

No. 2018- 5601

**OFFICIAL ORDER
of the
TEXAS COMMISSIONER OF INSURANCE**

Date: AUG 09 2018

Subject Considered:

ESURANCE PROPERTY AND CASUALTY INSURANCE COMPANY
650 Davis Street
San Francisco, California 94111

CONSENT ORDER
TDI ENFORCEMENT FILE NO. 13854

General remarks and official action taken:

The commissioner of insurance considers whether disciplinary action should be taken against Esurance Property and Casualty Insurance Company (Esurance).

WAIVER

Esurance acknowledges that the Texas Insurance Code and other applicable law provide certain rights. Esurance waives all of these rights, and any other applicable procedural rights, in consideration of the entry of this consent order.

FINDINGS OF FACT

1. Esurance is a foreign fire and casualty insurance company holding a certificate of authority to transact business in Texas.
2. TEX. INS. CODE § 2251.101(a) requires each insurer to file with the commissioner all rates, applicable rating manuals, supplementary rating information, and additional information as required by the commissioner.
3. An insurer may use a rate filed under TEX. INS. CODE §2251.101(a) on and after the date the rate is filed.
4. Esurance filed its original Texas motorcycle program rates and applicable rating manuals with the department in 2012 with an effective date of April 30, 2013 (State Tracking Number 124842).

5. On June 29, 2017, Esurance filed with the department its updated Texas motorcycle symbols with an effective date of July 1, 2017 (SERFF Filing Number ESUR-131098502).
6. The result of a consumer complaint identified that during April 30, 2013 - July 1, 2017, Esurance assigned motorcycle symbols that were not on file with the department.
7. The rating error affected 22 policyholders and caused a combined premium overcharge of \$1,534.32.

Restitution Paid

8. Esurance identified all motorcycle program policies issued by Esurance in Texas with effective dates from April 30, 2013 – July 1, 2017 (the Review Period). The Corrected Premium was calculated using the correct symbol factors and rates on file with the department. For each policy in the Review Period, Esurance determined whether the dollar amount of the premium charged for each policy was less than or more than the Corrected Premium. If the premium charged for each policy was more than the Corrected Premium, the difference constituted the Overcharge. In February – April 2018, Esurance made Overcharge payments in the form of a company check to each policyholder identified in the Review Period as having an Overcharge.

CONCLUSIONS OF LAW

1. The commissioner of insurance has jurisdiction over this matter pursuant to TEX. INS. CODE §§ 82.051-82.055, 84.021-84.044, 801.052-801.053, 912.101-912.102, and 2251.101.
2. The commissioner of insurance has authority to informally dispose of this matter under TEX. GOV'T CODE § 2001.056, TEX. INS. CODE §§ 36.104 and 82.055, and 28 TEX. ADMIN. CODE § 1.47.
3. Esurance has knowingly and voluntarily waived all procedural rights to which it may have been entitled regarding the entry of this order, including, but not limited to, issuance and service of notice of intention to institute disciplinary action, notice of hearing, a public hearing, a proposal for decision, rehearing by the commissioner, and judicial review.
4. Esurance violated TEX. INS. CODE § 2251.101(a) by failing to timely file updated motorcycle program rates, applicable rating manuals, and supplementary rating information with the department.
5. Pursuant to TEX. INS. CODE § 82.053, the commissioner is authorized to direct Esurance to make complete restitution to each policyholder harmed by the violations.

2018-5601

COMMISSIONER'S ORDER

Esurance Property and Casualty Insurance Company

Page 3 of 4

It is ordered that any restitution checks that are returned to Esurance with an address correction must be promptly resent to the correct address. Funds from any restitution checks that are returned thereafter for incorrect addresses and from checks that are not negotiated must be delivered to the comptroller pursuant to the procedures set forth in TEX. PROP. CODE §§ 72.001 *et. seq.* Esurance must copy the department on any correspondence pertaining to abandoned funds that is sent to the comptroller. Esurance must send all submissions required under the terms of this order by email to: natalie.olvera@tdi.texas.gov and catherine.bell@tdi.texas.gov, or their successors.

It is further ordered that Esurance pay an administrative penalty of \$12,500 within 30 days from the date of this order. The administrative penalty must be paid by cashier's check or money order made payable to the "State of Texas." Mail the administrative penalty to the Texas Department of Insurance, Attn: Enforcement Section, Division 60851, MC 9999, P.O. Box 149104, Austin, Texas 78714-9104.



Kent C. Sullivan
Commissioner of Insurance

APPROVED AS TO FORM AND CONTENT:



Natalie Olvera
Staff Attorney, Enforcement Section
Texas Department of Insurance

