

SUBJECT: Removing limitations period for some insurance-related disciplinary actions

COMMITTEE: Insurance — committee substitute recommended

VOTE: 8 ayes — Smithee, Eiland, Averitt, Burnam, G. Lewis, J. Moreno, Olivo,
Thompson

1 nay — Seaman

0 absent

WITNESSES: (*On original version:*)
For — None

Against — Jay Thompson, Texas Association of Life & Health Insurers and
Association of Fire and Casualty Companies in Texas

On — Will Davis, Texas Association of Life & Health Insurers

DIGEST: CSHB 3254 would amend the Insurance Code to eliminate the statute of
limitations period for the insurance commissioner or the Texas Department
of Insurance (TDI) to impose sanctions, penalties, or fines for conduct that
was in violation of the unfair discrimination or unfair competition and unfair
practices provisions of the code, as those provisions related to discrimination
on the basis of race or color.

This bill would take effect September 1, 2001.

SUPPORTERS
SAY: HB 3254 would allow the commissioner or the TDI to investigate unfair
discrimination or unfair practices by insurance companies based on race or
color, regardless of when they occurred. Last year, a federal court in Florida
approved a settlement in which American General, whose holding company
is in Houston, paid over \$200 million related to its companies' practice of
basing premiums on race. The holding company entered a consent order with
TDI regarding similar practices in Texas. Some believe that many of the
same type of practices are ongoing with other companies doing business in
the state.

Current law is not clear on whether the commissioner can investigate race-based practices beyond the existing five-year statute of limitations. It is likely that a sizeable number of Texas' people of color have paid higher life insurance premiums solely because of race. This bill would grant the commissioner or TDI authority to investigate such unfair discrimination and would allow penalties or restitution under current law if violations were found. The state should be able to punish individuals or companies who engaged in unfair discrimination and unfair practices with regard to race no matter when the offenses took place.

OPPONENTS
SAY:

Removing the statute of limitations from existing law is an unwise practice. There always should be a time limit under which actions can be brought because memories fade and evidence becomes increasingly stale and unreliable as the years pass.

NOTES:

The committee substitute modified the original bill to include provisions related to unfair practices and unfair competition. The substitute would apply to violations as related to discrimination on the basis of race or color. The substitute also conforms to Texas Legislative Council style and format, including an effective date.