

BILL ANALYSIS

Senate Research Center

H.B. 2159
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Business & Commerce
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Engrossed

DIGEST AND PURPOSE

Credit life insurance and credit accident and health insurance products are sold in conjunction with credit transactions. Generally, such products are made available to a consumer who purchases an item of substantial cost and intends to make payments on that purchase. The purpose of the insurance product is to protect the debtor during the term of the contract by ensuring the loan will be repaid if the debtor is unable to pay because of serious illness or death. Currently, the commissioner of insurance (commissioner) sets the applicable rates for this product. H.B. 2159 authorizes an insurer to establish rates if the rates comply with certain conditions determined by the commissioner.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the commissioner of insurance in SECTIONS 1 (Article 3.28(3), Insurance Code), and 2 (Article 3.53(8)A, Insurance Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Article 3.28(3), Insurance Code, as follows:

Sec. 3. Computation of Minimum Standard. Sets forth criteria regarding computation of minimum standard. Provides that notwithstanding any other law, the minimum reserve requirements applicable to a credit life policy issued under Article 3.53 of this code are met if, in aggregate, the reserves are maintained at 100 percent of the 1980 Commissioner's Standard Ordinary Mortality Table, with interest not to exceed 5.5 percent, but in no event shall the reserves be less than the unearned premium reserve required for such policies. Authorizes the commissioner of insurance (commissioner) to use another mortality table adopted after 1980 by the National Association of Insurance Commissioners provided the Commissioner approves such mortality table by rule. Provides that this subsection expires September 1, 2013.

SECTION 2. Amends Article 3.53(8)A, Insurance Code, as follows:

A. (1) Authorizes any insurer to revise its schedules of premium rates for various classes of business from time to time, and to require to file such revised schedules and classes of business with the commissioner. Makes conforming changes.

(2) Authorizes the commissioner, rather than the State Board of Insurance, after notice and hearing, to by rule adopt a presumptive premium rate for various classes of business and terms of coverage. Requires an insurer that does not adopt a different rate under Subdivision (5) of this subsection to adopt the presumptive rate adopted by the commissioner. Requires any hearing conducted or order adopting a presumptive rate pursuant to this section, except as provided in this article, to be held in accordance with the rulemaking authority provisions of Chapter 2001 (Administrative Procedure), Government Code. Requires the commissioner to set forth in the order adopting a presumptive rate findings and conclusions on all material issues presented at the hearing. Deletes text regarding promulgate and presumed coverage and presumption. Deletes

text regarding the Administrative Procedure and Texas Register Act.

(3) Makes conforming changes.

(4) Authorizes any person aggrieved by the action of the commissioner, rather than board, in the setting of a presumptive rate or any other action taken with regard to the setting of such presumptive rate, not later than the 30th day after the date the commissioner adopts a presumptive rate order, to file a petition for judicial review in a district court in Travis County. Requires the scope of judicial review to be pursuant to Section 2001.174 (Review Under Substantial Evidence Rule or Undefined Scope of Review), Government Code. Deletes text regarding the board.

(5) Requires an insurer electing to deviate from the benchmark rate to file with the commissioner the insurer's proposed rate for credit life and credit health and accident insurance, including commission rates and how those rates are paid or charged. Requires the insurer, if the proposed rate represents a rate increase, to specify the amount of and the reason for the increase. Authorizes the commissioner to reject any rate increase if the commissioner finds that the increase is not actuarially justified. Prohibits an insurer, except as provided by Subdivision (6) of this subsection, from using a rate that is more than 30 percent higher or more than 30 percent lower than the presumptive rate. Provides that except as provided by this section, a rate that complies with this subdivision is valid and in compliance with the requirements of this section and other applicable law.

(6) Authorizes an insurer to file with the commissioner a proposed rate for credit life and credit accident and health insurance that is more than 30 percent higher than or more than 30 percent lower than the presumptive rate adopted by the commissioner under this section. Authorizes the commissioner to disapprove a rate filed under this subdivision on the ground that the rate does not comply with the terms of this section. Authorizes a rate filed under this subdivision to be considered to be approved and the insurer to use the rate if the rate is not disapproved by the commissioner before the 60th day after the date the insurer filed the rate.

(7) Provides that a rate filed under this section is not excessive unless the rate is unreasonably high for the coverage provided and a reasonable degree of competition does not exist with respect to the classification to which the rate is applicable. Provides that a rate filed under this section is not inadequate unless either the rate is insufficient to sustain projected losses and expenses, or the rate substantially impairs, or is likely to impair substantially, competition with respect to the sale of the product.

(8) Requires a hearing under Subdivision (6) to be a contested case hearing conducted under Chapter 2001, Government Code. Requires a judicial review of any action of the commissioner under Subdivision (6) to be governed by Chapter 36D, of this code.

(b) Provides that the changes made by this Act to Section 8A, Article 3.53, Insurance Code, expire September 1, 2005.

SECTION 3. (a) Amends Section 40.003(c), Insurance Code, to provide that this chapter does not apply to a proceeding conducted under Article 1.04D or to a proceeding relating to certain criteria.

(b) Provides that the changes made by this Act to Section 40.003(c), Insurance Code, expire September 1, 2005.

SECTION 4. Requires the commissioner of insurance, before January 31, 2005, to submit a report to the 79th Legislature on certain topics.

SECTION 5. Effective date: upon passage or September 1, 2001.