

INSURANCE CODE - NOT CODIFIED
TITLE 1. THE INSURANCE CODE OF 1951
CHAPTER 5. RATING AND POLICY FORMS

SUBCHAPTER A. MOTOR VEHICLE OR AUTOMOBILE INSURANCE

Art. 5.01. FIXING RATE OF AUTOMOBILE INSURANCE. (a) Every insurance company, corporation, interinsurance exchange, mutual, reciprocal, association, Lloyd's or other insurer, hereinafter called insurer, writing any form of motor vehicle insurance in this State, shall annually file with the State Board of Insurance, hereinafter called Board, on forms prescribed by the Board, a report showing its premiums and losses on each classification of motor vehicle risks written in this State.

(b) The Board shall have the sole and exclusive power and authority, and it shall be its duty to determine, fix, prescribe, and promulgate just, reasonable and adequate rates of premiums to be charged and collected by all insurers writing any form of insurance on motor vehicles in this State, including fleet or other rating plans designed to discourage losses from fire and theft and similar hazards and any rating plans designed to encourage the prevention of accidents. In promulgating any such rating plans the Board shall give due consideration to the peculiar hazards and experience of individual risks, past and prospective, within and outside the State and to all other relevant factors, within and outside the State. The Board shall have the authority also to alter or amend any and all of such rates of premiums so fixed and determined and adopted by it, and to raise or lower the same or any part thereof.

(c) At least annually, the Board shall conduct a hearing to review the reports of premiums earned and losses incurred in the writing of motor vehicle insurance in this State and may fix, determine, and adopt new rates in whole or in part or may alter or amend rates previously fixed, determined, and adopted by the Board to assure that those rates comply with the requirements of this subchapter.

(d) Said Board shall have authority to employ clerical help,

inspectors, experts, and other assistants, and to incur such other expenses as may be necessary in carrying out the provisions of this law; provided, however, that the number of employees and salary of each shall be fixed in the General Appropriation Bill passed by the Legislature. The Board shall ascertain as soon as practicable the annual insurance losses incurred under all policies on motor vehicles in this State, make and maintain a record thereof, and collect such data as will enable said Board to classify the various motor vehicles of the State according to the risk and usage made thereof, and to classify and assign the losses according to the various classes of risks to which they are applicable; the Board shall also ascertain the amount of premiums on all such policies for each class of risks, and maintain a permanent record thereof in such manner as will aid in determining just, reasonable and adequate rates of premiums.

(e) Motor vehicle or automobile insurance as referred to in this subchapter shall be taken and construed to mean every form of insurance on any automobile or other vehicle hereinafter enumerated and its operating equipment or necessitated by reason of the liability imposed by law for damages arising out of the ownership, operation, maintenance, or use in this State of any automobile, motorcycle, motorbicycle, truck, truck-tractor, tractor, traction engine, or any other self-propelled vehicle, and including also every vehicle, trailer or semi-trailer pulled or towed by a motor vehicle, but excluding every motor vehicle running only upon fixed rails or tracks. Workers' Compensation Insurance is excluded from the foregoing definition.

(f) Notwithstanding Subsections (a) through (d) of this article, on and after the effective date of S.B. No. 14, Acts of the 78th Legislature, Regular Session, 2003, rates for personal automobile insurance in this state are determined as provided by Article 5.101 of this code, and rates for commercial motor vehicle insurance in this state are determined as provided by Article 5.13-2 of this code. On and after December 1, 2004, rates for personal automobile insurance and commercial automobile insurance in this state are determined as provided by Article 5.13-2 of this code.

Acts 1951, 52nd Leg., ch. 491. Amended by Acts 1953, 53rd Leg., p. 64, ch. 50, Sec. 2.

Amended by Acts 1987, 70th Leg., 1st C.S., ch. 1, Sec. 2.06, eff. Sept. 2, 1987; Subsec. (f) added by Acts 1991, 72nd Leg., ch. 242, Sec. 2.02, eff. Sept. 1, 1991; Subsec. (f) amended by Acts 1991, 72nd Leg., 2nd C.S., ch. 12, Sec. 8.04, eff. Jan. 1, 1992; amended by Acts 1995, 74th Leg., ch. 984, Sec. 2, eff. Sept. 1, 1995; Subsec. (f) amended by Acts 2003, 78th Leg., ch. 206, Sec. 21.01, eff. June 11, 2003.

Art. 5.01B. PUBLIC INFORMATION. (a) Information filed or otherwise provided by an insurer to the State Board of Insurance for the purpose of determining, fixing, prescribing, promulgating, altering, or amending commercial automobile liability insurance rates under Article 5.01 of this code, obtaining a rate deviation under Article 5.03 of this code, or reporting losses under Article 5.04-1 of this code is public information unless it is exempt under Section 3(a), Chapter 424, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252-17a, Vernon's Texas Civil Statutes), or Section (b) of this article.

(b) Information provided with an application under Section (d), Article 5.03, of this code is exempt from the disclosure requirements of this article.

Added by Acts 1987, 70th Leg., 1st C.S., ch. 1, Sec. 2.03, eff. Sept. 2, 1987. Sec. (a) amended by Acts 1991, 72nd Leg., ch. 750, Sec. 1, eff. Sept. 1, 1991.

Art. 5.03. PROMULGATED RATES AS CONTROLLING. (a) On and after the filing and effective date of such classification of such risks and rates, no such insurer, except as otherwise provided herein, shall issue or renew any such insurance at premium rates which are greater or lesser than those promulgated by the Board as just, reasonable, adequate and not excessive for the risks to which they respectively apply, and not confiscatory as to any class of insurance carriers authorized by law to write such insurance after taking into consideration the deviation provisions of this Article. Any insurer desiring to write insurance at rates different from

those promulgated by the Board shall make a written application to the Board for permission to file a uniform percentage deviation for a lesser or greater rate, on a statewide basis unless otherwise ordered by the Board, from the class rates or classes of rates promulgated by the Board. Any insurer desiring to write insurance under a classification plan different from that promulgated by the Board shall make written application to the Board for permission to do so; provided, however, the Board shall approve the use of only such additions or refinements in its classification plan as will produce subclassifications which, when combined, will enable consideration of the insurer's experience under both the Board classification plan and its own classification plan. Such application shall be approved in whole or in part by the Board, provided the Board finds that the resulting premiums will be just, adequate, reasonable, not excessive and not unfairly discriminatory, taking into consideration the following:

- (1) the financial condition of the insurer;
- (2) the method of operation and expenses of such insurer;
- (3) the actual paid and incurred loss experience of the insurer;
- (4) earnings of the insurer from investments together with a projection of prospective earnings from investments during the period for which the application is made; and
- (5) such application meets the reasonable conditions, limitations, and restrictions deemed necessary by the Board.

In considering all matters set forth in such application the Board shall give consideration to the composite effect of items (2), (3), and (4) above and the Board shall deny such application if it finds that the resulting premiums would be inadequate, excessive, or unfairly discriminatory. Any original or renewal policy of insurance issued pursuant to an approved plan of deviation shall have attached to or imprinted on the face of such policy the following notice: "The premium charged for this policy is greater than the premium rates promulgated by the State Board of Insurance." The notice shall be in 10-point or larger prominent typesize.

Except as the Board may authorize, the deviation provisions

in this Article shall not apply to insurance written pursuant to other provisions of this Chapter in which a deviation from standard rates is authorized, including, but not limited to, automobile liability experience rating and fleet rating plans.

(b) The Board shall issue its order in writing setting forth the terms of approval or reasons for denial of each application filed for deviation. On January 1, 1974 and thereafter if the Board has not issued its order within 30 days after the filing of an application, the application shall be "deemed approved" by the Board. Provided, however, that the Board may thereafter require the applicant insurer to furnish proof to the Board that the matters set out in the application are true and correct and that such application meets the requirements of this Article. If after notice and hearing the Board determines that any application "deemed to have been approved" by the Board contains false or erroneous information or the Board determines that the application does not meet the requirements of this Article the Board may suspend or revoke the approval "deemed to have been granted."

An insurer that has received approval, or is "deemed to have received approval" for the use of a deviation may apply for an amendment to such deviation or by notice to the Board withdraw the deviation.

(c) From and after the effective date of an application approved by the Board, or "deemed to have been approved" by the Board, such insurer may write insurance in accordance with such approval. Provided, however, that the right to write insurance at a lesser or greater rate as approved may be suspended or revoked by the Board, after notice and hearing, if upon examination or at any time it appears to or is the opinion of the Board that such insurer:

(1) has had a change in its financial condition since the granting of the application; or

(2) the actual paid and incurred losses of the insurer have materially changed since the granting of the application; or

(3) there has been a material increase in expenses of such insurer since the granting of the application; or

(4) there has been a material reduction in earnings from investments by the insurer since the granting of the application;

or

(5) the insurer has failed or refused to furnish information required by the Board; or

(6) the insurer has failed to abide by or follow its rate deviation previously approved by the Board. The Board may suspend the right of an insurer to write insurance at the rates approved under such application, pending hearing, provided that the Board in or accompanying the order suspending such right, sets such hearing within not less than 10 nor more than 30 days following the issuance of its order. The Board shall conduct the hearing within not less than 10 nor more than 30 days following the issuance of its order suspending such right, unless the insurer subject to the order requests the Board to delay the hearing beyond 30 days. The right to write insurance at the lesser or greater rate previously approved by the Board shall automatically terminate, except as herein provided, upon the promulgation by the Board of new or different rates as provided for in the first sentence of "Section (a)" of this Article, and as further provided in paragraphs one and two of Article [5.01](#), Insurance Code, as amended. After the effective date of the Board's promulgation or authorization of new or different rates, the insurer may not thereafter write insurance at a lesser or greater rate, except that an insurer may continue to write insurance at a deviated rate by applying the percentage of the previously approved deviation applicable to the prior rates as the percentage of deviation applicable to the new or different rates promulgated by the Board, limited, however, to a period of 60 days after the effective date of the new or different rates, and not thereafter, and only if such insurer within 30 days following promulgation by the Board of new or different rates, shall make a written application to the Board for permission to deviate from the new or different rates promulgated by the Board. The Board by order may extend the use of prior approved deviations beyond the 60 day period hereinabove set out.

(d) It is expressly provided, however, that notwithstanding any other provision of this chapter to the contrary, a rate or premium for such insurance greater than the standard rate or premium that has been promulgated by the Board may be used on any

specific risk if:

(1) a written application is made to the Board naming the insurer and stating the coverage and rate proposed;

(2) the person to be insured or person authorized to act in relation to the risk to be insured consents to such rate;

(3) the reasons for requiring such greater rate or premium are stated in or attached to the application;

(4) the person to be insured or person authorized to act for such person signs the application; and

(5) the Board approves the application by order or by stamping.

(e) In the administration of this Act the Board shall resolve by rules and regulations, to the extent permitted by law, any conflicts or ambiguities as may be necessary to accomplish the purposes of this Act.

(f) This Article, as amended, is effective September 1, 1973.

(g) Notwithstanding Sections (a) through (e) of this article, on and after the effective date of S.B. No. 14, Acts of the 78th Legislature, Regular Session, 2003, rates for personal automobile insurance in this state are determined as provided by Article 5.101 of this code, and rates for commercial motor vehicle insurance in this state are determined as provided by Article 5.13-2 of this code. On and after December 1, 2004, rates for personal automobile insurance and commercial automobile insurance in this state are determined as provided by Article 5.13-2 of this code.

Acts 1951, 52nd Leg., ch. 491. Amended by Acts 1971, 62nd Leg., p. 864, ch. 104, Sec. 1, eff. April 30, 1971; Acts 1973, 63rd Leg., p. 1118, ch. 425, Sec. 1, eff. Sept. 1, 1973; Acts 1977, 65th Leg., p. 1981, ch. 792, Sec. 1, eff. Aug. 29, 1977.

