

TEXAS WATCH

October 1, 2024

Via hand delivery & electronic mail (c/o Daniela Velez-Blanc, Committee Clerk)

Committee on Business and Commerce
Texas Senate
P.O. Box 12068,
Austin, TX 78711-2068

Dear Chairman Schwertner, Vice Chairman King, and Members of the Committee:

Our nonpartisan nonprofit advocates for the rights of policyholders. Thank you for the opportunity to testify before you today regarding the high cost of property and casualty insurance coverage. I write to provide supplemental information to assist with the Committee's deliberations about finding solutions to improve affordability.

Attached, please find the following exhibits:

1. Allstate's stock performance;
2. Travelers' stock performance;
3. Chubb's stock performance;
4. *Barron's* article excerpt regarding Chubb's investment income;
5. Texas Department of Insurance excerpt on property and casualty rate reviews;
6. Texas Insurance Code section on "file and use" property and casualty rates;
7. *Austin American-Statesman* excerpt on prolonged State Farm legal battle concerning homeowners overcharges;
8. *Insurance Journal* excerpt on State Farm settlement; and
9. *60 Minutes* excerpt on alleged unfair claims practices.

Without a change to our laws, Texas homeowners and motorists will continue to pay more for less coverage.

Policy options for the Legislature's consideration include:

- A "prior approval" rate system;
- A return to the "benchmark" system with a base rate set by the state and flexibility for carriers to deviate from that rate by a certain percentage;
- A comprehensive review of all homeowners and private passenger automobile rates and ordered reductions;
- Appraisal reform establishing timelines to ensure the prompt payment of claims;
- Risk mitigation through state-supported construction improvements (with resulting insurance discounts); and
- Improved notice to policyholders about rate changes, coverage reductions, and comparison shopping tools.

Respectfully submitted,



Ware V. Wendell
Executive Director

Encl.



Allstate Corp

NYSE: ALL

Overview

Financials

Compare

Market Summary > Allstate Corp

190.56 USD

+79.52 (71.61%) ↑ past year

Closed: Sep 16, 5:10 PM EDT • Disclaimer

After hours 190.50 -0.060 (0.031%)

1D | 5D | 1M | 6M | YTD | 1Y | 5Y | Max



Travelers Companies Inc

NYSE: TRV

Overview

Financials

Market Summary > Travelers Companies Inc

242.26 USD

+75.41 (45.20%) ↑ past year

Closed: Sep 16, 4:02 PM EDT • Disclaimer

After hours 242.26 0.00 (0.00%)

1D | 5D | 1M | 6M | YTD | 1Y | 5Y | Max





Chubb Ltd

NYSE: CB

Overview

Financials

Compare

Market Summary > Chubb Ltd

291.32 USD

+77.21 (36.06%) ↑ past year

Closed: Sep 16, 5:03 PM EDT • Disclaimer

After hours 286.31 -5.01 (1.72%)

1D | 5D | 1M | 6M | YTD | 1Y | 5Y | Max




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<https://www.barrons.com/articles/chubb-ceo-insurance-climate-china-warren-buffett-b4f435de>

FINANCIALS | Q&A

Chubb's CEO on Pricing Risk, Engaging China, and Welcoming Warren Buffett

Under Evan Greenberg, Chubb's earnings and stock have soared. Here's where the insurer sees opportunity now.



BARRON'S

By [Nicholas Jasinski](#) Follow

June 06, 2024, 3:00 am EDT

“For the first time in a long time at Chubb, we’re at a place where half of our income is coming from underwriting and **half from investment returns. Investment income will continue to grow.**”

Property and Casualty Rate Reviews

Property and casualty insurers regulated by the Texas Department of Insurance (TDI) must file their rates for review. Texas Insurance Code Sections [2053.004\(b\)](#) and [2251.107\(b\)](#) require TDI to make information available about the process and methodology for rate review, including why a rate may be disapproved.

Like most other states, Texas is a file-and-use state. This means that once an insurer files its rates, it can use them on their effective date.

State law requires that rates:

- Be adequate.
- Not be excessive. An excessive rate produces an unreasonably high long-term profit compared to the coverage provided.
- Be based on sound actuarial principles.
- Be reasonably related to all costs (expected losses and expenses).
- Not be based on the insured's race, creed, color, ethnicity, or national origin.

If the filed rates do not meet these standards, TDI notifies the insurer. If the insurer does not change, withdraw, or provide better supporting information for the filing, **TDI will take action to disapprove it.**

2023 rate filings

Of the 2,923 rate filings reviewed in 2023:

- 160 were withdrawn by the insurer. Insurers may withdraw a rate filing if they need more time to respond to TDI's questions, want to refile with a different rate, were asked to withdraw the filing because it didn't comply with state laws or rules, or other reasons.
- 100 were rejected for technical reasons, such as filing under the incorrect line of business or not providing enough information.
- **No filings were disapproved.**
- 2,663 filings were allowed to stand or were approved.
- TDI requested additional information on 74% of the filings.

