

## **The Center For Economic Justice**

1506 South First St.  
Austin, TX 78704  
(512) 912-1327  
(fax) 912-1375

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Mike Boerner  
Managing Actuary  
Texas Department of Insurance  
P.O. Box 149104  
Austin, TX 78714-9104

By Fax (512) 322-5083

Re: Comments for HB 2415 Study of Small Face Life Insurance

Dear Mr. Boerner:

The Center for Economic Justice offers these comments on the proposed study and work plan for the HB 2415 Study of Small Face Life Insurance. We are unable to attend tomorrow's Advisory Committee meeting and, therefore, request, that you distribute our comments to Advisory Committee members for their review at the meeting.

HB 2415 requires the Commissioner to perform a study of the marketplace for small face amount life insurance in Texas. Department staff appropriately proposes a survey or surveys to insurers selling small face life insurance to obtain the data necessary to conduct the study required by HB 2415.

We commend Department staff for a thoughtful and thorough study work plan. We have one major concern and a couple of suggestions.

Our concern is with the staff proposal to claim that the first survey of companies is pursuant to Tex. Ins. Code art. 1.15 and, consequently, to keep the responses to the survey confidential. The draft letter to companies accompanying the survey erroneously couches the survey as part of a "target examination." This is not the case. The survey is a routine call for information from insurance companies for the purpose of performing a market analysis. The Department should be requesting the information pursuant to Tex. Ins. Code art 38.001, which provides the Department with general authority to request information from regulated entities related to "any matter connected with the person's transactions that the department considers necessary for the public good or for the proper discharge of the department's duties." Clearly, this call for information is necessary for the discharge of the Department's duties pursuant to HB 2415. Further, insurers submitting information pursuant to Tex. Ins. Code art. 38.001 retain the protections of the Texas Public Information Act regarding exemptions from disclosure of certain information.

The information requested in the first survey is information that should be available to the public, including Advisory Committee members, for two reasons. First, the requested information

is either already public information or the type of information routinely provided to the public. Under the staff proposal to claim that the information is covered by Tex. Ins. Code art 1.15, clearly-public information – such as Approved Policy Form Number in Texas, Date Approved, Market Segment, Policy Form Description, Benefit Description, Required Premium Description, Issue Age Range, Death Benefit Range – would be declared confidential. Other requested information is of the type routinely collected by the Department and routinely made available to the public. For example, number of policies in force, number of policies issued, amount of premium and amount of death benefits are precisely analogous to the data collected – and made available to the public – in the Department’s Quarterly Call for the Quarterly Legislative Report on Market Conditions. For example, the Quarterly Call requests policies written, premiums written, premiums on policies written and claims paid by insurer by line of business and, in some cases, by coverages within a line of business. The workers’ compensation data is broken out by size of policy premium intervals and by type of deductible and by type of market. The private passenger auto insurance is broken out by liability and physical damage coverage and by market segment. Thus, the public Quarterly Call data are precisely analogous to the requested small face life insurance premium, exposure and loss experience by company.

Nor is the request for type of underwriting covered by Tex. Ins. Code art. 38.002 because the survey question deals with whether the product is underwritten and not with the specific underwriting guidelines utilized by the company.

Second, the first survey information should be available to the public to allow the public, including the Advisory Committee members, to meaningfully participate in the study process. We have great confidence in Department staff. However, we know that different people viewing the same data will discover different things. Clearly the Commissioner – and the Legislature – will benefit by having people other than Department staff reviewing the survey responses.

We have two suggestions for the content and conduct of the first survey. First, we suggest that the survey request copies of any written disclosures provided to consumers who are considering the purchase or who have purchased the small face life insurance product. To obtain an overview of the small face life insurance market, it is essential to review the disclosures provided in that market.

Second, we suggest that any company responding to the survey contact Department staff prior to submitting the survey responses to confirm the market segments / market categories to be used. This is a necessary step to allow Department staff to provide guidance to reporting companies to ensure consistent definitions of categories across reporting companies. It is essential that companies report their information in the correct “buckets.”

We also wanted to comment on the NAIC’s activities on small face life insurance issues. As you know, CEJ has been active on small face life insurance issues at the NAIC for several years. Simply stated, the NAIC has failed miserably to develop consumer protections on small face life insurance issues. The Small Face Working Group was charged with a comprehensive review of the small face life insurance market practices – and failed to carry out this charge. The only product of the Working Group to date is the anti-consumer “disclosure,” provided to

Advisory Committee members. This “disclosure” will not inform consumers because the language is generic and provides no specific, useable information to the consumer. Further, the disclosure is rendered even less useful by not being provided until after the consumer has purchased the policy. The consumer does not even get this important information about the relationship of premiums to benefits until after the purchase. The bottom line is that the NAIC has done little on small face life insurance issues and is looking to Texas for leadership. The minutes from the December 9, 2002 NAIC Small Face Working Group meeting state:

He (*Robert Robleto of the Florida Department of Insurance*) also expressed concern that the working group has lost momentum and he does not want to endorse disclosure as a solution to the small face amount problems. Commissioner Pickens (*co-chair of the working group*) said it is not the working group’s intention to stop here. He suggested that regulators look at the Texas actuarial study, which will be discussed later, and see what to do next. Mr. Robleto said it sends the wrong message to make a disclosure requirement and stop.

Thank you for your consideration of our comments.

Sincerely,

Birny Birnbaum  
Executive Director

cc Commissioner Montemayor