

By: Cook of Colorado

H.B. No. 2095

Substitute the following for H.B. No. 2095:

By: Elkins

C.S.H.B. No. 2095

A BILL TO BE ENTITLED

AN ACT

relating to provision of workers' compensation insurance coverage through a certified self-insurance group; providing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle A, Title 5, Labor Code, is amended by adding Chapter 407A to read as follows:

CHAPTER 407A. GROUP SELF-INSURANCE COVERAGE

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 407A.001. DEFINITIONS. (a) In this chapter:

(1) "Administrator" means an individual, partnership, or corporation engaged by the board of trustees of a group to implement the policies established by the board of trustees and to provide day-to-day management of the group.

(2) "Commissioner" means the commissioner of insurance.

(3) "Department" means the Texas Department of Insurance.

(4) "Group" means a workers' compensation self-insurance group that holds a certificate of approval under this chapter.

(5) "Modified annual premium" means premium derived from standard premium adjusted by any advance schedule rating plan factors.

(6) "Service company" means a person that provides

1 services to the group other than services provided by the
2 administrator, including:

3 (A) claims adjustment;

4 (B) safety engineering;

5 (C) compilation of statistics and the
6 preparation of premium, loss, and tax reports;

7 (D) preparation of other required self-insurance
8 reports;

9 (E) development of members' assessments and
10 fees; and

11 (F) administration of a claim fund.

12 (7) "Standard premium" means premium derived from the
13 filed rates as adjusted by experience modification factors but
14 before the application of any advance premium discounts.

15 (b) For purposes of this chapter, when used as a modifier of
16 "benefits," "liabilities," or "obligations," the term "workers'
17 compensation" includes both workers' compensation and employers'
18 liability.

19 Sec. 407A.002. APPLICATION OF CHAPTER; ESTABLISHMENT OF
20 PRIVATE GROUP. (a) An unincorporated association or business
21 trust composed of five or more private employers may establish a
22 workers' compensation self-insurance group under this chapter if
23 the employers:

24 (1) are engaged in the same or similar type of
25 business;

26 (2) are members of a bona fide trade or professional
27 association that has been in existence in this state for purposes

1 other than insurance for at least five years before the
2 establishment of the group; and

3 (3) enter into agreements to pool their liabilities
4 for workers' compensation benefits and employers' liability in this
5 state.

6 (b) This chapter does not apply to public employees or
7 governmental entities.

8 Sec. 407A.003. MERGER OF GROUPS. (a) Subject to the
9 approval of the commissioner, a group may merge with another group
10 engaged in the same or a similar type of business if the resulting
11 group assumes in full all obligations of the merging groups.

12 (b) The commissioner may conduct a hearing on a proposed
13 merger and shall conduct a hearing if any party, including a member
14 of either group, requests a hearing.

15 Sec. 407A.004. GROUP NOT INSURER. A group issued a
16 certificate of approval by the commissioner under this chapter is
17 not:

18 (1) an insurer based on that certificate; and

19 (2) subject to the insurance laws and rules of this
20 state except as otherwise provided by this chapter.

21 Sec. 407A.005. CERTIFICATE OF APPROVAL REQUIRED. An
22 association of employers may not act as a workers' compensation
23 self-insurance group unless it has been issued a certificate of
24 approval by the commissioner under this chapter.

25 Sec. 407A.006. SERVICE OF PROCESS. (a) Each group shall be
26 deemed to have appointed the commissioner as its attorney to
27 receive service of legal process issued against the group in this

1 state.

2 (b) The appointment of the commissioner is irrevocable,
3 binds any successor in interest, and remains in effect as long as
4 any obligation or liability of the group for workers' compensation
5 benefits exists in this state.

6 Sec. 407A.007. HEARINGS. A hearing required under this
7 chapter shall be conducted by the State Office of Administrative
8 Hearings in the manner provided for a contested case under Chapter
9 2001, Government Code.

10 Sec. 407A.008. RULES. The commissioner shall adopt rules
11 as necessary to implement this chapter.

12 [Sections 407A.009-407A.050 reserved for expansion]

13 SUBCHAPTER B. APPLICATION REQUIREMENTS FOR
14 CERTIFICATE OF APPROVAL FOR SELF-INSURANCE GROUP

15 Sec. 407A.051. APPLICATION FOR INITIAL CERTIFICATE OF
16 APPROVAL; APPROVAL REQUIREMENTS. (a) An association of employers
17 that proposes to organize as a workers' compensation self-insurance
18 group shall file with the department an application for a
19 certificate of approval.

