No. 07-0720

*OFFICIAL ORDER*
*of the*
**COMMISSIONER OF INSURANCE**
**of the**
**STATE OF TEXAS**
**AUSTIN, TEXAS**

**Date:** AUG 20 2007

**Subject Considered:**

ALLSTATE TEXAS LLOYD'S
3075 Sanders Road, Suite H1A
Northbrook, Illinois 60062 -7127

**General remarks and official action:**

On this day, pursuant to a determination by the Commissioner of Insurance ("Commissioner") of the Texas Department of Insurance ("TDI" or "Department") that Allstate Texas Lloyd's ("Allstate" or "Allstate Texas Lloyd's") rates require supervision because of their rating practices, Allstate Texas Lloyd's is hereby required to file with the Commissioner all rates, supplementary rate information, and any supporting information as prescribed by TEX. INS. CODE ANN. art. § 2251.151.

## JURISDICTION & LEGAL AUTHORITY

The Commissioner has jurisdiction of this matter pursuant to TEX. INS. CODE ANN. §§ 2251.151—2251.156.

The Commissioner is responsible for regulating the business of insurance in Texas and is charged with determining whether rates charged by an insurer are just, fair, reasonable, adequate, not confiscatory and not excessive for the risks to which they apply, and not unfairly discriminatory. TEX. INS. CODE ANN. art. 1.02(b) and §§ 2251.052, 2251.103 and 2251.104.

Pursuant to TEX. INS. CODE ANN. § 2251.151, the Commissioner by order may require an insurer to file with the Department for the Commissioner's approval all rates, supplementary rate information, and any supporting information in accordance with TEX. INS. CODE ANN. §§ 2251.151—2251.156, if the Commissioner determines that an insurer's rates require supervision because of the insurer's rating practices.

## FINDINGS

Based upon the evidence presented the Commissioner makes the following findings:

1. Allstate Texas Lloyd's is a domestic Lloyds plan insurer currently holding a certificate of authority to transact the business of insurance in Texas pursuant to TEX. INS. CODE ANN. §§ 801.051-801.102 and 941.101-941.103. Allstate Texas Lloyd's is subject to rate regulation under TEX. INS. CODE ANN. § 2251.001-2251.252.

<u>May 2006 Disapproval Order</u>

2. On August 30, 2004 Allstate made a homeowners' insurance rate filing proposing that their current rates be increased. This filing was required under the terms set forth in Commissioner's Order No. 03-0836.

3. On December 30, 2004 the Commissioner issued Order No. 04-1258 disapproving Allstate's August 30, 2004 rate filing. Specifically, this Order found that the subject filing contained rates that were excessive, inadequate, unreasonable, and/or unfairly discriminatory for the risks to which they apply, in violation of TEX. INS. CODE ANN. arts. art. 1.02(b), 5.142 § 3(d) and 5.13-2 § 4(d), in the following respects:

   (a) The subject filing is likely to produce a long-term profit that is unreasonably high in relation to the insurance coverage provided.

   (b) The subject filing uses excessive historical loss trend factors for perils other than liability and produces rates that are excessive.

   (c) The subject filing uses excessive future loss trend factors for perils other than liability and produces rates that are excessive.

   (d) The subject filing's projected pure premium for water damage losses is excessive.

   (e) The subject filing's rates are calculated using an excessive provision for taxes, licenses, and fees.

   (f) The subject filing's reduction in projected losses to reflect changes in coverage for "All Other Perils" is inadequate.

   (g) The subject filing contains rates which are excessive and inadequate because the filing did not account for past mold losses arising from perils other than water damage, thereby overstating likely future losses and rate needs.

(h) The subject filing is excessive in that it included a risk load for losses retained by its parent company in excess of $275 million which is otherwise accounted for in the target rate of return on equity and the target underwriting profit provision.

(i) The subject filing contains rates that are excessive because the selected premium trend factor produces future average premiums that are lower than could be reasonably expected.

(j) The subject filing contains rates that are excessive because the selected loss development factors for the wind peril produce wind peril pure premiums that are greater than the likely expected future experience for the wind peril.

