) information on the credit scoring formulas and  
23 methodologies possessed and used by the insurer to determine  
24 residential property insurance premiums or underwriting and any  
25 other information required by the commissioner relating to the  
26 insurer's use of credit scoring to determine premiums or  
27 underwriting for residential property insurance;

1           (5) information on the insurer's losses from  
2 investments in securities, whether publicly or privately traded,  
3 including investments in the securities of companies required by  
4 any oversight agency to restate earnings within the 24 months  
5 preceding the effective date of this article, possessed and used by  
6 the insurer to determine premiums or underwriting for residential  
7 property insurance, as this information relates to the rates  
8 described by Section 1 of this article;

9           (6) information on the insurer's costs of reinsurance,  
10 including costs incurred subsequent to September 11, 2001,  
11 possessed and used by the insurer to determine premiums or  
12 underwriting for residential property insurance, as this  
13 information relates to the rates described by Section 1 of this  
14 article;

15           (7) a complete explanation, and an electronic copy, of  
16 all computer models used by the insurer, including credit scoring  
17 and catastrophe models, not protected by a contract with a third  
18 party; and

19           (8) a complete explanation of all changes to  
20 underwriting guidelines, rates, and supplementary rating  
21 information since January 1, 2000.

22           (d) Each insurer that has a share of the residential  
23 property insurance market in this state of five percent or more  
24 shall file the rating information required under this section. The  
25 commissioner shall determine which insurers that have a share of  
26 the residential property insurance market in this state of less  
27 than five percent are required to file the rating information under

1 this section.

2 (e) The commissioner shall determine the date on which the  
3 filing is due.

4 (f) The commissioner may require only one filing of rates  
5 and supporting information by an insurer under this section and may  
6 require additional information as provided by Section 4 of this  
7 article. The commissioner shall require the one filing of rates as  
8 provided by this section to be made not later than the 30th day  
9 after the effective date of this article.

10 (g) The commissioner shall issue an order specifying the  
11 information that insurers must file to comply with this article and  
12 the date on which the filing is due.

13 (h) The commissioner is not required to hold a hearing  
14 before issuing the order required under Subsection (g) of this  
15 section.

16 (i) The commissioner shall notify an affected insurer of the  
17 order requiring the rate filing information under this section on  
18 the day the order is issued.

19 Sec. 4. ADDITIONAL INFORMATION. After the initial rate  
20 submission under Section 3 of this article, the commissioner may  
21 require an insurer to provide additional, reasonable information  
22 for purposes of the clarification or completeness of the initial  
23 rate submission.

24 Sec. 5. USE OF FILED RATE INFORMATION. (a) Information  
25 filed by an insurer with the department under this article that is  
26 confidential under a law that applied to the insurer before the  
27 effective date of this article remains confidential and is not

1 subject to disclosure under Chapter 552, Government Code, except  
2 that the information may be disclosed as provided by Section  
3 552.008, Government Code, relating to information for legislative  
4 purposes. Information disclosed pursuant to Section 552.008,  
5 Government Code, shall be provided in a commonly used electronic  
6 format, including in spreadsheet or comma-delimited format, if so  
7 requested. The information may not be released to the public except  
8 in summary form in the report required under Section 6 of this  
9 article.

10 (b) Subsection (a) of this section does not preclude the use  
11 of information filed under this article as evidence in prosecuting  
12 a violation of this code. Confidential information described by  
13 Subsection (a) of this section that is used in prosecuting a  
14 violation is subject to a protective order until all appeals of the  
15 case have been exhausted. If an insurer is found, after the  
16 exhaustion of all appeals, to have violated this code, a copy of the  
17 confidential information used as evidence of the violation is no  
18 longer presumed to be confidential.

19 Sec. 6. REPORT. (a) The commissioner shall submit a  
20 report to the governor, the lieutenant governor, the speaker of the  
21 house of representatives, and the members of the legislature on the  
22 information collected from the filings required under this article.  
23 The report shall be submitted not later than the 30th day after the  
24 effective date of this article. The report may be created based on  
25 a sample of the information provided under Section 3 of this  
26 article.

27 (b) The report required under this section shall provide a

1 summary review of the rates currently charged and estimated to be  
2 charged over the six months following the effective date of this  
3 article, presented in a manner that protects the identity of  
4 individual insurers:

5 (1) to inform the legislature as to whether the rates  
6 are just, adequate, and reasonable and not excessive or unfairly  
7 discriminatory; and

8 (2) to assist the legislature in the determination of  
9 the most effective and efficient regulatory system for residential  
10 property insurance in Texas.

11 Sec. 7. NOTIFICATION; NONCOMPLIANCE. The commissioner  
12 shall notify the governor, the lieutenant governor, the speaker of  
13 the house of representatives, and the members of the legislature of  
14 the names of the insurers whom the commissioner requested to make  
15 the rate filings under this article and the names of the insurers  
16 who did not respond in whole or in part to the commissioner's  
17 request. This notification shall be made by separate letter on the  
18 fourth day following the date on which the commissioner determines  
19 the filing is due under Section 3(q) of this article.

20 Sec. 8. APPLICATION OF CERTAIN LAW. Chapter 40 of this code  
21 does not apply to an action of the commissioner under Section 3(q)  
22 of this article.

23 Sec. 9. FAILURE TO COMPLY. An insurer that fails to comply  
24 with any request for information issued by the commissioner under  
25 this article is subject, after notice and opportunity for hearing,  
26 to sanctions as provided by Chapters 82 and 84 of this code.

27 Sec. 10. EXPIRATION. This article expires December 31,

1 2003.

2           SECTION 2. The expiration of Article 5.141, Insurance Code,  
3 as added by this Act, does not affect an action or proceeding  
4 against an insurer subject to that law for a failure to comply with  
5 that law before its expiration, regardless of when the action or  
6 proceeding was commenced, and that law is continued in effect for  
7 this purpose.

8           SECTION 3. This Act takes effect immediately if it receives  
9 a vote of two-thirds of all the members elected to each house, as  
10 provided by Section 39, Article III, Texas Constitution. If this  
11 Act does not receive the vote necessary for immediate effect, this  
12 Act takes effect September 1, 2003.



David Burtuss  
President of the Senate

J. C. Cochran  
Speaker of the House

I hereby certify that S.B. No. 310 passed the Senate on February 11, 2003, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendments on February 20, 2003, by the following vote: Yeas 29, Nays 0. \_\_\_\_\_

Betsy Graw  
Secretary of the Senate

I hereby certify that S.B. No. 310 passed the House, with amendments, on February 18, 2003, by the following vote: Yeas 148, Nays 0, one present not voting. \_\_\_\_\_

Robert Hamey  
Chief Clerk of the House

Approved:

2.25.03  
Date.

Rick Perry  
Governor

FILED IN THE OFFICE OF THE  
SECRETARY OF STATE  
11:38 A.M. O'CLOCK

FEB 26 2003  
Ann Shea  
Secretary of State