Subsec. (g) added by Acts 1991, 72nd Leg., ch. 242, Sec. 2.04, eff. Sept. 1, 1991; Subsec. (g) amended by Acts 1991, 72nd Leg., 2nd C.S., ch. 12, Sec. 8.05, eff. Jan. 1, 1992; amended by Acts 1995, 74th Leg., ch. 984, Sec. 4, eff. Sept. 1, 1995; Subsec. (g) amended by Acts 2003, 78th Leg., ch. 206, Sec. 21.05, eff. June 11, 2003.

Art. 5.04. EXPERIENCE AS FACTOR. (a) To insure the adequacy and reasonableness of rates the Board may take into consideration

past and prospective experience, within and outside the State, and all other relevant factors, within and outside the State, gathered from a territory sufficiently broad to include the varying conditions of the risks involved and the hazards and liabilities assumed, and over a period sufficiently long to insure that the rates determined therefrom shall be just, reasonable and adequate, and to that end the Board may consult any rate making organization or association that may now or hereafter exist.

(b) As a basis for motor vehicle rates under this subchapter, the State Board of Insurance shall use data from within this State to the extent that the data is credible and available.

(c) Notwithstanding Subsections (a) and (b) of this article, on and after the effective date of S.B. No. 14, Acts of the 78th Legislature, Regular Session, 2003, rates for personal automobile insurance in this state are determined as provided by Article 5.101 of this code, and rates for commercial motor vehicle insurance in this state are determined as provided by Article 5.13-2 of this code. On and after December 1, 2004, rates for personal automobile insurance and commercial automobile insurance in this state are determined as provided by Article 5.13-2 of this code.

Acts 1951, 52nd Leg., ch. 491. Amended by Acts 1953, 53rd Leg., p. 64, ch. 50, Sec. 3.

Amended by Acts 1987, 70th Leg., 1st C.S., ch. 1, Sec. 2.01, eff. Sept. 2, 1987; Subsec. (c) added by Acts 1991, 72nd Leg., ch. 242, Sec. 2.05, eff. Sept. 1, 1991; Subsec. (c) amended by Acts 1991, 72nd Leg., 2nd C.S., ch. 12, Sec. 8.06, eff. Jan. 1, 1992; amended by Acts 1995, 74th Leg., ch. 984, Sec. 5, eff. Sept. 1, 1995; Subsec. (c) amended by Acts 2003, 78th Leg., ch. 206, Sec. 21.06, eff. June 11, 2003.

Art. 5.04-1. REPORT OF BASIC LIMITS LOSSES. (a) A report filed under Article 5.01(a) of this code must include the information necessary to compute a Texas automobile experience modifier as provided by this code or a rule adopted by the State Board of Insurance. In reporting losses under Article 5.01(a) of this code, an insurer may include only the following as basic limits losses:

- (1) indemnity losses, up to the basic limits for the losses;
- (2) losses based on payments for immediate medical or surgical treatment;
- (3) fees paid to an attorney who is not an employee of the insurer, if the fees were for services rendered in the trial of an action arising under a covered claim;
- (4) specific expenses incurred as a direct result of defending an action in connection with which the expense is claimed;
- (5) specific expenses, other than claims adjustment expenses, incurred in connection with the settlement of a claim with respect to which the expense is claimed;
- (6) all medical payments coverage; and
- (7) personal injury protection coverage losses.

(b) In reporting its basic limits losses to the State Board of Insurance, each insurer shall disclose the specific nature of each loss expense claimed and shall show to the Board's satisfaction that each specific expense claimed was necessary with respect to the specific risk involved.

Added by Acts 1991, 72nd Leg., ch. 750, Sec. 2, eff. Sept. 1, 1991.

Art. 5.06. POLICY FORMS AND ENDORSEMENTS.

(1) The Board shall adopt a policy form and endorsements for each type of motor vehicle insurance subject to this subchapter. The coverage provided by a policy form adopted under this subsection is the minimum coverage that may be provided under an insurance policy for that type of insurance in this State. Each policy form must provide the coverages mandated under Articles 5.06-1 and 5.06-3 of this code, except that the coverages may be rejected by the named insured as provided by those articles.

(2) Except as provided by Subsections (3) and (4) of this article, an insurer may only use a form adopted by the Board under this section in writing motor vehicle insurance delivered, issued for delivery, or renewed in this State. A contract or agreement not written into the application and policy is void and of no effect and in violation of the provisions of this subchapter, and is sufficient cause for revocation of license of such insurer to write

automobile insurance within this State.

(3) The Board may approve the use of a policy form adopted by a national organization of insurance companies, or similar organization, if the form, with any endorsement to the form required and approved by the Board, provides coverage equivalent to the coverage provided by the form adopted by the Board under Subsection (1) of this section.

(4) An insurer may use an endorsement to the policy form adopted or approved by the Board under this article if the endorsement is approved by the Board.

(5) Repealed by Acts 2005, 79th Leg., Ch. 727, Sec. 18, eff. April 1, 2007.

(6) Repealed by Acts 2005, 79th Leg., Ch. 727, Sec. 18, eff. April 1, 2007.

(7) The Board may not adopt or approve a policy form for private passenger automobile insurance or any endorsement to the policy if the policy or endorsement is not in plain language. For the purposes of this subsection, a policy or endorsement is written in plain language if it achieves the minimum score established by the commissioner on the Flesch reading ease test or an equivalent test selected by the commissioner, or, at the option of the commissioner, if it conforms to the language requirements in a National Association of Insurance Commissioners model act relating to plain language. This subsection does not apply to policy language that is mandated by state or federal law.

(8) The Board may withdraw its approval of a policy or endorsement form at any time, after notice and hearing.

(9) Repealed by Acts 2005, 79th Leg., Ch. 727, Sec. 18, eff. April 1, 2007.

(10) Repealed by Acts 2005, 79th Leg., Ch. 727, Sec. 18, eff. April 1, 2007.

(11) Repealed by Acts 2005, 79th Leg., Ch. 727, Sec. 18, eff. April 1, 2007.

(12)(a) Notwithstanding Subsections (1)-(10) of this article, policy forms and endorsements for automobile insurance in this state are regulated under Article [5.13-2](#) of this code.

(b) Repealed by Acts 2005, 79th Leg., Ch. 727, Sec. 18,

eff. April 1, 2007.

Acts 1951, 52nd Leg., ch. 491. Amended by Acts 1981, 67th Leg., p. 2700, ch. 736, Sec. 1, eff. Jan. 1, 1982.

Amended by Acts 1991, 72nd Leg., ch. 242, Sec. 2.07, eff. Sept. 1, 1991; Subsecs. (9), (10) added by Acts 1993, 73rd Leg., ch. 685, Sec. 14.04, eff. Sept. 1, 1993; Subsecs. (9), (10) amended by and (11) added by Acts 2001, 77th Leg., ch. 971, Sec. 2, eff. Sept. 1, 2001; Subsec. (12) added by Acts 2003, 78th Leg., ch. 206, Sec. 21.07, eff. June 11, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 727 (H.B. [2017](#)), Sec. 18, eff. April 1, 2007.

Art. 5.10. RULES AND REGULATIONS. The Board is hereby empowered to make and enforce all such reasonable rules and regulations not inconsistent with the provisions of this subchapter as are necessary to carry out its provisions.

Acts 1951, 52nd Leg., ch. 491.

Amended by Acts 1991, 72nd Leg., ch. 242, Sec. 2.13, eff. Sept. 1, 1991.

Art. 5.11. HEARING ON GRIEVANCES. (a) Any policyholder or insurer shall have the right to a hearing before the Board on any grievance occasioned by the approval or disapproval by the Board of any classification, rate, rating plan, endorsement or policy form, or any rule or regulation established under the terms hereof, such hearing to be held in conformity with rules prescribed by the Board. Upon receipt of request that such hearing is desired, the Board shall forthwith set a date for the hearing, at the same time notifying all interested parties in writing of the place and date thereof, which date, unless otherwise agreed to by the parties at interest, shall not be less than ten (10) nor more than thirty (30) days after the date of said notice. Any party aggrieved shall have the right to apply to any court of competent jurisdiction to obtain redress.

(b) No hearing shall suspend the operation of any classification, rate, rating plan or policy form unless the Board

shall so order.

(c) Notwithstanding Subsections (a) and (b) of this article, on and after the effective date of S.B. No. 14, Acts of the 78th Legislature, Regular Session, 2003, rates for personal automobile insurance in this state are determined as provided by Article 5.101 of this code, and rates for commercial motor vehicle insurance in this state are determined as provided by Article 5.13-2 of this code. On and after December 1, 2004, rates for personal automobile insurance and commercial automobile insurance in this state are determined as provided by Article 5.13-2 of this code.

Acts 1951, 52nd Leg., ch. 491. Amended by Acts 1953, 53rd Leg., p. 64, ch. 50, Sec. 6.

Amended by Acts 1991, 72nd Leg., ch. 242, Sec. 2.14, eff. Sept. 1, 1991; Subsec. (c) amended by Acts 1991, 72nd Leg., 2nd C.S., ch. 12, Sec. 8.08, eff. Jan. 1, 1992; amended by Acts 1995, 74th Leg., ch. 984, Sec. 7, eff. Sept. 1, 1995; Subsec. (c) amended by Acts 2003, 78th Leg., ch. 206, Sec. 21.11, eff. June 11, 2003.

SUBCHAPTER B. CASUALTY INSURANCE AND FIDELITY, GUARANTY AND SURETY BONDS

Art. 5.13. SCOPE OF SUBCHAPTER. (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 Section 911.151.

(b) This subchapter applies to the writing of casualty insurance and the writing of fidelity, surety, and guaranty bonds, on risks or operations in this State except as herein stated.

(c) Except as otherwise provided by this subchapter, this subchapter does not apply to the writing of motor vehicle, life, health, accident, professional liability, reinsurance, aircraft, fraternal benefit, fire, lightning, tornado, windstorm, hail, smoke or smudge, cyclone, earthquake, volcanic eruption, rain, frost and freeze, weather or climatic conditions, excess or deficiency of moisture, flood, the rising of the waters of the ocean or its tributaries, bombardment, invasion, insurrection, riot, civil war or commotion, military or usurped power, any order of a civil authority made to prevent the spread of a conflagration, epidemic or catastrophe, vandalism or malicious mischief, strike or lockout, water or other fluid or substance, resulting from the breakage or leakage of sprinklers, pumps, or other apparatus erected for extinguishing fires, water pipes or other conduits or containers, or resulting from casual water entering through leaks or opening in buildings or by seepage through building walls, including insurance against accidental injury of such sprinklers, pumps, fire apparatus, conduits or container, workers' compensation, noncommercial inland marine, ocean marine, marine, or title insurance; nor does this subchapter apply to the writing of explosion insurance, except insurance against loss from injury to person or property which results accidentally from steam boilers, heaters or pressure vessels, electrical devices, engines and all machinery and appliances used in connection therewith or operation thereby.

(d) This subchapter shall not be construed as limiting in any manner the types or classes of insurance which may be written by the several types of insurers under appropriate statutes or their charters or permits.

(e) The regulatory power herein conferred is vested in the

commissioner.

Acts 1951, 52nd Leg., ch. 491. Amended by Acts 1955, 54th Leg., p. 359, ch. 76, Sec. 1; Acts 2003, 78th Leg., ch. 206, Sec. 5.01, eff. June 11, 2003; Acts 2003, 78th Leg., ch. 206, Sec. 6.01, eff. Dec. 1, 2004.

Amended by:

Acts 2005, 79th Leg., Ch. 631 (H.B. [2565](#)), Sec. 1, eff. September 1, 2005.