(k) The subject filing is excessive, unreasonable and/or unfairly discriminatory for the risks to which they apply in that the filing includes claim experience discount factors which violate TEX. INS. CODE ANN. arts. 5.142 § 3(d) and 5.13-2 § 4(d).

4. On December 30, 2004 the Department issued a Notice of Hearing with the State Office of Administrative Hearings ("SOAH") proposing to disapprove Allstate's current rates. The Notice of Hearing alleged that Allstate's current rates were excessive, inadequate, unreasonable, and/or unfairly discriminatory for the risks to which they apply, in violation of TEX. INS. CODE ANN. arts. 5.13-2 § 4(d) and 1.02(b), in the following respects:

(a) The current rates are likely to produce a long-term profit that is unreasonably high in relation to the insurance coverage provided.

(b) The current rates use excessive historical loss trend factors for perils other than liability and produces rates that are excessive.

(c) The current rates use excessive future loss trend factors for perils other than liability and produces rates that are excessive.

(d) The current rates' projected pure premium for water damage losses is excessive.

(e) The current rates are calculated using an excessive provision for taxes, licenses, and fees.

(f) The current rates' reduction in projected losses to reflect changes in coverage for "All Other Perils" is inadequate.

(g) The current rates are excessive and inadequate because the rate filing did not account for past mold losses arising from perils other than water damage, thereby overstating likely future losses and rate needs.

(h) The current rates is excessive in that it included a risk load for losses retained by its parent company in excess of $275 million which is otherwise accounted for in the target rate of return on equity and the target underwriting profit provision.

(i) The current rates are excessive because the selected premium trend factor produces future average premiums that are lower than could be reasonably expected.

(j) The current rates are excessive because the selected loss development factors for the wind peril produce wind peril pure premiums that are greater than the likely expected future experience for the wind peril.

(k) The current rates are excessive, unreasonable and unfairly discriminatory for the risks to which they apply in that the rate filing includes claim experience discount factors which violate TEX. INS. CODE ANN. arts. 5.142 § 3(d), 5.13-2 § 4(d) and 1.02(b).

5. On March 23, 2006 the Administrative Law Judges ("ALJs") at SOAH issued their Proposal for Decision ("PFD") which concluded that Allstate's current rates, and the proposed rate increase set forth in Allstate's August 30, 2004 rate filing, contained rates that were excessive, inadequate, unreasonable, and/or unfairly discriminatory for the risks to which they apply, in violation of Texas law.

6. On May 22, 2006, after reviewing the PFD, the Commissioner issued Order No. 06-0512 concluding that Allstate's current rates, and the proposed rate increase set forth in Allstate's August 30, 2004 rate filing, contained rates that were excessive, inadequate, unreasonable, and/or unfairly discriminatory for the risks to which they apply, in violation of Texas law. This Order required Allstate to reduce their current rates by 5.0% and to pay refunds with interest to Allstate policyholders charged since December 30, 2004. The Commissioner issued Order No. 06-07087 reducing the amount of interest. The Department estimates that the total refunds and interest due to policyholders under these Orders exceeds $56,000,000.

7. Allstate filed a petition for judicial review with the Travis County District Court to challenge these Orders. On March 8, 2007, the District Court

issued a final judgment affirming the Commissioner's Orders. Allstate subsequently filed an appeal of the District Court's Final Judgment, which is currently pending before the Third Court of Appeals.

## August 2007 Disapproval Order

8. On June 6, 2007, Allstate Texas Lloyd's submitted two homeowners insurance rate filings under company filing numbers R18185 (proposing an overall 6.9% rate increase) and R17786 (proposing an additional 2.1% rate increase based solely on the net cost of reinsurance). These filings were assigned TDI Rate Filing No. 9212481903 with Link No. 89823 and TDI Rate Filing No. 921241895 with Link No. 89817 respectively. Filings R18185 and R17786 were withdrawn by Allstate Texas Lloyd's on July 25, 2007.

9. On August 20, 2007 Allstate Texas Lloyd's made two homeowners insurance rate filings. These filings were identified by Allstate Texas Lloyd's under company filing numbers R18592 (proposing a 5.9% increase) and R18590 (proposing a 2.1% increase). Allstate Texas Lloyd's represented that filing R18592 is an update to filing R18185, and that filing R18590 is an update to filing R17786.

