

CHAPTER 147

S.B. No. 502

An Act relating to regulation of mortgage guaranty insurance by the State Board of Insurance and to rates, forms, and rules; adding Section 1A to Article 21.50, Insurance Code.

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

SECTION 1. Article 21.50, Section 1A, Insurance Code, as amended, is added to read as follows:

“Section 1A. (a) The procedures as set forth herein shall govern mortgage guaranty insurance as defined in this article but shall not affect any other of the provisions of this code.

“(b) A mortgage guaranty insurer shall not issue or use policy forms or related forms in this state until such forms are filed and approved by the board. As soon as reasonably possible after the filing has been made, the board shall approve or disapprove the same; provided, however, that any filing shall be deemed approved unless disapproved within 30 days; provided further, that the board may by official order postpone action for such further time not exceeding 30 days as it deems necessary for proper consideration. The board shall approve uniform policy forms, related forms, classifications, and rules for all lines and types of insurance applicable to the various risks under this article except as provided in Subsection (k) hereof.

“(c) The board shall disapprove any such form if:

“(1) It is in any respect in violation of or does not comply with this code.

“(2) It contains provisions which encourage misrepresentation or are unjust, unfair, inequitable, misleading, deceptive, or contrary to law or to the public policy of this state.

“(d) The board may, after notice and hearing, adopt reasonable rules and amendments to rules that are necessary for it to establish guidelines, procedures, methods, standards, and criteria by which the various and different types of forms and documents submitted to the board are to be reviewed and acted on by the board.

“(e) A mortgage guaranty insurer shall file with the board all rates and supplementary rate information and all changes and amendments thereto which are to be used in this state at least 15 days before they are to become effective. Rates, rating plans, and charges shall not be excessive, inadequate, or unfairly discriminatory and shall be reasonable with respect to the benefits provided.

“(f) On any filing of rates or changes and amendments to these rates, the insurer shall file adequate supporting data, including:

“(1) information on past and prospective loss experience within and outside the state, on catastrophe hazards, on expenses of operation, on a reasonable margin for profit and contingencies;

“(2) an explanation of the filer’s interpretation of any statistical data relied on by it;

“(3) an explanation and description of the methods used in making the rates;

“(4) certification by an appropriate official of the insurer relating to the appropriateness of the charges, rates or rating plans based on reasonable assumptions and accompanied by adequate supporting information.

“(g) The board may establish requirements for data and information to be filed under this article.

“(h) The board shall, after due consideration, promulgate reasonable rules and statistical plans which may be modified from time to time and which shall be used thereafter by each insurer in the recording and reporting of its loss experience and such other data as may be required, in order that the total loss and expense experience of all insurers may be made available in such form and detail as may be deemed necessary by the board.

“(i) Nothing in this Act shall be considered as compelling the State Board of Insurance to establish standard and absolute rates and the board is specifically authorized, in its discretion, to accept different rates for different insurers for the same risk or risks on the types of insurance covered by this article; nor shall this article be construed as to require the board to establish a single and uniform rate for each risk or risks or to compel all insurers to adhere to such rates previously filed by other insurers; and the board is empowered to accept such different rates for different insurers as filed by any qualified insurer unless it finds that such filing does not meet the requirements of this article.

“(j) If at any time the board finds that a policy form or rate filing no longer meets the requirements of this code, it may, after a hearing held on not less than 20 days’ notice, specifying the matters to be considered at such hearing, to every insurer which made such filing, issue an order withdrawing its approval thereof. Said order shall specify in what respects the board finds that such filing no longer meets the requirements of this code and shall be effective not less than 30 days after its issuance.

“(k) Policies providing coverage for a pool or group of loans in connection with the issuance of mortgage-backed securities or bonds shall be exempt from approval by the board under Subsection (b) of this section, but all such policy forms, related forms, classifications, and rules which are to be used in this state shall be filed with the board at least 15 days before they are to become effective. The board may, after a hearing held on not less than 20 days’ notice, specifying the matters to be considered at such hearing, to every insurer which made such filing, and upon finding that such filing is no longer in the best interest of the public of this state, issue an order suspending such exemption as to any or all insurers which made such filings and ordering such insurers to cease and desist from the use of such policy forms, related forms, classifications, and rules as the board may specify in its order.”

SECTION 2. (a) Policy forms, classifications, and rules currently approved and adopted by the board shall remain in effect after the effective date of this Act until new or additional policy forms, classifications, and rules are approved by the board under this article.

(b) This Act takes effect September 1, 1985.

(c) After the effective date of this Act, no mortgage guaranty insurer shall issue or use any policy forms, related forms, or rates unless said forms and rates have been approved or filed in accordance with Section 1A, Article 21.50, Insurance Code, as added by this Act.

SECTION 3. 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 18, 1985, by the following vote: Yeas 29, Nays 0; passed the House on May 9, 1985, by the following vote: Yeas 143, Nays 0, one present not voting.

Approved: May 24, 1985

Effective: September 1, 1985