

INSURANCE CODE

TITLE 10. PROPERTY AND CASUALTY INSURANCE

SUBTITLE H. RATEMAKING IN GENERAL

CHAPTER 2254. PREMIUM REFUND FOR CERTAIN PERSONAL LINES

Sec. 2254.001. DEFINITIONS. In this chapter:

(1) "Insurer" means an insurance company, reciprocal or interinsurance exchange, mutual insurance company, capital stock company, county mutual insurance company, Lloyd's plan, or other legal entity authorized to write residential property insurance or personal automobile insurance in this state. The term includes an affiliate, as described by this code, that is authorized to write residential property insurance. The term does not include:

(A) the Texas Windstorm Insurance Association under Chapter [2210](#); or

(B) the FAIR Plan Association under Chapter [2211](#).

(2) "Personal automobile insurance" means motor vehicle insurance coverage for the ownership, maintenance, or use of a private passenger, utility, or miscellaneous type motor vehicle, including a motor home, trailer, or recreational vehicle, that is:

(A) owned or leased by one or more individuals; and

(B) not used primarily for the delivery of goods, materials, or services, other than for use in farm or ranch operations.

(3) "Residential property insurance" means insurance coverage against loss to real or tangible personal property at a fixed location that is provided through:

(A) a homeowners policy, including a tenants policy;

(B) a condominium owners policy; or

(C) a residential fire and allied lines policy.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. [2017](#)), Sec. 2, eff. April 1, 2007.

Sec. 2254.002. INAPPLICABILITY OF CHAPTER. This chapter does not apply to rates for personal automobile insurance or residential property insurance for which an insurer obtains prior rate approval under Subchapter D, Chapter 2251.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Sec. 2254.003. REFUND OR DISCOUNT BASED ON EXCESSIVE OR UNFAIRLY DISCRIMINATORY PREMIUM RATES. (a) This section applies to a rate for personal automobile insurance or residential property insurance filed on or after the effective date of Chapter 206, Acts of the 78th Legislature, Regular Session, 2003.

(b) Except as provided by Section 2254.004(c), if the commissioner determines that an insurer has charged a rate for personal automobile insurance or residential property insurance that is excessive or unfairly discriminatory, as described by Section 2251.051, the commissioner may:

(1) order the insurer to refund directly to each affected policyholder the portion of the premium, plus interest on that amount, that is excessive or unfairly discriminatory, if that portion of the premium is at least 7.5 percent of the total premium charged for the coverage; or

(2) if that portion of the premium is less than 7.5 percent of the total premium, order the insurer to provide, to each affected policyholder:

(A) who renews the policy, a future premium discount equal to the amount of the excessive or unfairly discriminatory portion of the premium, plus interest on that amount; and

(B) who does not renew or whose coverage is otherwise terminated, a refund in the amount described by Subdivision (1).

(c) The rate for interest assessed under Subsection (b) is the lesser of 18 percent or the sum of six percent and the prime rate for the calendar year in which the commissioner's order finding that the rate is excessive or unfairly discriminatory is issued. For purposes of this subsection, the prime rate is the

prime rate as published in The Wall Street Journal for the first day of the calendar year that is not a Saturday, Sunday, or legal holiday. The period for the refund and interest begins on the date the department first provides the insurer with formal written notice that the insurer's filed rate is excessive or unfairly discriminatory, and interest continues to accrue until the refund is paid. An insurer may not be required to pay any interest penalty if the insurer prevails in an appeal of the commissioner's order under Subchapter D, Chapter 36.

(d) An insurer may not claim a premium tax credit to which the insurer is otherwise entitled unless the insurer complies with Subsection (b).

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 484 (H.B. 2551), Sec. 1, eff. June 16, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 1147 (H.B. 1951), Sec. 3.012, eff. September 1, 2011.

Sec. 2254.004. RATE HEARING BY STATE OFFICE OF ADMINISTRATIVE HEARINGS. (a) Not later than the 20th day after the date of an order under Section 2254.003, the insurer may request that the State Office of Administrative Hearings conduct a rate hearing to determine whether the rate that is subject to the order is excessive or unfairly discriminatory.

(b) The office of public insurance counsel may participate in and present evidence at the hearing.

(c) After completion of the hearing, the administrative law judge shall:

(1) prepare a proposal for decision under Section 40.058; and

(2) remand the matter to the commissioner recommending that the commissioner affirm the order or that:

(A) the commissioner complete an additional review of the order not later than the 10th day after the date the commissioner receives the proposal;

(B) the parties enter into negotiations; or

(C) the commissioner take within a period specified by the administrative law judge other appropriate action with respect to the order.

(d) The commissioner's action or failure to act on a proposal or recommendation under Subsection (c) is subject to judicial review under Subchapter D, Chapter 36.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.