



**H★NK**  
**GILBERT**  
DEMOCRAT for GOVERNOR

# Protecting Consumers Protecting Pocketbooks

**A Comprehensive Insurance Reform Plan**





## *A Message From Hank Gilbert*

Fellow Texans:

Contrary to what Republicans will tell you, tort reform did not lower insurance premiums, improve Texans' access to insurance, improve the quality of medical care, or help homeowners.

The only thing that will do these things is real, comprehensive insurance reform. That is what I am proposing today.

In 1988, California voters demanded real insurance reform, lower premiums, and better coverage through a ballot referendum. Other states have followed suit. Sadly, the current leadership in Texas believed that closing the courthouse doors to Texans injured or wronged by insurance companies would take the place of insurance reform. It did not.

This is my blueprint for comprehensive insurance reform in Texas. When I am governor, Texans *will* see lower insurance premiums, better coverage, and real reform.

Sincerely,

A handwritten signature in black ink that reads "Hank". The signature is written in a cursive, flowing style.

# INDUSTRYWIDE REFORMS

- **An Elected Insurance Commissioner.**

**Hank proposes direct election of the Texas Insurance Commissioner.** The Insurance Commissioner's decisions impact the lives of every Texan every day. Citizens deserve to elect and hold accountable the person who exercises so much power over Texans' pocketbooks.

- **An Insurance Premium Rollback.**

**Hank proposes legislation to require a 20 percent insurance premium rollback on homeowners and auto insurance.** Under Hank's plan, the Legislature would enact a 20 percent insurance premium rollback mandating Texas insurance companies to roll back premiums by 20 percent. No insurance company would be granted an insurance premium increase by the Department of Insurance for **two years**.

- **Prior Approval Of Rate Hikes.**

**Hank proposes enacting legislation requiring insurance companies to gain prior approval before hiking insurance rates for all types of property insurance—including homeowners and automotive .** Under Hank's plan, the current "file and use" system where insurance companies can raise rates whenever they want would end. All insurance companies would be required to seek approval for rate hikes **before** enacting them. This will encourage competition among insurance companies while providing added protection for consumers.

**Hank believes that when insurance companies seek prior approval for rate increases, they must provide detailed financial justification, including certified and audited financial statements.** These statements must include cost justification that is exclusive to Texas. Income justification must fully reflect Texas income and may not be diverted out of state. All financial justification for rate increases must be transparent, and no lobbying expenses may be included in the cost justification to support a rate increase.

- **Uniform Standards For Insurance Policies.**

**Hank proposes requiring insurance companies to offer a minimum number of standard policies—consistent across the insurance industry—to allow consumers to make informed decisions by comparing policies offering the same protections side-by-side.** Standard policies will help ensure that consumers better understand their policies and what is and is not covered.

## • **Ending Credit Scoring, Data Mining, Pattern Recognition & Regulating The Use Of Rating Territories.**

- Hank proposes banning the use of credit scoring, data mining, and pattern recognition by insurance companies.** Insurance companies use these practices to help determine who to cover and how much to charge consumers. Because insurance is not an extension of credit, the use of credit ratings and consumer spending patterns to determine what to charge an individual who needs insurance are unnecessary. Requiring insurance companies to make neutral reviews of consumers based on actual loss/claim history will lower coverage prices and require companies to use factors relevant to a person's actual risk such as a driving record or home construction.
- **Hank proposes requiring the insurance industry to stop using existing rating territories.** Instead, Hank proposes requiring a 15 percent limit on the amount that insurers may vary *within a single county*. This would essentially deem each county as a rating territory. This will allow insurance companies to appropriately consider risk factors while ensuring that residents of the county are treated fairly and equally. The 15 percent limit would not apply to greater variances justified by weather-related risks.

## • **Inquiries May Not Affect Rates.**

**Hank proposes making it illegal for an insurer to base, wholly or in part, an adverse underwriting or rating decision on a consumer inquiry.** Consumers should not be penalized for contacting their insurer to ask questions about coverage or inquire about what might happen in the case of a catastrophic event.

## • **Mandating Collection & Reporting Of Claim Denial Rates**

**Hank proposes legislation which will require the Texas Department of Insurance to collect and publicly report claim denial rates on all types of insurance policies. This will be a useful barometer for consumers and regulators in determining the performance of companies and value consumers receive for their money.**

## • **Reassessing Tort Reform.**

**Hank proposes a complete reassessment of so-called “tort-reform” from 2003 forward.** Tort reform was sold to Texans as a way to reduce insurance premiums, improve access to medical care, and lower medical costs. However, tort reform

has done none of these things. Under Hank’s plan, a blue-ribbon commission of legislators, judges, lawyers, and consumer advocates will conduct an extensive review of tort reform policies enacted from 2003 forward and make recommendations to the legislature on what changes are needed.

## **SPECIFIC SECTOR REFORMS**

### **•Reforming Auto Insurance**

**Hank proposes legislation requiring that auto insurers insuring consumers in Texas be mandated to offer a 20 percent “good driver” discount.**

**Hank proposes legislation to prohibit the use of any socio-economic rating factors such as age, sex, sexual orientation or gender identity, marital status or credit score, to allow auto insurers to set or modify rates.** Hank proposes that more weight be put on an individual’s driving record, and the number of miles driven annually than on socio-economic factors. Any portion of a rate which is determined by auto thefts in a consumer's county of residence must be made based on most recent full year data instead of multiyear average data. The rates can only be based on a differential between the number of thefts in a county versus the number in the state as a whole. No smaller statistical area than the county where the insured lives may be used to determine rates. This will effectively put an end to prices based on microtargeted data which is extremely expensive for Texas consumers.