Art. 5.13-1. LEGAL SERVICE CONTRACTS. (a) Every insurer governed by Subchapter B of Chapter 5 of the Insurance Code, as amended, and every life, health, and accident insurer governed by Chapter 3 of the Insurance Code, as amended, is authorized to issue prepaid legal services contracts. Every such insurer or rating organization authorized under Article 5.16 of the Insurance Code shall file with the State Board of Insurance all rules and forms applicable to prepaid legal service contracts in a manner to be established by the State Board of Insurance. Certification, by a qualified actuary, to the appropriateness of the charges, rates, or rating plans, based upon reasonable assumptions, shall accompany the filing along with adequate supporting information.

(b) The State Board of Insurance shall, within a reasonable period, approve any form if the requirements of this section are met. It shall be unlawful to issue such forms until approved or to use such schedules of charges, rates, or rating plans until filed. If the State Board of Insurance has good cause to believe such rates and rating plans do not comply with the standards of this article, it shall give notice in writing to every insurer or rating organization which filed such rates or rating plans, stating therein in what manner and to what extent such noncompliance is alleged to exist and specifying therein a reasonable time, not less than 30 days thereafter, in which such noncompliance may be corrected. If the board has not acted on any form, rate, rating plan, or charges within 30 days after the filing of same, they shall be deemed approved. The board may require the submission of whatever relevant information is deemed necessary in determining whether to approve or disapprove a filing made pursuant to this

section.

(c) The right of such insurers to issue prepaid legal services contracts on individual, group, or franchise bases is hereby recognized, and qualified agents of such insurers who are licensed under Article 21.07-1 or 21.14 of this code shall be authorized to write such coverages under such rules as the commissioner may prescribe.

(d) The State Board of Insurance is hereby vested with power and authority under this article to promulgate, after notice of hearing, and to enforce, rules and regulations concerning the application to the designated insurers of this article and for such clarification, amplification, and augmentation as in the discretion of the State Board of Insurance are deemed necessary to accomplish the purposes of this article.

(e) This article shall be construed as a specific exception to Article 3.54 of the Texas Insurance Code.

(f) All legal services contracts and related promotional material issued pursuant to Chapter 23 and the issuance of legal services contracts pursuant to Article 5.13-1 shall be truthful and accurate and shall properly describe the coverage offered. Such description should include, but not be limited to, a description of coverage offered as either an indemnity coverage or a contract that provides only consultation and advice on simple legal matters, either alone or in combination with a referral service, and that provides fee discounts for other matters. To provide for the actuarial soundness of a prepaid legal services contract issued under this article, the State Board of Insurance may require that prepaid legal services contracts have rates that are adequate to reasonably provide the benefits under the prepaid legal services contracts. This subsection does not apply to a prepaid legal services contract that provides only consultation and advice on simple legal matters, either alone or in combination with a referral service, and that provides fee discounts for other matters.

(g) The State Board of Insurance may not determine, fix, prescribe, set, or promulgate maximum rates or maximum amounts of premium to be charged for a prepaid legal services contract issued

under this chapter. Nothing in this Act shall be construed as compelling the State Board of Insurance to establish standard or absolute rates and the board is specifically authorized, in its discretion, to approve different rates for different insurers for the same risk or risks on the types of insurance covered by this article. The board shall approve such rates as filed by any insurer unless it finds that such filing does not meet the requirements of this article.

(h) An insurer may not issue or renew a prepaid legal service contract under this article after March 1, 2004.

Added by Acts 1975, 64th Leg., p. 134, ch. 60, Sec. 2, eff. Sept. 1, 1975.

Subsecs. (a), (b), (f), (g) amended by Acts 1995, 74th Leg., ch. 873, Sec. 1, eff. Sept. 1, 1995; Subsec. (c) amended by Acts 2001, 77th Leg., ch. 703, Sec. 7.03, eff. Sept. 1, 2001. Subsec. (h) added by Acts 2003, 78th Leg., ch. 1181, Sec. 2, eff. Sept. 1, 2003.

Art. 5.13-2. RATES AND FORMS FOR CERTAIN PROPERTY AND CASUALTY INSURANCE.

Sec. 1. PURPOSE. This article governs the regulation of insurance described by Section 2 of this article. The purposes of this article are to:

(1) promote the public welfare by regulating insurance rates to prohibit excessive, inadequate, or unfairly discriminatory rates;

(2) promote availability of insurance;

(3) promote price competition among insurers to provide rates and premiums that are responsive to competitive market conditions;

(4) prohibit price-fixing agreements and other anticompetitive behavior by insurers;

(5) regulate the insurance forms used for lines of insurance subject to this article to ensure that they are not unjust, unfair, inequitable, misleading, or deceptive; and

(6) provide regulatory procedures for the maintenance of appropriate information reporting systems.

Sec. 2. Repealed by Acts 2007, 80th Leg., R.S., Ch. 730, Sec. 3B.071(c), eff. September 1, 2007.

Sec. 3. Repealed by Acts 2005, 79th Leg., Ch. 727, Sec. 18, eff. April 1, 2007.

Sec. 4. Repealed by Acts 2005, 79th Leg., Ch. 727, Sec. 18, eff. April 1, 2007.

Sec. 5. Repealed by Acts 2005, 79th Leg., Ch. 727, Sec. 18, eff. April 1, 2007.

Sec. 5A. Repealed by Acts 2005, 79th Leg., Ch. 727, Sec. 18, eff. April 1, 2007.

Sec. 6. Repealed by Acts 2005, 79th Leg., Ch. 727, Sec. 18, eff. April 1, 2007.

Sec. 7. Repealed by Acts 2005, 79th Leg., Ch. 727, Sec. 18, eff. April 1, 2007.

Sec. 8. Repealed by Acts 2005, 79th Leg., Ch. 727, Sec. 18, eff. April 1, 2007.

Sec. 9. COMMISSIONER AUTHORITY. If the commissioner determines at any time that the implementation of this article or any part thereof is contrary to the public interest and has resulted in or may result in imminent peril to the insurance consumers of this state, the commissioner may issue an order stating the harm to the public and shall thereafter rely upon Subchapters A-L of this chapter, or parts thereof, in the regulation of property and casualty insurance.

Sec. 10. Repealed by Acts 2005, 79th Leg., Ch. 727, Sec. 18, eff. April 1, 2007.

Sec. 13. Repealed by Acts 2007, 80th Leg., R.S., Ch. 730, Sec. 3B.072(b), eff. September 1, 2007.

Sec. 14. Repealed by Acts 2005, 79th Leg., Ch. 727, Sec. 18, eff. April 1, 2007.

Sec. 15. Repealed by Acts 2005, 79th Leg., Ch. 727, Sec. 18, eff. April 1, 2007.

Sec. 16. Repealed by Acts 2005, 79th Leg., Ch. 727, Sec. 18, eff. April 1, 2007.

Added by Acts 1991, 72nd Leg., ch. 242, Sec. 2.15, eff. Sept. 1, 1991. Sec. 8(e) amended by Acts 1991, 72nd Leg., 2nd C.S., ch. 12, Sec. 8.01, eff. Jan. 1, 1992; Secs. 1 and 2 amended by Acts 1993, 73rd Leg., ch. 685, Sec. 6.07, eff. Sept. 1, 1993; Sec. 3(5), (6) amended by Acts 1993, 73rd Leg., ch. 685, Sec. 6.08, eff. Sept. 1,

1993; Secs. 5, 7 to 9 amended by Acts 1993, 73rd Leg., ch. 685, Sec. 6.09, eff. Sept. 1, 1993; Sec. 1 amended by Acts 1995, 74th Leg., ch. 984, Sec. 8, eff. Sept. 1, 1995; Sec. 3(2) amended by Acts 1995, 74th Leg., ch. 984, Sec. 9, eff. Sept. 1, 1995; Sec. 10 amended by Acts 1995, 74th Leg., ch. 984, Sec. 10, eff. Sept. 1, 1995; Sec. 1 amended by Acts 1997, 75th Leg., ch. 1330, Sec. 1, eff. Sept. 1, 1997; Sec. 3(2) amended by Acts 1997, 75th Leg., ch. 438, Sec. 1, eff. Sept. 1, 1997; Sec. 8(e) amended by Acts 1997, 75th Leg., ch. 1330, Sec. 2, eff. Sept. 1, 1997; Sec. 8(f) amended by Acts 1997, 75th Leg., ch. 1426, Sec. 1, eff. Sept. 1, 1997; Section heading amended by Acts 2003, 78th Leg., ch. 206, Sec. 5.02, 6.02, eff. June 11, 2003; Sec. 1 amended by Acts 2003, 78th Leg., ch. 206, Sec. 5.03, 6.03, eff. June 11, 2003; Sec. 2 amended by Acts 2003, 78th Leg., ch. 206, Sec. 5.03, 6.03, eff. June 11, 2003; Sec. 3 amended by Acts 2003, 78th Leg., ch. 206, Sec. 6.04, eff. Dec. 1, 2004; Sec. 3(2) amended by Acts 2003, 78th Leg., ch. 206, Sec. 5.04, eff. June 11, 2003; Sec. 4(b) amended by Acts 2003, 78th Leg., ch. 206, Sec. 6.05, eff. Dec. 1, 2004; Sec. 4(d) amended by Acts 2003, 78th Leg., ch. 206, Sec. 6.05, eff. Dec. 1, 2004; Sec. 4(f) added by Acts 2003, 78th Leg., ch. 206, Sec. 6.05, eff. Dec. 1, 2004; Sec. 5(a) amended by Acts 2003, 78th Leg., ch. 206, Sec. 6.06, eff. Dec. 1, 2004; Sec. 5(a-1) added by Acts 2003, 78th Leg., ch. 206, Sec. 6.06, eff. Dec. 1, 2004; Sec. 5(a-2) added by Acts 2003, 78th Leg., ch. 206, Sec. 6.06, eff. Dec. 1, 2004; Sec. 5(b) amended by Acts 2003, 78th Leg., ch. 206, Sec. 21.47(3), eff. June 11, 2003; Sec. 5A added by Acts 2003, 78th Leg., ch. 206, Sec. 6.07, eff. Dec. 1, 2004; Sec. 13 added by Acts 2003, 78th Leg., ch. 206, Sec. 6.08, eff. Dec. 1, 2004; Sec. 14 added by Acts 2003, 78th Leg., ch. 206, Sec. 6.09, eff. June 11, 2003; Sec. 15 added by Acts 2003, 78th Leg., ch. 206, Sec. 6.10, eff. June 11, 2003; Sec. 16 added by Acts 2003, 78th Leg., ch. 206, Sec. 6.11, eff. Dec. 1, 2004.

Amended by:

Acts 2005, 79th Leg., Ch. 70 (H.B. [2870](#)), Sec. 1, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 71 (H.B. [2872](#)), Sec. 1, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 102 (S.B. [99](#)), Sec. 4, eff.

September 1, 2005.

Acts 2005, 79th Leg., Ch. 727 (H.B. [2017](#)), Sec. 18, eff. April 1, 2007.

Acts 2005, 79th Leg., Ch. 1118 (H.B. [2437](#)), Sec. 1, eff. June 18, 2005.

Acts 2007, 80th Leg., R.S., Ch. 730 (H.B. [2636](#)), Sec. 3B.071(c), eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 730 (H.B. [2636](#)), Sec. 3B.072(b), eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. [3167](#)), Sec. 9.071(c), eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. [3167](#)), Sec. 9.072(b), eff. September 1, 2007.

Art. 5.15-1. PROFESSIONAL LIABILITY INSURANCE FOR PHYSICIANS AND HEALTH CARE PROVIDERS.

Sec. 1. Repealed by Acts 2005, 79th Leg., Ch. 727, Sec. 18, eff. April 1, 2007.

Sec. 2. Repealed by Acts 2005, 79th Leg., Ch. 727, Sec. 18, eff. April 1, 2007.