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TEXAS INSURANCE CODE, CHAPTER 2251, RATES, SUBCHAPTER C, RATE FILINGS.

Sec. 2251.101. RATE FILINGS AND SUPPORTING INFORMATION. (a) Except as provided by Subchapter D, for risks written in this state, each insurer shall file with the commissioner all rates, applicable rating manuals, supplementary rating information, and additional information as required by the commissioner. **An insurer may use a rate filed under this subchapter on and after the date the rate is filed.**

State's rate dispute with State Farm passes 10-year mark, with no end in sight

Tim Eaton

Published 12:01 a.m. CT July 19, 2013 | Updated 6:34 p.m. CT Sept. 25, 2018

It's been a decade since Texas' top insurance regulator accused State Farm of overcharging its homeowner policyholders and ordered the insurance giant to pay back more than \$250 million. The company refused and took the fight to court, where it is still going strong with no end in sight.

It has been so long that many of the people who are owed money by State Farm Lloyds have died, moved or forgotten about the disputed refund...

State Rep. John Smithee, a Republican from Amarillo and the longtime chairman of the House's Committee on Insurance, said he has never seen anything like it.

"I don't know of any precedent or any other case in Texas where a dispute has taken this long," he said. "It doesn't happen every day and shouldn't have happened at all."

In the fight, State Farm Lloyds and the Texas Department of Insurance are pitted against each other in a legal battle of wills. The insurer maintains it has the right to set its own rates, while the regulator refuses to back off its 2003 finding that the company overcharged its customers.

Caught in the middle are 1.2 million Texas consumers, like McKee, who cannot collect the money the state says is due to them — a total of more than \$310 million with interest accruing, according to the department.

The epic fight began in 2003 when the Legislature passed Senate Bill 14, changing the insurance regulatory system in Texas to allow home and auto insurers to file for rate increases and immediately put them into effect. If the insurance commissioner deemed a rate to be excessive, he or she could order it lowered. It was called the file-and-use system.

Before 2003, about 80 percent of the home insurance market was unregulated, Smithee said. Then, many insurers became affiliated with Lloyd's companies, which are modeled after the Lloyd's of London insurance syndicate, to avoid state oversight.

Insurers knew in 2003 that they would fare better with file-and-use, compared with other new forms of regulation. By giving insurers what they wanted, many lawmakers hoped the companies would respond by dropping their rates from historic highs that came after an explosion of mold claims in 1999 and 2000.

Of the 32 homeowner insurance companies that were ordered to reduce rates, 30 did so. Only State Farm Lloyds and Texas Farmers Insurance challenged the ordered rate reductions. The department settled with Farmers in 2004, but State Farm Lloyds hasn't budged. The company has maintained that its rates were not the highest in the state's competitive homeowner insurance market and should not be considered excessive...

The case has been in and out of courts in Travis County and has twice been heard by Texas' 3rd Court of Appeals, where it still lingers. The parties have been awaiting some word from the court since oral arguments in 2011. But even after a decision comes, the case is likely to be appealed to the state Supreme Court.

Even as the epic rate case inches along, State Farm Lloyds continues to raise rates on its homeowner policyholders, announcing last year a 20 percent increase. The move prompted the state-funded consumer advocate to call for State Farm to pull back.

The company refused, and the case is still pending.

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<https://www.insurancejournal.com/news/southcentral/2015/02/27/358899.htm>



State Farm to Pay \$352.5M to Settle Texas Residential Overcharge Case

By [Stephanie K. Jones](#) | February 27, 2015

A settlement has been reached in a long-running dispute between the nation's largest homeowners insurer and the state of Texas over premium overcharges.

The Texas Office of Public Insurance Counsel (OPIC) announced Feb. 27 that under a settlement with State Farm subsidiary, [State Farm Lloyds](#), the company will refund \$352.5 million in premium overcharges and interest to its Texas policyholders.

State Farm Lloyds, with nearly 27 percent of the market, is the largest homeowners insurer in Texas.

The settlement applies to residential policies that were issued or renewed between Sept. 7, 2003, through July 31, 2008, and the amount is a far cry from the almost \$1 billion in overcharges and interest that OPIC alleged the company owed in a [court filing in 2009](#). The current settlement amount is more, however, than the [\\$310 million the company was ordered to pay](#) in 2009 by then-Texas Insurance Commissioner Mike Geeslin...

SB 14 required homeowners insurers to file their rates with the Texas Department of Insurance. TDI then had a mandate to conduct rate reviews of all homeowners insurance companies in Texas at that time to determine if existing rates complied with rating standards.

The [rate reviews were completed](#) in September 2003, with regulators finding that homeowners rates were excessive for 29 of the 61 insurers reviewed and ordered reductions. Of the 29 companies ordered to lower rates 12 companies appealed, including State Farm, which had been ordered to reduce its homeowners rates by 12 percent.

