

Perspectives

ON TEXAS PUBLIC POLICY

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Implementation Of Property & Casualty Filing Requirements

A presentation to the Texas Department of Insurance and the Office of Public Insurance Council at an open meeting on September 9, 2004.

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The Texas Public Policy Foundation is a non-profit, non-partisan research institution, devoted to providing the information necessary to solve state policy challenges. Our work is based on the belief that facts should guide decisions, and the facts show that markets provide the most efficient, effective solutions to problems facing people.

Reform of property and casualty filing requirements enacted by the 78th Texas Legislature represents an important step toward reducing the cost, improving the quality, and expanding choices for consumers. In April 2003, the Foundation published a report on auto and homeowners' insurance, research produced by Nathaniel Shapo, former director of the Illinois Department of Insurance; this report is available on the Foundation's web site and copies will be distributed today to the Department of Insurance and Insurance Council.

Our research provides solid evidence that substituting file and use for benchmark rate regulation encourages a market that empowers and protects consumers. Since 1970 insurance prices in Illinois have been set by consumers. With supply and demand determining auto and homeowners' rates, coverage is available and affordable, the number of companies writing business in Illinois is the highest in the nation, and rates are at or lower than national average. Absence of rate regulation does not shortchange Illinois consumers. The state department of insurance aggressively regulates the aspects of business that benefit from government oversight – solvency, market conduct and forms; forms are scrutinized for statutory compliance, solvency and market conduct are reviewed, and consumer complaints are investigated.

South Carolina recently adopted the market reforms modeled by Illinois – the number of insurers writing policies doubled, rates steadied and declined in many cases, and the residual market pool diminished rapidly. In contrast, New Jersey and Massachusetts offer evidence that price controls and government regulation drive insurers from the marketplace, dry up capital, decrease supply, stimulate shortages, and provoke high consumer dissatisfaction.

Based on this research, the Foundation recommended that the state legislature eliminate the benchmark system and enact a cost-containment act requiring the insurance commissioner to provide regular reports to the legislature on the state of competition in the market. If the

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market was found to be non-competitive after a reasonable period of time, the legislature could consider a file and use rate regulation system.

Provisions for file and use enacted by the 78th Legislature are less than what the Foundation recommended but represent an important first step toward a competitive market.

The success of this step depends on how the Department of Insurance implements file and use; different states implement file and use very differently – some states use file and use simply as another form of regulation. The success of this reform also depends on how the Commissioner limits intervention and exercises subsequent disapproval of rates.

To help develop a healthy insurance market for Texans, we recommend the Texas Department of Insurance:

- ★ Propose a long-term plan for enacting deregulation in code for the state legislature. This commitment will provide a potent signal to insurers that Texas is committed to building a competitive market – a signal that will encourage capital investment;
- ★ Codify terms to ensure “true” file and use;
- ★ Codify standards for subsequent disapproval decisions on rates to ensure decision-making limits, rather than increases, regulation; and
- ★ Focus resources on solvency, market conduct, and licensing.

These recommendations are part of a new research report about the insurance market in Texas, produced by Dr. Patrick Brockett of the University of Texas at Austin. The Foundation plans to release this report in October.

The Foundation salutes efforts of the legislature, Commissioner and staff of the Texas Department of Insurance for their reliance on market-based reform to solve insurance problems. We offer our resources to the department in this first step toward deregulating insurance and encourage the advancement of further competitive reforms to help consumers.

**The Foundation’s research is available online at
www.TexasPolicy.com.**