Sec. 4. Repealed by Acts 2005, 79th Leg., Ch. 727, Sec. 18, eff. April 1, 2007.

Sec. 4A. Repealed by Acts 1993, 73rd Leg., ch. 685, Sec. 6.12, eff. Sept. 1, 1993.

Sec. 4B. Repealed by Acts 2005, 79th Leg., Ch. 727, Sec. 18, eff. April 1, 2007.

Sec. 5. Repealed by Acts 2005, 79th Leg., Ch. 727, Sec. 18, eff. April 1, 2007.

Sec. 6. Repealed by Acts 2005, 79th Leg., Ch. 727, Sec. 18, eff. April 1, 2007.

Sec. 7. Repealed by Acts 2005, 79th Leg., Ch. 727, Sec. 18, eff. April 1, 2007.

Sec. 8. Repealed by Acts 2005, 79th Leg., Ch. 727, Sec. 18, eff. April 1, 2007.

Sec. 9. Repealed by Acts 2005, 79th Leg., Ch. 727, Sec. 18, eff. April 1, 2007.

Sec. 10. PREMIUM DISCOUNT RECOUPMENT. (a) Eligibility.

Effective January 1, 1999, each insurer that has filed and issued premium discounts to health care professionals pursuant to Article 5.15-4 of this code shall be eligible to elect to receive a premium tax credit in lieu of indemnification for claims filed with the Attorney General under Chapter 110, Civil Practice and Remedies Code.

(b) Amount of Tax Credit. An eligible company may elect to recoup premium discounts issued to eligible health care professionals in lieu of indemnification from the State of Texas for claims filed under Chapter 110, Civil Practice and Remedies Code. Such election shall be made as a credit that is part of the annual premium tax return filed on or before March 1, 1999. An insurer may credit the total amount of any discounts issued less any reimbursements received prior to January 1, 1999, by the insurer for claims filed under Chapter 110, Civil Practice and Remedies Code, against its premium tax under Article 4.10 of this code. The tax credit herein authorized shall be allowed at a rate not to exceed 20 percent of the credit per year for five or more successive years following the initial election made in March 1999. The balance of payments due the insurer and not claimed as a tax credit may be reflected in the books and records of the insurer as an admitted asset for all purposes, including exhibition in annual statements pursuant to Article 6.12 of this code. The tax credit allowed in any one year may not exceed the premium tax due in that year.

(c) An eligible insurer that elects to receive tax credits shall not be eligible to file claims for indemnity under Chapter 110, Civil Practice and Remedies Code after January 1, 1999. Any claims of an eligible insurer filed with the Attorney General prior to January 1, 1999, that have not been reimbursed shall also be deemed to have been waived by the insurer by making its election. An insurer that elects not to recoup its discount through tax credit will continue to remain eligible for indemnification of eligible claims under Chapter 110, Civil Practice and Remedies Code.

(d) The elections provided herein shall not affect the right of a self-insurance trust created under Article 21.49-4 of this code from seeking indemnification for eligible claims.

(e) The provisions of Article 21.46 of this code shall not apply to the credits authorized herein.

Sec. 11. Repealed by Acts 2005, 79th Leg., Ch. 727, Sec. 18, eff. April 1, 2007.

Sec. 12. Repealed by Acts 2007, 80th Leg., R.S., Ch. 730, Sec. 3B.035(c), eff. September 1, 2007.

Sec. 12. Repealed by Acts 2007, 80th Leg., R.S., Ch. 730, Sec. 3B.036(b), eff. September 1, 2007.

Sec. 13. Repealed by Acts 2007, 80th Leg., R.S., Ch. 730, Sec. 3B.035(c), eff. September 1, 2007.

Added by Acts 1977, 65th Leg., p. 2054, ch. 817, Sec. 31.01, eff. Aug. 29, 1977.

Sec. 2(2) amended by Acts 1987, 70th Leg., ch. 718, Sec. 1, eff. Sept. 1, 1987; Sec. 4A added by Acts 1987, 70th Leg., 1st C.S., ch. 1, Sec. 2.05, eff. Sept. 2, 1987; Sec. 8 amended by Acts 1987, 70th Leg., 1st C.S., ch. 1, Sec. 7.01, eff. Sept. 2, 1987; Sec. 3 amended by Acts 1989, 71st Leg., ch. 1027, Sec. 15, eff. Sept. 1, 1989; Sec. 4B added by Acts 1989, 71st Leg., ch. 1027, Sec. 16, eff. Sept. 1, 1989; Sec. 2(3) amended by Acts 1991, 72nd Leg., ch. 14, Sec. 284(15), eff. Sept. 1, 1991; Sec. 3 amended by Acts 1991, 72nd Leg., ch. 606, Sec. 1, eff. Sept. 1, 1991; Sec. 4A amended by Acts 1991, 72nd Leg., ch. 242, Sec. 2.17D, eff. Sept. 1, 1991; Sec. 4B(b) amended by Acts 1991, 72nd Leg., ch. 606, Sec. 2, eff. Sept. 1, 1991; Sec. 4(a) amended by Acts 1993, 73rd Leg., ch. 685, Sec. 6.11, eff. Sept. 1, 1993; Sec. 4A repealed by Acts 1993, 73rd Leg., ch. 685, Sec. 6.12, eff. Sept. 1, 1993; Sec. 8 amended by Acts 1997, 75th., ch. 746, Sec. 1, eff. Sept. 1, 1997; Sec. 10 added by Acts 1997, 75th Leg., ch. 991, Sec. 1, eff. Sept. 1, 1997; Sec. 2(2) amended by Acts 2001, 77th Leg., ch. 1284, Sec. 5.01, eff. June 15, 2001; Sec. 8 amended by Acts 2001, 77th Leg., ch. 1284, Sec. 5.02, eff. June 15, 2001; Sec. 2(2) amended by Acts 2003, 78th Leg., ch. 141, Sec. 1, eff. Sept. 1, 2003; Sec. 8 amended by Acts 2003, 78th Leg., ch. 141, Sec. 2, eff. Sept. 1, 2003; Sec. 11 added by Acts 2003, 78th Leg., ch. 204, Sec. 10.08, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 184 (H.B. [654](#)), Sec. 1, eff. May 27, 2005.

Acts 2005, 79th Leg., Ch. 727 (H.B. [2017](#)), Sec. 18, eff. April 1, 2007.

Acts 2005, 79th Leg., Ch. 1135 (H.B. [2678](#)), Sec. 1, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 1135 (H.B. [2678](#)), Sec. 2, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 730 (H.B. [2636](#)), Sec. 3B.034(c), eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 730 (H.B. [2636](#)), Sec. 3B.035(c), eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 730 (H.B. [2636](#)), Sec. 3B.036(b), eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. [3167](#)), Sec. 9.034(c), eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. [3167](#)), Sec. 9.035(c), eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. [3167](#)), Sec. 9.036(b), eff. September 1, 2007.

Art. 5.22. PENALTIES. (a) The Board may suspend the license of any advisory organization licensed under Article 5.73 of this code, insurer or agent which fails to comply with an order of the Board within the time limited by such order, or any extension thereof which the Board may grant. The Board shall not suspend the license of any advisory organization, agent or insurer for failure to comply with an order until the time prescribed for an appeal therefrom has expired or, if an appeal has been taken, until such order has been affirmed. The Board may determine when a suspension of license shall become effective and it shall remain in effect for the period fixed by it, unless it modifies or rescinds such suspension or until the order upon which such suspension is based is modified, rescinded or reversed.

(b) No license shall be suspended except upon a written order of the Board, stating its findings, made after a hearing held upon not less than ten (10) days' notice to such person or organization specifying the alleged violation.

Acts 1951, 52nd Leg., ch. 491.

Amended by Acts 1991, 72nd Leg., ch. 242, Sec. 2.22, eff. Sept. 1, 1991.

Art. 5.23. JUDICIAL REVIEW. Any order or decision of the Board shall be subject to review, which shall be on the basis of the record of the proceedings before the Board and shall not be limited to questions of law, by direct action in the District Court of Travis County, instituted by any party aggrieved by any action taken under this subchapter.

Pending final disposition of any proceedings which attack the correctness of a rate, any insurer affected by such order may continue to charge the rate which obtained prior to such order of decrease or may charge the rate resulting from such order of increase, on condition that the difference in the premiums be deposited in a special account by said insurer, to be held in trust by said insurer, and to be retained by said insurer or paid to the holders of policies issued after the order of the Board, as the court may determine.

In all other cases, the court shall determine whether the filing of the appeal shall operate as a stay. The court may, in disposing of the issue before it, modify, affirm or reverse the order or decision of the Board in whole or in part.

Acts 1951, 52nd Leg., ch. 491.

SUBCHAPTER C. FIRE INSURANCE AND ALLIED LINES

Art. 5.25. BOARD SHALL FIX RATES. (a) The State Board of Insurance shall have the sole and exclusive power and authority and it shall be its duty to prescribe, fix, determine and promulgate the rates of premiums to be charged and collected by fire insurance companies transacting business in this State. Said Board shall also have authority to alter or amend any and all such rates of premiums so fixed and determined and adopted by it, and to raise or lower the same, or any part thereof, as herein provided.

(b) Notwithstanding Subsection (a) of this article, on and after the effective date of S.B. No. 14, Acts of the 78th Legislature, Regular Session, 2003, rates for homeowners and

residential fire and residential allied lines insurance coverage under this subchapter are determined as provided by Subchapter Q of this chapter, and rates for other lines of insurance subject to this subchapter are determined as provided by Article 5.13-2 of this code, except that on and after December 1, 2004, rates for all lines of insurance subject to this subchapter are determined as provided by Article 5.13-2 of this code.

Acts 1951, 52nd Leg., ch. 491.

Amended by Acts 1985, 69th Leg., ch. 861, Sec. 1, eff. June 15, 1985; Acts 1991, 72nd Leg., ch. 242, Sec. 2.23, eff. Sept. 1, 1991; Acts 1991, 72nd Leg., ch. 628, Sec. 10, eff. Sept. 1, 1991; Subsec. (b) amended by Acts 1991, 72nd Leg., 2nd C.S., ch. 12, Sec. 8.10, eff. Jan. 1, 1992; amended by Acts 1995, 74th Leg., ch. 984, Sec. 13, eff. Sept. 1, 1995; Subsec. (b) amended by Acts 1997, 75th Leg., ch. 1330, Sec. 3, eff. Sept. 1, 1997; Subsec. (b) amended by Acts 2003, 78th Leg., ch. 206, Sec. 21.12, eff. June 11, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 5, eff. April 1, 2007.

Art. 5.25A. RATES APPLICABLE TO CERTAIN LOCATIONS. (a) The State Board of Insurance in adopting fire insurance and homeowners insurance rates under this subchapter shall authorize a fringe area rating as defined under its general basis rating schedule for any dwelling located within five miles of the outer boundary of a platted subdivision classified by the board under board criteria as a first key town.

(b) Notwithstanding Subsection (a) of this article, on and after the effective date of S.B. No. 14, Acts of the 78th Legislature, Regular Session, 2003, rates for homeowners and residential fire and residential allied lines insurance coverage under this subchapter are determined as provided by Subchapter Q of this chapter, and rates for other lines of insurance subject to this subchapter are determined as provided by Article 5.13-2 of this code, except that on and after December 1, 2004, rates for all lines of insurance subject to this subchapter are determined as provided by Article 5.13-2 of this code.

Added by Acts 1989, 71st Leg., ch. 481, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 242, Sec. 2.24, eff. Sept. 1, 1991; Subsec. (b) amended by Acts 1991, 72nd Leg., 2nd C.S., ch. 12, Sec. 8.11, eff. Jan. 1, 1992; amended by Acts 1995, 74th Leg., ch. 984, Sec. 14, eff. Sept. 1, 1995; Subsec. (b) amended by Acts 1997, 75th Leg., ch. 1330, Sec. 4, eff. Sept. 1, 1997; Subsec. (b) amended by Acts 2003, 78th Leg., ch. 206, Sec. 21.13, eff. June 11, 2003.