Until the current settlement, State Farm was the last carrier fighting the rate cuts and refunds.

In August 2004, [Allstate Texas Lloyds](#), an affiliate of the Allstate Corp. and the state's third largest homeowners carrier, agreed to issue refunds of 8.75 percent of the premium paid by its Texas home insurance customers for policies with effective dates from Sept. 7, 2003, through Sept. 6, 2004.

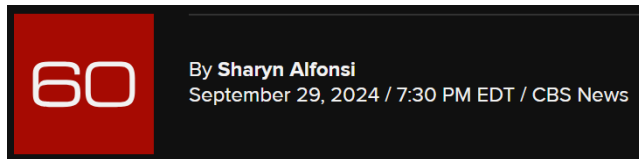
In 2013, Farmers Insurance, Texas' second largest homeowners insurance company, [agreed to settle for \\$117.5 million](#) the state's claim that it had overcharged and underserved customers...

The company estimates the first eligible policyholders will start receiving refund checks later this year and that the process would likely extend through August 2016.

Policy refunds will vary between 2.6 percent and 6.2 percent of premium paid by individual customers, depending on the effective date of their policies, according to TDI. Interest rates will either be 5.25 percent or 9.25 percent depending on policy effective date...

60 Minutes - Newsmakers

Whistleblowers claim insurance companies shortchanged some Florida homeowners after Hurricane Ian



Sharyn Alfonsi: Do you remember the Rapkin family?

Jordan Lee: Yes, ma'am.

Lee is the adjuster who went to the Rapkin's home after the storm...

Sharyn Alfonsi: You said they needed a new roof.

Jordan Lee: I did.

Sharyn Alfonsi: And this report says what?

Jordan Lee: It reads as a repair.

Sharyn Alfonsi: Was that roof able to be repaired in your opinion?

Jordan Lee: Not in my opinion, no.

Later, Jordan Lee learned a desk adjuster - who'd never been to the Rapkin's home - had deleted entire sections of his report... but left his name and his license number on it - making it look like his work.

Sharyn Alfonsi: Did anybody ever alert you, "Hey, we're making a change to this report"?

Jordan Lee: No. Nobody told me. The only way that I knew was the homeowner calling me.

It is standard procedure for field adjusters to collaborate with those back in the office to make minor edits. But Jordan Lee says, that is not what happened with the Rapkin's report.

Sharyn Alfonsi: Did you put a dollar amount on how much you thought they were owed?

Jordan Lee: \$231,368.57.

Sharyn Alfonsi: What did the insurance carrier come up with?

Jordan Lee: \$15,469.48. So uh, quite a bit of difference.

Sharyn Alfonsi: Mmm. That's not a difference of opinion.

Jordan Lee: No.

Jordan Lee says as he dug further into his work from Hurricane Ian... he was stunned to discover the Rapkins weren't the only family whose report was altered.

Jordan Lee: It was basically all of 'em. I mean, I handled 46 of them. 44 of them were changed...

Ben Mandell (at hearing): "The scheme was repeated over and over again, not only on my estimates but on estimates written by other adjusters."

Ben Mandell has been a licensed adjuster since 2017. He did not work for Heritage but says 18 of the 20 reports he wrote for another carrier after Hurricane Ian were altered. And he says he, and other adjusters, were instructed by some of their managers to leave damage off reports.

Ben Mandell: It was a deliberate scheme to do this. And it wasn't just with one carrier doin' this. This was six carriers that we discovered were doing this in the State of Florida, they all got the memo.

Sharyn Alfonsi: Which was?

Ben Mandell: Which was, "we're not going to replace roofs, asphalt shingle roofs. We're not going to replace them, we're going to repair them..."

Sharyn Alfonsi: So the company's telling you, "Leave the roofs off, we're not paying for roofs." But you keep writing these--

Ben Mandell: That's correct.

Sharyn Alfonsi: -- roofs into your reports.

Ben Mandell: I wrote the way they're supposed to be.

Sharyn Alfonsi: And you get fired.

Ben Mandell: And I got fired.

Now, Ben Mandell and five other whistleblower adjusters are represented by attorney Steven Bush. Bush worked as a public adjuster for more than a decade.

Steven Bush: What the carriers are doing, in some instances, what they've said was, "if the policyholder needs a new roof, then we're gonna make them make us pay." In other words, "File a lawsuit, and then we'll pay you for your roof."

Sharyn Alfonsi: But unless they do that, they're not getting their roof paid for?

Steven Bush: They're not getting it, they're not getting it. Most people will not stand up and fight. I cannot tell you how many people come to me and say, "hey, what was I gonna do? I had to replace my roof."

Sharyn Alfonsi: And do you think the insurance companies know that? They're betting on --

Steven Bush: Absolutely.

Sharyn Alfonsi: -- that those people are just gonna roll over?

Steven Bush: No question they know that. They're playing the odds and they are winning.