

Needed Reforms for the Texas Department of Insurance

Require Prior Approval of Rates

In a prior approval system, the Texas Department of Insurance (TDI) would be required to review and approve all rates before they are passed along to policyholders. A system requiring prior approval for rate increases would protect Texas consumers.

Prior approval would guarantee fair and reasonable rates

Under a prior approval system, rate increases would not be permitted without the commissioner's approval. It would also prevent steep rate increases and price gouging by insurance companies trying to recoup losses too rapidly.

The burden of proof that rates are fair should rest on insurance companies

Prior approval would force insurance companies to justify their rates. Currently, an insurer need not even give the commissioner time to object to an excessive rate filing before it increases its rates. Under prior approval, an insurer could not increase its rate until *after* it had justified the proposed increase to the commissioner.

TDI needs leverage over insurance companies

Insurance is not like other products in the marketplace as consumers are required by law to carry it under certain circumstances. Because of this, consumers need more protection in the insurance arena than in other areas. To this end, TDI – not the insurers who profit – should determine fair, justified, and profitable rates. Prior approval would prevent insurers from immediately enacting unfair rates that TDI must then spend years in court battling before policyholders ever see their rates returned to fair levels.

Ban Credit Scoring

The insurance industry has increasingly been using credit scores to determine policyholders' rates. Credit scores are determined based on a person's payment history, amounts owed, length of credit history, new credit, and types of credit. None of these criteria directly relate to a policyholder's insurance risk. In fact, many consumers who have never filed an insurance claim find their insurance rates rising based solely on their credit score.

Having a low credit score doesn't make it any more likely that you will make an insurance claim

Your credit score does not make it more likely that a hail storm will hit your house, nor does it make it more likely that a drunk driver will hit your car. Common sense dictates that your credit score doesn't increase your likelihood of suffering an accident that would cause you to use your insurance.

Credit scoring is discriminatory

Study after study has shown that credit scoring has the greatest impact on those who can least afford rate increases. Credit scoring discriminates against and has a disproportionately negative impact on African Americans, Latinos, and people with lower incomes.

Because you pay for insurance before you use it, a low credit score does not threaten your insurer

Credit scores are indicative of whether you pay your bills on time. But you pay for your insurance premium up front. If your check bounces with the insurance company, they aren't going to continue to cover you out of charity. Because the insurance carriers already have your money, credit scoring should play no role with them.

Limit the Use of Rating Territories

Under current law, insurance companies are able to vary rates within a county by any amount that is actuarially sound. This has led to a large disparity in the amount that people within a single county – even people on the same block – must pay for insurance. The result is that insurers are carving up counties and charging rates that vary by ZIP code. To prevent this, there should be a maximum 15% rating variance allowed per county.

Huge rate variances within a county defeat the purpose of insurance

Insurance is supposed to be about spreading risk. Allowing insurers to vary rates within a county by massive margins goes against the very intent of insurance.

It is not good public policy to allow an insurer to charge two households a block apart massively different rates simply based on their location

Currently, a person could be paying more than twice as much as his neighbor one block away. This is clearly not indicative of risk. These dramatically higher prices occur in areas where the policyholders can least afford to pay them: predominantly in lower-income, high minority communities.

Limiting the variance to 15% would not harm insurers

The variance would allow insurers flexibility in dealing with riskier or more congested areas of the state while moderating the economic impact of the demographic composition and geographic location on Texas policyholders.

Require Standardized Homeowners Policies

After the insurance reform of 2003, insurers were allowed to deviate from standard policies and to offer an unlimited number of policies with different levels of coverage. The result, however, is that consumers can no longer shop on price alone as coverage varies widely from policy to policy. In order to return power to the hands of consumers to pick the best policy, TDI must require insurers to offer standard forms that offer uniform coverage.

Standardized forms allow the consumer to know what he/she is buying

Insurance contracts are written in such convoluted legalese that the average policyholder does not know what they are buying. Because policies vary from company to company, consumers are not sure of the coverage they are carrying.

Consumers can no longer shop based on price

Because coverage varies from company to company, consumers simply cannot compare policies based on price. In an unregulated marketplace, competition is supposed to drive price down, but if companies need not compete on price because they aren't selling the same product, there is no benefit for consumers in deregulation.

Require TDI to Penalize State-wide Pullouts by Imposing a 5-Year Ban on Re-entry

Insurers carry an enormous amount of power in our state. If TDI threatens to disapprove a rate or a form, insurers can pull out of the state entirely with no penalty, only to re-enter it within months.

Insurers in Texas benefit by gaming the system

Insurers can (and do) threaten to pull out of Texas if the commissioner threatens to challenge a rate increase. In this game of cat-and-mouse, TDI is often forced to cave in to the threat for fear of losing an insurer in the state.

Requiring this penalty would give TDI the power to refuse unfair rate increases without fear of an insurer pulling its business out of Texas

Texas has one of the largest insurance markets in the country, and few insurers choose to leave our market for any extended length of time. If insurers who pulled out of the entire state were prevented from re-entering the state market for a period of five years, insurers would no longer use this bully tactic to escape the use of fair rates and forms, and the commissioner would thus be free to challenge unfair proposals without fear of reprisal.

Limit the Use of Rating Categories in Auto Insurance

Insurers divide consumers into categories and sub-categories to determine what rates they will pay. There is currently no limit on the number of times a person may be sub-categorized. The result is that there are so many categories, that, for example, 17 year old males in a particular ZIP code with a particular credit score driving a particular model of car make up a single category. This extensive use of categorization negates the point of insurance – that risk be shared.

Categories for auto insurance should be limited such that driving record, miles driven, and years of driving experience are given the most weight

These three categories should be weighted heaviest and all other categories combined should be given less weight than the major categories. This is a fair compromise that allows insurers to use as many categories as they can actuarially justify, while maintaining fairness to consumers by requiring that the categories that matter most will be given the most weight.

Require that all other classes be approved before use

Requiring prior approval of all classes would ensure that TDI maintains the ability to prevent the use of discriminatory classes before they are ever used. It would also serve as a deterrent to insurers attempting to use such classes.

Classes should be made public

Policyholders are not given the information as to how they are categorized, and they therefore have little idea what to do to lower their rates. While it's common sense that driving poorly will increase one's rates, there's very little else that policyholders know they can do to lower their rates. Making classes public will enable consumers to take action to lower the rates.

Make the Insurance Commissioner an Elected Position

The commissioner's duty is to ensure fair treatment for homeowners, drivers, patients and small business owners. Even though the commissioner's decisions touch every Texan, he is held accountable by only one person: the governor who appointed him.

There are already other elected department commissioners in Texas

Many more Texans are affected by the actions of the insurance commissioner than by the actions of the agriculture or railroad commissioner, yet those are elected positions. Texas citizens should have the power to decide who will ensure they have a fair marketplace in which to buy insurance.

Eleven other states have elected insurance commissioners

California, which has a wide array of risks much like Texas does, has benefited from having an elected insurance commissioner since 1991. While auto liability insurance rates nationwide have increased by nearly 50% in that period, Californians have seen their rates fall. Texas should join California and the ten other states that elect their insurance commissioners in order to protect our consumers.