Art. 5.25-3. FIRE INSURANCE RATES AND FIRE SUPPRESSION RATINGS FOR BORDER MUNICIPALITY. The commissioner, in adopting fire insurance rates for a municipality at or near the border between this state and another state or the United Mexican States, shall take into account the existence and capabilities of a fire department or volunteer fire department that serves an adjoining or nearby municipality in the other state or the United Mexican States and that by agreement or by long-standing practice provides fire suppression services to the Texas municipality.

Added by Acts 1997, 75th Leg., ch. 1413, Sec. 1, eff. Sept. 1, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. 727 (H.B. [2017](#)), Sec. 6, eff. April 1, 2007.

Art. 5.26. MAXIMUM RATE FIXED, AND DEVIATIONS THEREFROM. (a) A maximum rate of premiums to be charged or collected by all companies transacting in this state the business of fire insurance, as herein defined, shall be exclusively fixed and determined and promulgated by the Board, and no such fire insurance company shall charge or collect any premium or other compensation for or on account of any policy or contract of fire insurance as herein defined in excess of the maximum rate as herein provided for; provided, however, upon the written application of the insured stating his reasons therefor, filed with and approved by the Board, a rate in excess of the maximum rate promulgated by the Board may be used on any specific risk.

(b) Any insurer desiring to write insurance at a less rate than the maximum rate provided for in paragraph (a) above shall make

a written application to the Board for permission to file a uniform percentage deviation for a lesser rate than the maximum rate, on a state-wide basis or by reasonable territories as approved by the Board, from the class rates or schedules or rating plans respecting fire insurance and its allied lines of insurance or class of risk within such kind of insurance or a combination thereof promulgated by the Board. Such application shall specify the basis of the deviation, and shall be accompanied by the data upon which the applicant relies; provided, however, such application, data and all other information filed in connection with such deviation shall be public records open to inspection at any reasonable time. The provisions of this paragraph shall not be construed to prohibit the application of a uniform scale of percentage deviations from the maximum rate provided the general standards fixed in paragraph (d) hereof are met.

(c) Provided further, that any insurer desiring to write insurance at a lesser net rate than the maximum rate provided for in paragraph (a) above, either individually or as a member of a group or association, said lesser net rate being obtained by the application of a rating plan or procedure in use by it or by a group or association of which it is a member, which said rating plan or procedure shall apply only to special types or classes of risk in connection with which an inspection or engineering service and set of standards all acceptable to the Board are used, and which inspection or engineering services and set of standards have been and will continue to be maintained, shall make a written application to the Board for permission to file its said rating plan or procedure, the application of which would produce such lesser net rate. Said application shall specify the basis of the modification and shall be accompanied by the data on which applicant relies. Every insurer or group or association which avails itself of the provisions of this paragraph shall thereafter follow in the conduct of its business as to such classes or types of risks, only such rating plan or procedure ordered as permitted by the Board for its use as to said special types or classes of risks. If the Board shall issue an order permitting such deviation, such insurer or such group or association for it shall file with the

Board all rates of premium or deposit for individual risks underwritten by it, which rates shall be considered as deviations from the rates that would have been promulgated by the Board on such risks.

(d) In considering any application provided for in (b) or (c) above, the Board shall give consideration to the factors applied by insurers in determining the bases for rates; the financial condition of the insurer; the method of operation and expenses of such insurer; the loss experience of the insurer, past and prospective, including where pertinent the conflagration and catastrophe hazards, if any, both within and without this state; to all factors reasonably related to the kind of insurance involved; to a reasonable margin for an underwriting profit for the insurer, and, in the case of participating insurers, to policyholders' dividends. The Board shall issue an order permitting the deviation for such insurer to be filed if it is found to be justified upon the applicant's showing that the resulting premiums would be adequate and not unfairly discriminatory. The Board shall issue an order denying such application if it finds that the resulting premiums would be inadequate or unfairly discriminatory. As soon as reasonably possible after such application has been made the Board shall in writing permit or deny the same; provided, that any such application shall be deemed permitted unless denied within thirty (30) days; provided, that the Board may by official order postpone action for one additional period not exceeding thirty (30) days if deemed necessary for proper consideration; except that deviations in effect at the time this Act becomes effective shall be controlled by subdivision (f) hereof. Each deviation permitted to be filed shall be effective for a period of one (1) year from the date of final granting of such permission whether by the Board in the first instance or upon direction of the court. However, a deviation may be withdrawn at any time with the approval of the Board or terminated by order of the Board, which order must specify the reasons for such termination. All deviations from maximum rates shall be governed by this Article.

(e) No policy of insurance in force prior to the taking effect of any changes in rate that result from the provisions of this Act

shall be affected thereby, unless there shall be a change in the hazard of the risk necessitating a change in the rate applicable to such risk, in which event such policy shall be subject to new rates developed under the provisions hereof.

(f) Any deviations from maximum rates on file with the Board and in effect until the effective time of this Act shall remain in effect for a period of thirty (30) days after such effective time, and if during such thirty (30) day period a written application to the Board is made for permission to file such deviations under this Act, same shall remain in effect until the Board has entered its order either permitting or denying the application and during the full course of any hearings on and appeal from any such order.

(g) The Board may call a public hearing on any application for permission to file a deviation or a hearing on a permitted deviation and shall call a hearing upon the request of any aggrieved policyholder of the company filing the deviation made within thirty (30) days after the granting or denying of any deviation. The Board shall give reasonable notice of such hearings and shall hear witnesses respecting such matters. Any applicant dissatisfied with any order of the Board made without a hearing under this Article may within thirty (30) days after entry of such order make written request of the Board for a hearing thereon. The Board shall hear such applicant within twenty (20) days after receiving such request and shall give not less than ten (10) days written notice of the time and place of the hearing. Within fifteen (15) days after such hearing the Board shall affirm, reverse or modify by order its previous action, specifying in such order its reasons therefor. Any applicant who may be dissatisfied with any order of the Board respecting its application may appeal in accordance with Article 1.04 of this code. The judgment of the District Court shall be appealable as in any other civil case. Such action shall have precedence over other civil cases on the dockets of the appellate courts. Should the Board terminate or refuse to renew a permitted deviation or refuse permission for filing of a deviation under subdivision (f) hereof, then such deviation shall remain in effect during the course of any hearing thereon and thirty (30) days thereafter, and during the course of any appeal taken from such

order and until final judgment of the courts.

(h) Repealed by Acts 2003, 78th Leg., ch. 206, Sec. 21.47(2).

(i) Notwithstanding Subsections (a)-(h) of this article, on and after the effective date of S.B. No. 14, Acts of the 78th Legislature, Regular Session, 2003, rates for homeowners and residential fire and residential allied lines insurance coverage under this subchapter are determined as provided by Subchapter Q of this chapter, and rates for other lines of insurance subject to this subchapter are determined as provided by Article 5.13-2 of this code, except that on and after December 1, 2004, rates for all lines of insurance subject to this subchapter are determined as provided by Article 5.13-2 of this code.

Acts 1951, 52nd Leg., ch. 491. Amended by Acts 1957, 55th Leg., p. 1443, ch. 497, Sec. 1; Acts 1981, 67th Leg., p. 2637, ch. 707, Sec. 4(23), eff. Aug. 31, 1981.

Subsec. (d) amended by and Subsec. (i) added by Acts 1991, 72nd Leg., ch. 242, Sec. 2.26, eff. Sept. 1, 1991; Subsec. (i) amended by Acts 1991, 72nd Leg., 2nd C.S., ch. 12, Sec. 8.12, eff. Jan. 1, 1992; Subsec. (g) amended by Acts 1993, 73rd Leg., ch. 685, Sec. 4.03, eff. Sept. 1, 1993; Subsec. (i) amended by Acts 1995, 74th Leg., ch. 984, Sec. 15, eff. Sept. 1, 1995; Subsec. (i) amended by Acts 1997, 75th Leg., ch. 1330, Sec. 5, eff. Sept. 1, 1997; Subsec. (h) repealed by Acts 2003, 78th Leg., ch. 206, Sec. 21.47(2), eff. June 11, 2003; Subsec. (i) amended by Acts 2003, 78th Leg., ch. 206, Sec. 21.15, eff. June 11, 2003.

Art. 5.27. NO COMPANY EXEMPT. Every fire insurance company, every marine insurance company, every fire and marine insurance company, every fire and tornado insurance company, and each and every insurance company of every kind and name issuing a contract or policy of insurance, or contracts or policies of insurance against loss by fire on property within this State, whether such property be fixed or movable, stationary or in transit, or whether such property is consigned or billed for shipment within or beyond the boundary of this State or to some foreign county, whether such company is organized under the laws of this State or under the laws of any other state, territory or possession of the United States, or

foreign country, or by authority of the Federal Government, now holding certificate of authority to transact business in this State, shall be deemed to have accepted such certificate and to transact business thereunder, upon condition that it consents to the terms and provisions of this subchapter and that it agrees to transact business in this State, subject thereto; it being intended that every contract or policy of insurance against the hazard of fire shall be issued in accordance with the terms and provisions of this subchapter, and the company issuing the same governed thereby, regardless of the kind and character of such property and whether the same is fixed or movable, stationary or in transit, including the shore end of all marine risks insured against loss by fire.

Acts 1951, 52nd Leg., ch. 491.

Art. 5.28. STATEMENTS AND BOOKS. (a) Said Board is authorized and empowered to require sworn statements for any period of time from any insurance company affected by this law and from any of its directors, officers, representatives, general agents, state agents, special agents, and local agents of the rates and premiums collected for fire insurance on each class of risks, on all property in this State and of the causes of fire, if such be known, if they are in possession of such data, and information, or can obtain it at a reasonable expense; and said Board is empowered to require such statements showing all necessary facts and information to enable said Board to make, amend and maintain the general basis schedules provided for in this law and the rules and regulations for applying same and to determine reasonable and proper maximum specific rates.

(b) Repealed by Acts 2005, 79th Leg., Ch. 727, Sec. 18, eff. April 1, 2007.

(c) Repealed by Acts 2005, 79th Leg., Ch. 727, Sec. 18, eff. April 1, 2007.

(d) Notwithstanding Subsection (a) of this article, on and after the effective date of S.B. No. 14, Acts of the 78th Legislature, Regular Session, 2003, rates for homeowners and residential fire and residential allied lines insurance coverage under this subchapter are determined as provided by Subchapter Q of

this chapter, and rates for other lines of insurance subject to this subchapter are determined as provided by Article 5.13-2 of this code, except that on and after December 1, 2004, rates for all lines of insurance subject to this subchapter are determined as provided by Article 5.13-2 of this code.

Acts 1951, 52nd Leg., ch. 491.

Amended by Acts 1991, 72nd Leg., ch. 242, Sec. 2.27, eff. Sept. 1, 1991; Subsec. (d) amended by Acts 1991, 72nd Leg., 2nd C.S., ch. 12, Sec. 8.13, eff. Jan. 1, 1992; amended by Acts 1995, 74th Leg., ch. 984, Sec. 16, eff. Sept. 1, 1995; Subsec. (d) amended by Acts 1997, 75th Leg., ch. 1330, Sec. 6, eff. Sept. 1, 1997; Subsec. (d) amended by Acts 2003, 78th Leg., ch. 206, Sec. 21.16, eff. June 11, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 7, eff. April 1, 2007.

Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 18, eff. April 1, 2007.

