

CHAPTER 160

S.B. No. 1127

An Act relating to administrative class actions involving unfair competition and unfair trade practices in the business of insurance; amending Subsections (a) and (b), Section 14, Article 21.21, Insurance Code, as amended.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Subsections (a) and (b), Section 14, Article 21.21, Insurance Code, as amended, is amended to read as follows:

“(a) In connection with the issuance of a cease and desist order as provided in Section 7 of this Article or upon application of any aggrieved person, the Board may, after notice and hearing as provided in Section 6 of this Article, in connection with the issuance of a cease and desist order resulting from a finding that a person ~~[an insurer]~~ has engaged in a method of competition, act or practice in violation of this Article, rules or regulations issued under this Article, or Section 17.46, Business & Commerce Code, as amended, or upon finding by the Board that the aggrieved person and persons similarly situated were induced to purchase a policy of insurance as a result of the person ~~[insurer]~~ engaging in a method of competition, act or practice in violation of this Article, rules or regulations issued under this Article or Section 17.46, Business & Commerce Code, as amended, the Board may require the person ~~[insurer]~~ to account for all premiums collected for policies issued during the immediately preceding two years in connection with such acts in violation of this Article and require: (i) such person ~~[insurer]~~ to give notice to all persons from whom such premiums were collected, and (ii) to refund the total of all premiums collected from each such person, electing to accept a premium refund in exchange for cancellation of the policy of insurance issued. Premiums so refunded shall be net of policy benefits actually paid by such person ~~[insurer]~~ while the policy of insurance was in force. The Board shall specify a reasonable time within which the person ~~[insurer]~~ shall be required to make such premium refunds.

“(b) If a person ~~[an insurer]~~ fails to comply with the Board’s requirement to refund such premiums within the time specified, the Board may, in addition to any other sanctions provided for in the Insurance Code and other applicable laws, report such failure to the Attorney General and request the Attorney General to file a suit to enforce the Board’s requirement for refund of premiums. Venue for such suit shall lie in the District Court of Travis County, Texas, and upon finding by the court that such requirement of the Board was lawfully entered and that the person ~~[insurer]~~ has failed to comply with such requirement, the Court shall enter an appropriate order to enforce such Board order. The Court may enforce its order through contempt proceedings.”

SECTION 2. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed the Senate on April 25, 1985, by the following vote: Yeas 30, Nays 0; passed the House on May 9, 1985, by the following vote: Yeas 145, Nays 0, one present not voting.

Approved: May 24, 1985

Effective: Immediately