

A BRIEF SUMMARY OF HOMEOWNERS INSURANCE IN TEXAS

Senate Bill 14 in 2003 was a major overhaul of the property and casualty insurance market in Texas. Prior to 2003, the market was theoretically well-regulated. The insurance commissioner established rates and insurers had to seek approval of a rate by the commissioner if the proposed rate fell outside of a specified range. This system of regulation was known as the flex-band system. However, because of a serious legal loophole known as the Lloyd's loophole, a shocking 95% of the market was unregulated. The remaining 5% of the market was well-regulated under the flex-band system, but because such a small segment of the market was regulated, consumers saw little benefit.

In the years leading up to 2003, homeowners insurance rates in Texas skyrocketed, mainly as a result of a dramatic increase in the discovery of mold in Texas homes. During this period, insurers were required to offer a number of standardized policies, and most homeowners carried what is called an HO-B policy – a policy that covered most claims to a home, including mold remediation. It has been argued that there was not actually a catastrophic onset of mold in Texas homes, but instead that there was a huge increase in the number of unscrupulous mold inspectors duping homeowners into believing that their homes were filled with toxic mold. Whether there was actually a massive infestation of toxic mold in Texas homes or whether mold remediators were simply pulling one over on the state is not the main point, however. Texans were carrying valid homeowners policies that covered mold, and insurance companies selling in Texas were making money hand over fist selling those policies without ever appropriately preparing to deal with any outbreak of mold claims.

As a result of a massive upswing in claims for mold, insurers saw their profits drop sharply. Insurance profits are measured by what is called the loss ratio. Industry experts widely agree that a healthy loss ratio should fall in the 57% to 59% range. This means that for every dollar collected, the industry should be paying out between \$.57 and \$.59 for claims. In the late 1990s, insurers were seeing banner years in Texas with loss ratios far below this range. Starting in 2000, however, profits took a sharp dive, and loss ratios skyrocketed to 82% in 2000, 115% (meaning that the insurance market actually lost money) in 2001, and 108% in 2002.

While 95% of the market did not have their rates regulated, all insurers offering homeowners insurance had to offer certain policies that covered mold remediation (the aforementioned HO-B policy) and most Texans carried this policy. In part because of the increase in mold claims, TDI adopted a rule that began allowing insurers to dramatically reduce the coverage in the policies they were offering.

Even with this large concession, however, the industry lobbied hard for additional relief from rate regulation in the 2003 session. Insurers asked the Legislature to lessen regulation on rates by doing away with the flex-band system and moving instead to the "file and use" system. Under the file and use system, insurers must simply inform TDI of any rates it intends to charge, then may begin immediately charging that rate. In exchange for this pro-industry compromise, the Legislature demanded that most insurers submit to rate regulation by closing the Lloyd's loophole.

Thus TDI by rule in 2002 and the Legislature through SB 14 in 2003 completely deregulated standardized forms and allowed insurers to assess rate increases immediately and without TDI's approval. Additionally, SB 14 allowed insurers to use credit scoring in all of their companies (not just the high risk mutual companies). This massive overhaul of industry regulation has been a boon to the insurance industry. In the years following SB 14, insurers

changed their homeowners forms to exclude coverage for mold and many other claims that had previously been covered. According to TDI, the coverage in policies dropped up to 45%. Despite this significant drop in coverage, however, consumers saw only minute decreases in the cost of policies.

The result has been five years of massive profits for insurers. The loss ratios for every single year since SB 14 – including the year during which insurers saw increased claims from Hurricane Rita – have produced profits that meet (2003 and 2005) or far exceed those that are considered healthy. The loss ratios for those years were as follows:

- 2003: 58.7%
- 2004: 27.8%
- 2005: 56.8% (this year included the majority of claims for Hurricane Rita)
- 2006: 34.0%
- 2007: 36.5%

Shockingly, the five year average loss ratio – since passage of SB 14 – is a mere 42.7%.

As is clear from these huge profits, insurers have benefited greatly from insurance reform in Texas as enacted by SB 14. Consumers, however, cannot claim the same. Since 2003 when forms were deregulated, consumers have been paying more money for less coverage. Texans still pay the highest homeowners rates in the nation – higher than Florida with its constant hurricanes and higher than California with its mudslides. According to the most recent data as compiled by the National Association of Insurance Commissioners, the national average for homeowners insurance is \$764. In Texas, the average homeowner pays \$1372 – 80% above the national average – for the same coverage.

Nor have Texans seen rates decline appreciably since the market was deregulated in 2003. Rates since 2003 have decreased a mere 6%, and even when taking out the years after Hurricane Rita, by September 2006 rates had only decreased 13.5%. When one considers that rates had spiked more than 45% in the three years before SB 14, it becomes clear that rates have *not* gone down. And because of the additional fact that TDI has deregulated forms, and thus homeowners aren't getting the same levels of coverage they were before 2003, homeowners are actually *paying more for less!*

Average Premiums in Texas, 2000-2007

Year	Average Statewide Premium	% Change over Prior Year
1997	865	N/A
1998	888	2.7%
1999	879	-1.0%
2000	876	-0.3%
2001	951	8.6%
2002	1,232	29.5%
2003	1,249	1.4%
2004	1,244	-0.4%
2005	1,222	-1.8%
2006	1,214	-.7%
2007	1,205	-.7%
1997-2007		39.3%