Art. 5.29. SCHEDULE AND REPORT. (a) The rates of premium fixed by said Board in pursuance of the provision of this subchapter shall be at all times reasonable and the schedules thereof made and promulgated by said Board shall be in such forms as will in the judgment of the Board most clearly and in detail disclose the rate so fixed and determined by said Board to be charged and collected for policies of fire insurance. Said Board may employ and use any facts obtainable from and concerning fire insurance companies transacting business in this State, showing their expense and charges for fire insurance premiums for any period or periods said Board may deem advisable, which in their opinion will enable them to devise and fix and determine reasonable rates of premiums for fire insurance. The said Board in making and publishing schedules of the rates fixed and determined by it shall show all charges, credits, terms, privileges and conditions which in anywise affect such rates, and copies of all such schedules shall be furnished by said Board to any and all companies affected by this subchapter applying therefor, and the same shall be furnished to any citizens of this

State applying therefor, upon the payment of the actual cost thereof. No rate or rates fixed or determined by the Board shall take effect until it shall have entered an order or orders fixing and determining same, and shall give notice thereof to all fire insurance companies affected by this subchapter, authorized to transact business in the State. The Board, and any inspector or other agent or employee thereof, who shall inspect any risk for the purpose of enabling the Board to fix and determine the reasonable rate to be charged thereon, shall furnish to the owner of such risk at the date of such inspection a copy of the inspection report, showing all defects that may operate as charges to increase the insurance rate.

(b) Notwithstanding Subsection (a) of this article, on and after the effective date of S.B. No. 14, Acts of the 78th Legislature, Regular Session, 2003, rates for homeowners and residential fire and residential allied lines insurance coverage under this subchapter are determined as provided by Subchapter Q of this chapter, and rates for other lines of insurance subject to this subchapter are determined as provided by Article 5.13-2 of this code, except that on and after December 1, 2004, rates for all lines of insurance subject to this subchapter are determined as provided by Article 5.13-2 of this code.

Acts 1951, 52nd Leg., ch. 491.

Amended by Acts 1991, 72nd Leg., ch. 242, Sec. 2.28, eff. Sept. 1, 1991; Subsec. (b) amended by Acts 1991, 72nd Leg., 2nd C.S., ch. 12, Sec. 8.14, eff. Jan. 1, 1992; amended by Acts 1995, 74th Leg., ch. 984, Sec. 17, eff. Sept. 1, 1995; Subsec. (b) amended by Acts 1997, 75th Leg., ch. 1330, Sec. 7, eff. Sept. 1, 1997; Subsec. (b) amended by Acts 2003, 78th Leg., ch. 206, Sec. 21.17, eff. June 11, 2003.

Art. 5.30. ANALYSIS OF RATE. (a) All schedules of rates promulgated by said Board shall be open to the public, and every local agent of any company engaging in the business of fire insurance in this state shall have and exhibit to the public copies of such schedules covering all risks upon which he is authorized to write insurance.

(b) Notwithstanding Subsection (a) of this article, on and after the effective date of S.B. No. 14, Acts of the 78th Legislature, Regular Session, 2003, rates for homeowners and residential fire and residential allied lines insurance coverage under this subchapter are determined as provided by Subchapter Q of this chapter, and rates for other lines of insurance subject to this subchapter are determined as provided by Article 5.13-2 of this code, except that on and after December 1, 2004, rates for all lines of insurance subject to this subchapter are determined as provided by Article 5.13-2 of this code.

Acts 1951, 52nd Leg., ch. 491.

Amended by Acts 1991, 72nd Leg., ch. 242, Sec. 2.29, eff. Sept. 1, 1991; Subsec. (b) amended by Acts 1991, 72nd Leg., 2nd C.S., ch. 12, Sec. 8.15, eff. Jan. 1, 1992; amended by Acts 1995, 74th Leg., ch. 984, Sec. 18, eff. Sept. 1, 1995; Subsec. (b) amended by Acts 1997, 75th Leg., ch. 1330, Sec. 8, eff. Sept. 1, 1997; Subsec. (b) amended by Acts 2003, 78th Leg., ch. 206, Sec. 21.18, eff. June 11, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 8, eff. April 1, 2007.

Art. 5.31. CHANGE OR LIMIT OF RATE. (a) Said Board shall have full power and authority to alter, amend, modify or change any rate fixed and determined by it on thirty (30) days' notice, or to prescribe that any such rate or rates shall be in effect for a limited time, and said Board shall also have full power and authority to prescribe reasonable rules whereby in cases where no rate of premium shall have been fixed and determined by the Board, for certain risks or classes of risks, policies may be written thereon at rates to be determined by the company. Such company or companies shall immediately report to said Board such risk so written, and the rates collected therefor, and such rates shall always be subject to review by the Board.

(b) Notwithstanding Subsection (a) of this article, on and after the effective date of S.B. 14, Acts of the 78th Legislature, Regular Session, 2003, rates for homeowners and residential fire

and residential allied lines insurance coverage under this subchapter are determined as provided by Subchapter Q of this chapter, and rates for other lines of insurance subject to this subchapter are determined as provided by Article 5.13-2 of this code, except that on and after December 1, 2004, rates for all lines of insurance subject to this subchapter are determined as provided by Article 5.13-2 of this code.

Acts 1951, 52nd Leg., ch. 491.

Amended by Acts 1991, 72nd Leg., ch. 242, Sec. 2.30, eff. Sept. 1, 1991; Subsec. (b) amended by Acts 1991, 72nd Leg., 2nd C.S., ch. 12, Sec. 8.16, eff. Jan. 1, 1992; amended by Acts 1995, 74th Leg., ch. 984, Sec. 19, eff. Sept. 1, 1995; Subsec. (b) amended by Acts 1997, 75th Leg., ch. 1330, Sec. 9, eff. Sept. 1, 1997; Subsec. (b) amended by Acts 2003, 78th Leg., ch. 206, Sec. 21.19, eff. June 11, 2003.

Art. 5.32. PETITION FOR CHANGE. (a) Any such fire insurance company shall have the right at any time to petition the Board for an order changing or modifying any rate or rates fixed and determined by the Board, and the Board shall consider such petition in the manner provided in this subchapter and enter such order thereon as it may deem just and equitable.

(b) Notwithstanding Subsection (a) of this article, on and after the effective date of S.B. No. 14, Acts of the 78th Legislature, Regular Session, 2003, rates for homeowners and residential fire and residential allied lines insurance coverage under this subchapter are determined as provided by Subchapter Q of this chapter, and rates for other lines of insurance subject to this subchapter are determined as provided by Article 5.13-2 of this code, except that on and after December 1, 2004, rates for all lines of insurance subject to this subchapter are determined as provided by Article 5.13-2 of this code.

Acts 1951, 52nd Leg., ch. 491.

Amended by Acts 1991, 72nd Leg., ch. 242, Sec. 2.31, eff. Sept. 1, 1991; Subsec. (b) amended by Acts 1991, 72nd Leg., 2nd C.S., ch. 12, Sec. 8.17, eff. Jan. 1, 1992; amended by Acts 1995, 74th Leg., ch. 984, Sec. 20, eff. Sept. 1, 1995; Subsec. (b) amended by Acts

1997, 75th Leg., ch. 1330, Sec. 10, eff. Sept. 1, 1997; Subsec. (b) amended by Acts 2003, 78th Leg., ch. 206, Sec. 21.20, eff. June 11, 2003.

Art. 5.34. REVISING RATES. (a) The Board shall have authority after having given reasonable notice, not exceeding thirty (30) days, of its intention to do so, to alter, amend or revise any rates of premium fixed and determined by it in any schedules of such rates promulgated by it, and to give reasonable notice of such alteration, amendment or revision to the public, or to any company or companies affected thereby. Such altered, amended or revised rates shall be the rates thereafter to be charged and collected by all fire insurance companies affected by this subchapter. No policy in force prior to the taking effect of such changes or amendments shall be affected thereby, unless there shall be a change in the hazard of the risk, necessitating a change in the rate applicable to such risk, in which event such policy shall be subject to the new rates.

(b) Notwithstanding Subsection (a) of this article, on and after the effective date of S.B. No. 14, Acts of the 78th Legislature, Regular Session, 2003, rates for homeowners and residential fire and residential allied lines insurance coverage under this subchapter are determined as provided by Subchapter Q of this chapter, and rates for other lines of insurance subject to this subchapter are determined as provided by Article 5.13-2 of this code, except that on and after December 1, 2004, rates for all lines of insurance subject to this subchapter are determined as provided by Article 5.13-2 of this code.

Acts 1951, 52nd Leg., ch. 491.

Amended by Acts 1991, 72nd Leg., ch. 242, Sec. 2.32, eff. Sept. 1, 1991; Subsec. (b) amended by Acts 1991, 72nd Leg., 2nd C.S., ch. 12, Sec. 8.18, eff. Jan. 1, 1992; amended by Acts 1995, 74th Leg., ch. 984, Sec. 21, eff. Sept. 1, 1995; Subsec. (b) amended by Acts 1997, 75th Leg., ch. 1330, Sec. 12, eff. Sept. 1, 1997; Subsec. (b) amended by Acts 2003, 78th Leg., ch. 206, Sec. 21.21, eff. June 11, 2003.

Art. 5.35. POLICY FORMS. (a) The commissioner shall adopt policy forms and endorsements for each kind of insurance subject to this subchapter other than a line regulated under Article 5.13-2 of this code that may be used by an insurer without filing for approval to use such forms.

(b) The commissioner may also adopt policy forms and endorsements of national insurers or policy forms and endorsements adopted by a national organization of insurance companies or similar organization on policy forms and endorsements. Policy forms and endorsements may be adopted under this subsection for each kind of insurance subject to this subchapter other than a line regulated under Article 5.13-2 of this code on the request of an insurer. For purposes of this subsection, "national insurer" means an insurer subject to this article that, either directly or together with its affiliates as part of an insurance holding company system as those terms are defined by Article 21.49-1 of this code, is licensed to do business and write the kinds of insurance that are subject to this subchapter in 26 or more states and maintains minimum annual direct written premiums for residential property insurance of \$750 million in the aggregate for all states.

(c) The commissioner may approve the use of policy forms and endorsements adopted by a national organization of insurance companies or a similar organization, if such forms or endorsements are filed with and are approved by the commissioner in accordance with this article.

(d) An insurer may use an endorsement to the policy forms adopted or approved by the commissioner under this article if the endorsement is approved by the commissioner pursuant to this article.

(e) Unless adopted or approved by the commissioner pursuant to Subsection (a), (b), or (c) of this article or, in the case of an endorsement, under Subsection (d) of this article, an insurance policy or endorsement for use in writing the types of insurance subject to this article may not be delivered or issued for delivery in this state.

(f) Each filing pursuant to Subsection (c) or (d) of this article shall be made not later than the 60th day before the date of

any use or delivery for use. At the expiration of the 60-day period, a filed form or endorsement is approved unless before the expiration of the 60 days the commissioner either disapproves the form or endorsement by order or approves the form or endorsement. Approval of a form or endorsement by the commissioner constitutes a waiver of any unexpired portion of the 60-day period. The commissioner may extend, by not more than an additional 30 days, the period during which the commissioner may approve or disapprove a form or endorsement by giving notice to the filer of the extension before the expiration of the initial period. At the expiration of any extension and in the absence of any earlier approval or disapproval, the form or endorsement shall be considered approved. For good cause shown, the commissioner may withdraw the commissioner's approval at any time after notice and hearing.

(g)(1) The commissioner may disapprove a policy form or endorsement filed under this article, or withdraw any previous approval thereof, if the policy form or endorsement:

(A) violates or does not comply with this code, or any valid rule relating thereto duly adopted by the commissioner, or is otherwise contrary to law; or

(B) contains provisions or has any titles or headings which are unjust, encourage misrepresentation, are deceptive, or violate public policy.