**Hank proposes capping deductibles for all auto insurance policies at \$500.** Hank believes that when auto insurance deductibles rise above \$500, a lot of insured cars won’t be repaired because the policyholders can’t afford to pay the deductible. In such cases a high deductible defeats the purpose of purchasing auto insurance, and the policyholder is the loser.

**Hank proposes requiring continuing coverage for spouses during separation.** Under Hank’s plan, insurance companies would be required to provide continuing coverage for a spouse during a period of separation in contemplation of divorce; and not exclude from coverage any other family member of the insured, including any person who is related by blood, adoption or marriage and who resides in the named insured's household.

### **•Reforming Homeowner’s Insurance**

In addition to industry-wide reforms outlined above, Hank proposes specific reforms relating to homeowner’s insurance.

**Hank proposes requiring residential property insurance offered in Texas to include provisions to compensate insured persons for loss incurred as a result of compliance with an emergency evacuation order applicable to the covered property.** Such coverage must include provisions to allow for payment of each day or part of a day that an evacuation order is in effect.

**Hank proposes homeowner's insurance rate freezes for the disabled and persons 65 years of age and above.** Under Hank's plan, individuals deemed totally disabled or over the age of 65 would have their homeowner's insurance policy rates frozen at age 65 or upon the date they are declared fully disabled.

**Hank proposes requiring insurance companies to pay for the actual cost of replacement.** Under Hank's proposal, insurance companies would be required to pay the actual cost of replacement for real or tangible personal property.

**Hank proposes capping deductibles for all homeowner's insurance policies at \$2,500.** Hank believes that when homeowner's insurance deductibles rise above \$2,500, a lot of insured homes won't be repaired because the policyholders can't afford to pay the deductible. Failure to repair damage to a home may result in additional damage, making the cost even more unbearable. Homeowner's insurance is supposed to protect the homeowner and the home. Neither one is protected if the deductible is too high.

## **•Reforming Group & Individual Health Benefit Plans**

While Hank favors a "public option" for national healthcare, work still must be done to improve the quality and affordability of group and individual health benefit plans in Texas. Toward that end, Hank proposes several reforms.

**Hank proposes improved coverage for mammography.** Under Hank's plan, all health benefit plans offered in Texas must provide coverage to females age 35 and above for annual mammography screening. **Such examinations must be subject to the same dollar limit deductibles and coinsurance factors as coverage for all other radiological examinations under the insurance plan,** and may not restrict a woman from selecting a mammography provider of her choice.

**Hank proposes requiring coverage in health plans for prostate cancer screenings for men 40 years of age or older.**

**Hank proposes requiring insurers to cover routine patient care costs associated with enrollment in clinical trials.** Under Hank's plan, insurance companies would no longer leave insured Texans out in the cold when it comes to costs associated with Phase I, II, III, or IV clinical trials approved by the CDC,

NIH, FDA, Department of Defense, Department of Veterans Affairs, or the U.S. Department of Health and Human Services.

**Hank proposes restricting the ability of insurance companies to cancel policies or modify premiums for individuals who have taken part in clinical trials.**

**Hank proposes changing existing Texas law to allow non-profits with fewer than two employees access to group health insurance.** Under Hank's plan, non-profit entities—including chambers of commerce, business and trade associations, non-profit charities, and local labor unions with fewer than two employees would be eligible to participate in single-employee group insurance cooperatives to attain group health insurance for employees at more accessible prices to employees and non-profits.

**Hank proposes requiring all health benefit plans offered in Texas to provide pregnant enrollees benefits for prenatal care that are medically necessary and recommended under generally accepted standards of medical practice.** This would include **requiring coverage for child birth**, and access to obstetrical or gynecological care.

**Hank proposes requiring health plans offered in Texas to cover inpatient and outpatient treatment for the diagnosis and treatment of serious mental illness—including eating disorders.** Under Hank's plan, policies must cover no less than 45 days of inpatient treatment and 60 visits for outpatient treatment **with no lifetime maximum on the number of days of inpatient treatment or the number of visits for outpatient treatment for serious mental illnesses—including eating disorders.** Such coverage must include the same amount limitations, deductibles, co-payments, and co-insurance factors as provided for physical illness and **may not impose treatment or financial requirements not imposed for other medical conditions.**

**Hank proposes requiring health plans offered in Texas to cover orally administered anticancer medications in the same manner as intravenously administered anticancer medications.** Texas insurers typically cover intravenously administered cancer medications under a health plan while orally administered medications are covered under a pharmacy benefit plan. This causes cancer patients to have very high out-of-pocket costs. Hank's plan ensures equity of health coverage relating to patient out-of-pocket responsibilities concerning cancer treatments.

**Hank proposes requiring health plans to provide coverage for necessary care and treatment of lost or impaired speech, language, or hearing.**

**Hank proposes requiring health plans to provide coverage for insulin infusion and injection devices and medications that facilitate insulin therapy and enhance glucose control.**