10. On August 20, 2007, the Commissioner entered Order No. 07-0719 disapproving Allstate Texas Lloyd's August 20, 2007 rate filings. This Order found that Allstate Texas Lloyd's filings, separately and in combination, proposed rates that are excessive, inadequate, unreasonable, and/or unfairly discriminatory for the risks to which they apply, in violation of TEX. INS. CODE ANN. art. 1.02 and § 2251.052(b).

11. Specifically, with respect to rate filing R18592:

    a) The adjustments to losses to reflect new underwriting actions in Coastal Zones 2 and 3 did not remove certain non-hurricane catastrophe losses that would be excluded by the higher minimum tropical cyclone deductibles required in those zones, thereby producing excessive rates.

    b) The factor for unallocated loss adjustment expense used in the calculation of the total non-modeled catastrophe provision and the projected non-catastrophe pure premiums overstates likely expenses, thereby producing excessive rates.

    c) The selected trends for premiums and losses, when taken together, are inconsistent, and do not reasonably reflect changes in deductibles and amounts of insurance purchased, and produce excessive rates.

d) The selected trend for premiums does not reasonably consider adjustments to insureds' policy limits for changes in the Boeckh Index, and produces excessive rates.

e) The stated provision for underwriting profit underlying the proposed rates, 10.43 percent, taken together with all other cost and revenue components, results in an expected excessive total return relative to the Allstate cost of capital, thereby producing a long-term profit that is unreasonably high in relation to the insurance coverage provided and excessive rates.

f) The selected one percent contingency provision has not been justified, and produces excessive rates.

g) The projection of General and Other Acquisition Expense did not reflect likely savings due to improvements in productivity, and produces excessive rates.

h) The discount applied to rates to reflect the application of the Wind, Hurricane and Hail Exclusion endorsement (HO-140) insufficiently reflects likely loss reductions and produces excessive rates.

i) The rate components identified above in subparagraphs 11(a) through 11(h) are likely to produce a long-term profit that is unreasonably high in relation to the insurance coverage provided and therefore produce excessive rates.

j) No change is proposed in the existing rating zone relativities even though experience, including projected catastrophe losses, indicates that the relativities should differ substantially from the existing relativities in many instances. The proposed rates are therefore unfairly discriminatory because they are not based on sound actuarial principles and do not bear a reasonable relationship to the expected loss and expense experience among risks.

12. Specifically, with respect to rate filing R18590:

a) The net cost of reinsurance calculation imputes additional costs on amounts retained within the Allstate Insurance Group but not actually incurred, artificially raising apparent premium needs for the policyholders of Allstate Texas Lloyd's and producing excessive rates.

b) The stated provision for underwriting profit underlying the proposed rates, 10.43 percent, taken together with all other cost and revenue components, results in an expected excessive total return relative to the Allstate cost of capital, thereby producing a long-term profit that is unreasonably high in relation to the insurance coverage provided and excessive rates.

<u>Rating Practices Require Rate Supervision</u>

13. Allstate Texas Lloyd's has repeatedly filed and used rates the Commissioner has determined to be excessive, inadequate, unreasonable, and/or unfairly discriminatory for the risks to which they apply in violation of Texas law as set forth above.

14. Allstate Texas Lloyd's repeated filing and use of rates in violation of Texas law constitutes rating practices.

15. Allstate Texas Lloyd's rates require supervision because of the rating practices identified above.

IT IS THEREFORE ORDERED by the Commissioner of Insurance that Allstate Texas Lloyd's rates require supervision because of the rating practices identified above, and pursuant to TEX. INS. CODE ANN. §§ 2251.151-2251.156 Allstate Texas Lloyd's is hereby required to file with the Texas Department of Insurance for the Commissioner's approval all rates, supplementary rate information, and any supporting information for homeowners insurance, unless and until the Commissioner determines that the conditions found herein no longer exist.

Mike Geeslin

MIKE GEESLIN
COMMISSIONER OF INSURANCE