(2) The commissioner's order disapproving any form or endorsement or any notice of the commissioner's intention to withdraw a previous approval must state the grounds for the disapproval in enough detail to reasonably inform the filer of the grounds. An order of withdrawal of a previously filed form or endorsement takes effect on the expiration of the prescribed period but not sooner than the 60th day after the effective date of the withdrawal order, as prescribed by the commissioner.

(h) The commissioner may not adopt or approve policy forms for personal fire or homeowner's insurance or any endorsement to the policy if the policy or endorsement is not in plain language. For the purposes of this subsection, a policy or endorsement is written in plain language if it achieves the minimum score established by the commissioner on the Flesch reading ease test or

an equivalent test selected by the commissioner or, at the option of the commissioner, if it conforms to the language requirements in a National Association of Insurance Commissioners model act relating to plain language. This subsection does not apply to policy language that is mandated by state or federal law.

(i) An insurer may not use in this state any form or endorsement after disapproval of the form or endorsement or withdrawal of approval by the commissioner.

(j) Notwithstanding Article 1.35A of this code, the office of public insurance counsel may submit written comments to the commissioner and otherwise participate regarding individual company filings made pursuant to this article.

(k)(1) For any policy form and endorsements approved by the commissioner under Subsections (a), (b), or (c) of this article, the commissioner shall promulgate a comparison form for that policy.

(2) The comparison form shall be developed with the assistance of the office of public insurance counsel and with input from the public and shall be designed to explain the features and limitations of the policy compared to other approved policies. An insurer using a policy form may be required to develop the comparison form and submit it for approval by the commissioner. The comparison form shall be made available by an insurer to anyone inquiring about the policy and shall be made available by the department via the Internet and other means as prescribed by the commissioner.

(3) The comparison form shall be designed to be easily read and understood in order to facilitate comparison and understanding of the policy and must meet the requirements of Subsection (h) of this article. At a minimum, the comparison form shall show the features of the policy compared to the HO-B, HO-A, and at least one other policy form widely in use in this state.

(4) The commissioner may adopt rules to carry out the purposes of this subsection.

Acts 1951, 52nd Leg., ch. 491.

Amended by Acts 1991, 72nd Leg., ch. 242, Sec. 2.33, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 1330, Sec. 13, eff. Sept. 1, 1997;

Subsec. (k) added by Acts 2003, 78th Leg., ch. 206, Sec. 21.22, eff. June 11, 2003; Subsec. (k) added by Acts 2003, 78th Leg., ch. 797, Sec. 2, eff. June 20, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 727 (H.B. [2017](#)), Sec. 18, eff. April 1, 2007.

Art. 5.39. COMPLAINT OF RATES OR ORDERS. (a) Any citizen or number of citizens of this State or any policyholder or policyholders, or any insurance company affected by this subchapter, or any board of trade, chamber of commerce, or other civic organization, or the civil authorities of any town, city, or village, shall have the right to file a petition with the Board, setting forth any cause of complaint that they may have as to any order made by this Board, or any rate fixed and determined by the Board, and they shall have the right to offer evidence in support of the allegations of such petition by witnesses, or by depositions, or by affidavits; upon the filing of such petition, the party complained of, if other than the Board, shall be notified by the Board of the filing of such petition and a copy thereof furnished the party or parties, company or companies, of whom complaint is made, and the said petition shall be set down for a hearing at a time not exceeding thirty (30) days after the filing of such petition and the Board shall hear and determine said petition; but it shall not be necessary for the petitioners or any one of them to be present to present the cause to the Board, but they shall consider the testimony of all witnesses, whether such witnesses testify in person or by depositions, or by affidavits, and if it be found that the complaint made in such petition is a just one, then the matter complained of shall be corrected or required to be corrected by said Board.

(b) Notwithstanding Subsection (a) of this article, on and after the effective date of S.B. No. 14, Acts of the 78th Legislature, Regular Session, 2003, rates for homeowners and residential fire and residential allied lines insurance coverage under this subchapter are determined, and hearings related to those rates are conducted, as provided by Subchapter Q of this chapter,

and rates for other lines of insurance subject to this subchapter are determined as provided by Article 5.13-2 of this code, except that on and after December 1, 2004, rates for all lines of insurance subject to this subchapter are determined as provided by Article 5.13-2 of this code.

Acts 1951, 52nd Leg., p. 868, ch. 491.

Amended by Acts 1991, 72nd Leg., ch. 242, Sec. 2.34, eff. Sept. 1, 1991; Subsec. (b) amended by Acts 1991, 72nd Leg., 2nd C.S., ch. 12, Sec. 8.19, eff. Jan. 1, 1992; amended by Acts 1995, 74th Leg., ch. 984, Sec. 22, eff. Sept. 1, 1995; Subsec. (b) amended by Acts 1997, 75th Leg., ch. 1330, Sec. 14, eff. Sept. 1, 1997; Subsec. (b) amended by Acts 2003, 78th Leg., ch. 206, Sec. 21.25, eff. June 11, 2003.

Art. 5.40. HEARING OF PROTESTS. (a) The Board shall give the public and all insurance companies to be affected by its orders or decisions, reasonable notice thereof, not exceeding thirty (30) days, and an opportunity to appear and be heard with respect to the same; which notice to the public shall be published in one or more daily papers of the State, and such notice to any insurance company to be affected thereby shall be mailed addressed to the State or general agent of such company, if such address be known to the Board, or if not known, then such letter shall be addressed to some local agent of such company, or if the address of a local agent be unknown to the Board, then by publication in one or more of the daily papers of the State, and the Board shall hear all protests or complaints from any insurance company or any citizen or any city, or town, or village or any commercial or civic organization as to the inadequacy or unreasonableness of any rates fixed by it or approved by it, or as to the inadequacy or unreasonableness of any general basis schedules promulgated by it or the injustice of any order or decision by it, and if any insurance company, or other person, or commercial or civic organization, or any city, town or village, which shall be interested in any such order or decision shall be dissatisfied with any regulation, schedule or rate adopted by such Board, such company or person, commercial or civic organization, city, town or village shall have the right, within thirty (30) days

after the making of such regulation or order, or rate, or schedule or within thirty (30) days after hearing above provided for, to bring an action against said Board in the District Court of Travis County to have such regulation or order or schedule or rate vacated or modified; and shall set forth in a petition therefor the principal grounds of objection to any or all of such regulations, schedules, rates or orders. In any such suit the issue shall be formed and the controversy tried and determined as in other civil cases. The court may set aside and vacate or annul any or all or any part of any regulation, schedule, order or rate promulgated or adopted by said Board, which shall be found by the court to be unreasonable, unjust, excessive or inadequate, without disturbing others. No injunction, interlocutory order or decree suspending or restraining, directly or indirectly, the enforcement of any schedule, rate, order or regulation of said Board shall be granted. In such suit, the court, by interlocutory order, may authorize the writing and acceptance of fire insurance policies at any rate which in the judgment of court is fair and reasonable, during the pending of such suit, upon condition that the party to such suit in whose favor the said interlocutory order of said court may be, shall execute and file with the Board a good and sufficient bond to be first approved by said court, conditioned that the party giving said bond will abide the final judgment of said court and will pay to the Board whatever difference in the rate of insurance, it may be finally determined to exist between the rates as fixed by the Board complained of in such suit, and the rate finally determined to be fair and reasonable by the court in said suit, and the said Board, when it receives such difference in money, shall transmit the same to the parties entitled thereto.

(b) Whenever any action shall be brought by any company under any provision of this article within said period of thirty (30) days, no penalties nor forfeitures shall attach or accrue on account of the failure of the plaintiff to comply with the orders, schedules, rates or regulations sought to be vacated in such action until the final determination of the same.

(c) Either party to any such action, if dissatisfied with the judgment or decree of said court, may appeal therefrom as in other

civil cases. No action shall be brought in any court of the United States to set aside any orders, rates, schedules or regulations made by said Board under the provisions of this law until all of the remedies provided herein shall have been exhausted by the party complaining.

(d) Notwithstanding Subsections (a)-(c) of this article, on and after the effective date of S.B. No. 14, Acts of the 78th Legislature, Regular Session, 2003, rates for homeowners and residential fire and residential allied lines insurance coverage under this subchapter are determined, and hearings related to those rates are conducted, as provided by Subchapter Q of this chapter, and rates for other lines of insurance subject to this subchapter are determined as provided by Article 5.13-2 of this code, except that on and after December 1, 2004, rates for all lines of insurance subject to this subchapter are determined as provided by Article 5.13-2 of this code.

Acts 1951, 52nd Leg., p. 868, ch. 491.

Amended by Acts 1991, 72nd Leg., ch. 242, Sec. 2.35, eff. Sept. 1, 1991; Subsec. (d) amended by Acts 1991, 72nd Leg., 2nd C.S., ch. 12, Sec. 8.20, eff. Jan. 1, 1992; amended by Acts 1995, 74th Leg., ch. 984, Sec. 23, eff. Sept. 1, 1995; Subsec. (d) amended by Acts 1997, 75th Leg., ch. 1330, Sec. 15, eff. Sept. 1, 1997; Subsec. (d) amended by Acts 2003, 78th Leg., ch. 206, Sec. 21.26, eff. June 11, 2003.

Art. 5.41. REBATING OR DISCRIMINATION. (a) A company engaging or participating in the insuring or reinsuring of any property in this state against loss or damage by fire may not knowingly write insurance at any lesser rate than the rates herein provided for, and it shall be unlawful for any company so to do, unless it shall thereafter file an analysis of same with the Board.

(b) Notwithstanding Subsection (a) of this article, on and after the effective date of S.B. No. 14, Acts of the 78th Legislature, Regular Session, 2003, rates for homeowners and residential fire and residential allied lines insurance coverage under this subchapter are determined as provided by Subchapter Q of this chapter, and rates for other lines of insurance subject to this

subchapter are determined as provided by Article 5.13-2 of this code, except that on and after December 1, 2004, rates for all lines of insurance subject to this subchapter are determined as provided by Article 5.13-2 of this code.

Acts 1951, 52nd Leg., p. 868, ch. 491.

Amended by Acts 1991, 72nd Leg., ch. 242, Sec. 2.36, eff. Sept. 1, 1991; Subsec. (b) amended by Acts 1991, 72nd Leg., 2nd C.S., ch. 12, Sec. 8.21, eff. Jan. 1, 1992; amended by Acts 1995, 74th Leg., ch. 984, Sec. 24, eff. Sept. 1, 1995; Subsec. (b) amended by Acts 1997, 75th Leg., ch. 1330, Sec. 16, eff. Sept. 1, 1997; Subsec. (b) amended by Acts 2003, 78th Leg., ch. 206, Sec. 21.27, eff. June 11, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 9, eff. April 1, 2007.

SUBCHAPTER D. WORKERS' COMPENSATION INSURANCE

SUBCHAPTER H. PREMIUM RATING PLANS

Art. 5.77. PREMIUM RATING PLANS; POWERS OF BOARD. The Board of Insurance Commissioners is hereby authorized and empowered to make or approve and promulgate premium rating plans designed to encourage the prevention of accidents, to recognize the peculiar hazards of individual risks and to give due consideration to interstate as well as intrastate experience of such risks for Workmen's Compensation, Motor Vehicle and other lines of Casualty Insurance to be applicable separately for each class of insurance, or in combination of two or more of such classes. Such plans may be approved on an optional basis to apply prospectively, or retrospectively and may include premium discount plans, retrospective rating plans or other systems, plans or formulas, however named, if the rates thereby provided are not excessive, inadequate or unfairly discriminatory. The Board shall also have authority to make or approve and promulgate such reasonable rules and regulations as may be necessary, not in conflict with provisions of this Act.

Acts 1953, 53rd Leg., p. 64, ch. 50, Sec. 1.

Art. 5.78. CONSIDERATION OF ALL RELEVANT FACTORS. Before the Board of Insurance Commissioners approves class rates or rating plans, due consideration shall be given to all relevant factors to the end that no unfair discrimination shall exist in class rates or rating plans as they may affect risks of various size.

Acts 1953, 53rd Leg., p. 64, ch. 50, Sec. 1a.

Art. 5.79. OPTIONAL SELECTION AND APPLICATION. If for any form of casualty insurance affected by this Act more than one rating plan is approved for optional selection and application, the selection of the plan shall rest with the applicant.

Acts 1953, 53rd Leg., p. 64, ch. 50, Sec. 1b.

SUBCHAPTER L. ADMINISTRATIVE PROCEDURE FOR CHANGES IN MANUAL RULES,
CLASSIFICATION PLANS, STATISTICAL PLANS, AND POLICY AND
ENDORSEMENT FORMS AND FOR CERTAIN RATES AND RATING PLANS

Art. 5.96. PROMULGATED LINES. (a) The State Board of Insurance may prescribe, promulgate, adopt, approve, amend, or repeal standard and uniform manual rules, rating plans, classification plans, statistical plans, and policy and endorsement forms for motor vehicle insurance, fire and allied lines insurance, workers' compensation insurance, and multiperil insurance under the procedure specified in this article.

(a-1) This article does not apply to the setting of rates for personal automobile insurance under Article 5.101 of this code, rates for fire and allied lines insurance under Subchapter Q of this chapter or, on and after December 1, 2004, rates for personal automobile insurance and fire and allied lines insurance under Article 5.13-2 of this code.

(b) Any interested person may initiate proceedings before the board with respect to any matter specified in Section (a) of this article by filing a written petition with the chief clerk of the board that includes the following:

(1) specific identification of the matter that is proposed to

be prescribed, promulgated, adopted, approved, amended, or repealed;

(2) the wording of the matter proposed to be prescribed, promulgated, adopted, approved, amended, or repealed; and

(3) justification for the proposed action in sufficient particularity to inform the board and any interested person of the petitioner's reasons and arguments.

(c) A copy of each petition initiating a proceeding shall be marked with the date it was received by the chief clerk of the board and shall be made available for public inspection at the office of the chief clerk of the board during the period the petition is pending. Except for emergency matters acted on under Section (i) of this article, the board may not act on a petition until it has been available for public inspection for at least 15 days after the date of filing and notice has been given in accordance with this section. Not later than the 30th day before the date the board takes action on any rule, rating plan, classification plan, statistical plan, or policy or endorsement form under this article, the board shall publish in the Texas Register a notice of the meeting or hearing at which the action will be taken. The notice must include a brief summary of the substance of the proposed rule, rating plan, classification plan, statistical plan, or policy or endorsement form, and a statement that the full text of the rule, rating plan, classification plan, statistical plan, or policy or endorsement form is available for review in the office of the chief clerk of the State Board of Insurance.

(d) Any interested person may request the board to hold a hearing before it acts on a pending petition. Except as provided by Article 5.96A of this code, the board has discretion whether or not to hold such a hearing.

(e) Within 60 days after the receipt of a petition, the board shall hold a hearing to consider the proposal or shall enter an order implementing or denying the proposal. If the board denies the proposal, it shall specify the reasons for the denial in its order.

(f) On its own motion, the board may initiate a proceeding with respect to any matter specified in Section (a) of this article.

(g) If a hearing is scheduled to consider a proposal, the

board shall publish notice in the Texas Register not less than 10 days before the hearing and shall state the time, place, legal authority for the hearing, and the matters to be considered.

(h) After entering an order with respect to any matter specified in Section (a) of this article, the board shall file a notice of its action for publication in the adopted rule section of the Texas Register. In addition, before the effective date of the action, the board shall cause notice of the order to be mailed to the applicant, to all insurers writing the affected line of insurance in this state, and to all other persons who have made timely written request for notification. Failure to mail this notice does not invalidate any action taken.

(i) The board's action takes effect 15 days after notice of that action appears in the Texas Register or on a later specified date. If the board finds that an imminent peril to the public health, safety, or welfare, or a requirement of state or federal law requires its action to be effective before the end of the 15-day period, it may take emergency action to be effective at an earlier time. The board's action on an emergency matter may be effective for 120 days, and renewable one time for a period not exceeding 60 days immediately following the 120-day period. The permanent adoption of an identical change is not precluded.

(j) Any person aggrieved by an order of the board is entitled to redress as provided by Article 5.11, Article 5.39, or Article 5.65 of this code, whichever is applicable to the line of insurance covered by the order.

(k) The Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes), does not apply to board action taken under this article.

(l) The board or the office of public insurance counsel may require that a person who has filed a petition under Subsection (b) of this article or who has otherwise presented materials to the board in connection with a proceeding under this article provide additional information to the board or office, including any statistical, actuarial, or other information on which the petition or other materials were based.

Added by Acts 1983, 68th Leg., p. 1252, ch. 272, Sec. 1, eff. May 28,

1983. Sec. (d) amended by Acts 1987, 70th Leg., 1st C.S., ch. 1, Sec. 2.09, eff. Sept. 2, 1987; Secs. (a-1), (1) added by and Subsecs. (c), (i) amended by Acts 1991, 72nd Leg., ch. 242, Sec. 2.41, eff. Sept. 1, 1991; Subsec. (a-1) amended by Acts 1995, 74th Leg., ch. 984, Sec. 25, eff. Sept. 1, 1995; Subsec. (a-1) amended by Acts 2003, 78th Leg., ch. 206, Sec. 21.31, eff. June 11, 2003.

Art. 5.96A. HEARING ON POLICY FORMS AND ENDORSEMENTS. (a) This article applies to any policy or endorsement form for commercial automobile insurance or commercial multiperil insurance.

(b) If a hearing is requested by at least 25 persons, by a governmental subdivision or agency, or by an association that has at least 25 members and if the persons, subdivision, agency, or association is affected by the policy or endorsement form, the board must hold a public hearing before a policy or endorsement form is prescribed, adopted, amended, approved, or repealed.

(c) The provisions of Article 5.96 of this code that are not inconsistent with this article apply to the policy or endorsement.

(d) Notwithstanding Subsections (a) through (c) of this article, on or after September 1, 1992, policy or endorsement forms for commercial motor vehicle insurance are adopted as provided by Article 5.06 of this code.

Added by Acts 1987, 70th Leg., 1st C.S., ch. 1, Sec. 2.08, eff. Sept. 2, 1987. Subsec. (d) added by Acts 1991, 72nd Leg., ch. 242, Sec. 2.42, eff. Sept. 1, 1991; Subsec. (d) amended by Acts 1995, 74th Leg., ch. 984, Sec. 26, eff. Sept. 1, 1995.

Art. 5.97. LINES OF INSURANCE FOR WHICH FILING IS REQUIRED.

(a) The department may take action on filings for standard and uniform rates, rating plans, manual rules, classification plans, statistical plans, and policy and endorsement forms, or any modification of any of these for the lines of insurance regulated in Subchapter B, Chapter 5, of this code under the procedure specified in this article.

(b) Any interested person may initiate proceedings before the commissioner with respect to any matter specified in Section (a) of

this article by filing a petition with the department that includes the following:

(1) specific identification of the matter that is proposed to be adopted, approved, amended, or repealed;

(2) the wording of the matter proposed to be adopted, approved, amended, or repealed; and

(3) justification for the proposed action in sufficient particularity to inform the commissioner and any interested person of the petitioner's reasons and arguments.

(c) A copy of each petition initiating a proceeding shall be marked with the date it was received by the department and shall be made available for public inspection at the office of the chief clerk of the department throughout the period the petition is pending. Except for emergency matters acted on under Section (j) of this article, the commissioner may not act on a petition until it has been available for public inspection for at least 15 days after the date of filing and notice has been given in accordance with this section. Not later than the 10th day before the date the commissioner takes action on any rule, rating plan, classification plan, statistical plan, or policy or endorsement form under this article, the department shall publish in the Texas Register a brief summary of the substance of the proposed rule, rating plan, classification plan, statistical plan, or policy or endorsement form, and a statement that the full text of the rule, rating plan, classification plan, statistical plan, or policy or endorsement form is available for review in the office of the chief clerk of the department.

(d) Any interested person may request a hearing before the commissioner acts on a pending petition. Except as provided by Article [5.97A](#) of this code, the commissioner has discretion whether or not to hold such a hearing.

(e) Repealed by Acts 2003, 78th Leg., ch. 206, Sec. [21.47](#).

(f) The commissioner may hold a hearing to consider the proposal or may enter an order implementing or denying the proposal. If the commissioner denies a proposal, the commissioner shall specify the reasons for the denial in the commissioner's order.

(g) On its own motion, the department may initiate a proceeding with respect to any matter specified in Section (a) of this article.

(h) If a hearing is scheduled to consider a proposal, the department shall publish notice in the Texas Register not less than 10 days before the hearing and shall state the time, place, and legal authority for the hearing and the matters to be considered.

(i) After entering an order with respect to any matter specified in Section (a) of this article, the department shall file a notice of the commissioner's action for publication in the adopted rule section of the Texas Register. In addition, before the effective date of the action, the department shall cause notice of the order to be mailed to the applicant, to all insurers writing the affected line of insurance in this state, and to all other persons who have made timely written request for notification. Failure to mail this notice will not invalidate any action taken.

(j) The commissioner's action takes effect 15 days after the date that notice of the action is published in the Texas Register or on a later specified date. If the commissioner finds that an imminent peril to the public health, safety, or welfare, or a requirement of state or federal law, requires the commissioner's action to be effective before the end of the 15-day period, the commissioner may take emergency action to be effective at an earlier time. The commissioner's action on an emergency matter may be effective for 120 days, and renewable once for a period not exceeding 60 days immediately following the 120-day period. The permanent adoption of an identical change is not precluded.

(k) Any person aggrieved by an order of the commissioner is entitled to redress as provided by Article 5.23 of this code.

(l) Chapters 2001 and 2002, Government Code, do not apply to commissioner or department action taken under this article.

(m) The department or the office of public insurance counsel may require that a person who has filed a petition under Subsection (b) of this article or who has otherwise presented materials to the department in connection with a proceeding under this article provide additional information to the department or office, including any statistical, actuarial, or other information on which

the petition or other materials were based.

(n) Notwithstanding Subsections (a) through (l) of this article, this article does not apply to a line of insurance subject to Article 5.13-2 of this code.

Added by Acts 1983, 68th Leg., p. 1252, ch. 272, Sec. 1, eff. May 28, 1983. Sec. (d) amended by Acts 1987, 70th Leg., 1st C.S., ch. 1, Sec. 2.10, eff. Sept. 2, 1987; Subsecs. (c), (j) amended by and Subsecs. (m), (n), added by Acts 1991, 72nd Leg., ch. 242, Sec. 2.43, eff. Sept. 1, 1991; Subsec. (n) amended by Acts 1995, 74th Leg., ch. 984, Sec. 27, eff. Sept. 1, 1995; Subsecs. (a) to (d), (f) to (m), amended by Acts 2003, 78th Leg., ch. 206, Sec. 21.32, eff. June 11, 2003; Subsec. (e) amended by Acts 2003, 78th Leg., ch. 206, Sec. 21.47(7), eff. June 11, 2003.

Art. 5.97A. HEARING ON POLICY AND ENDORSEMENT FORMS. (a) This article applies to any policy or endorsement form for general liability insurance.

(b) If a hearing is requested by at least 25 persons, by a governmental subdivision or agency, or by an association that has at least 25 members and if the persons, subdivision, agency, or association is affected by the policy or endorsement form, the board must hold a public hearing before a policy or endorsement form is prescribed, adopted, amended, approved, or repealed.

(c) The provisions of Article 5.97 of this code that are not inconsistent with this article apply to the policy or endorsement. Added by Acts 1987, 70th Leg., 1st C.S., ch. 1, Sec. 2.08, eff. Sept. 2, 1987.