20 (b) The application must be in the form prescribed by the
21 commissioner and must include:

- 22 (1) the name of the group;
23 (2) the location of the group's principal office;
24 (3) the date of organization of the group;
25 (4) the name and address of each employer that is a
26 member of the group; and
27 (5) any other information reasonably required by the

1 commissioner.

2 (c) The application must be accompanied by:

3 (1) a nonrefundable \$1,000 filing fee;

4 (2) proof of compliance with the financial
5 requirements under Section 407A.053;

6 (3) proof of compliance with the excess insurance
7 requirements under Section 407A.054;

8 (4) a copy of the articles of association or
9 declaration of trust of the group, if any;

10 (5) a copy of any agreements entered into with an
11 administrator or a service company;

12 (6) a copy of the bylaws of the proposed group;

13 (7) a copy of the agreement between the group and each
14 employer who is a member of the group that:

15 (A) secures the payment of workers' compensation
16 benefits; and

17 (B) includes provisions for payment of
18 assessments as provided by Section 407A.355;

19 (8) designation of the initial board of trustees and
20 administrator of the group;

21 (9) the address in this state where the books and
22 records of the group will be maintained at all times;

23 (10) a pro forma financial statement, in a form
24 acceptable to the commissioner, that shows the financial ability of
25 the group to pay the workers' compensation obligations of the
26 employers who are members of the group;

27 (11) proof of one of the following:

1 (A) payment to the group, or a bona fide promise
2 to pay on approval of the group, by each employer who is a member of
3 the group of not less than 25 percent of that member's first year
4 estimated annual net premium on a date prescribed by the
5 commissioner, which shall be considered part of the first year
6 premium payment of each member; or

7 (B) if the group is formed from a trust existing
8 on September 1, 2003, that the assets of the trust are sufficient to
9 cover the workers' compensation obligations of the trust;

10 (12) a \$250,000 performance bond for the administrator
11 in the form prescribed by the commissioner;

12 (13) a \$250,000 performance bond for the service
13 company in the form prescribed by the commissioner; and

14 (14) an indemnity agreement that meets the
15 requirements of Section 407A.056.

16 (d) Not later than the 30th day after the effective date of
17 the change, a group shall notify the commissioner of any change in:

18 (1) the information required to be filed under
19 Subsection (c); or

20 (2) the manner of the group's compliance with
21 Subsection (c).

22 (e) The commissioner shall evaluate the financial
23 information provided with the application as necessary to ensure
24 that:

25 (1) the funding is sufficient to cover expected losses
26 and expenses; and

27 (2) the funds necessary to pay workers' compensation

1 benefits will be available on a timely basis.

2 (f) Except as otherwise provided by this subsection, the
3 commissioner shall act on a complete application for a certificate
4 of approval not later than the 90th day after the date on which the
5 application is filed with the department. If, because of the number
6 of applications, the commissioner is unable to act on an
7 application in a timely manner, the commissioner may extend the
8 period for an additional 30 days.

9 Sec. 407A.052. ISSUANCE OF CERTIFICATE OF APPROVAL;
10 REFUSAL. (a) The commissioner shall issue a certificate of
11 approval to a proposed group on finding that the group has met the
12 requirements of this subchapter.

13 (b) If the commissioner determines that a proposed group
14 has not satisfied the requirements under this subchapter for a
15 certificate of approval, the commissioner shall issue an order
16 refusing the certificate. The order must set forth the reasons for
17 the refusal.

18 (c) On issuance of the certificate of approval, the group is
19 authorized to provide workers' compensation benefits.

20 Sec. 407A.053. FINANCIAL REQUIREMENTS. (a) To obtain an
21 initial certificate of approval and to be eligible to renew its
22 certificate of approval, each group shall comply with the financial
23 requirements adopted under this section.

24 (b) The combined net worth of all employers who are members
25 of the group must be at least \$1 million. A member of the group may
26 not be required to submit an audited financial statement to
27 establish the \$1 million combined net worth, but the group must file

1 a compiled report certified by a certified public accountant and
2 based on financial statements or tax returns to support the
3 existence of a combined net worth of at least \$1 million for the
4 initial group. In the case of a group composed of a trust existing
5 on September 1, 2003, the trust may satisfy the financial
6 requirements of this section by showing that the trust has
7 participant surplus, including accrued participant dividends of at
8 least \$2 million, in lieu of the requirement of the \$1 million
9 combined net worth of its members.

10 (c) The group must post security in the form and amount
11 prescribed by the commissioner, not to exceed \$200,000. The
12 security may be provided by a surety bond, security deposit,
13 financial security endorsement, or any combination of those
14 securities. If a surety bond is used to meet the security
15 requirement, the surety bond must be issued by a corporate surety
16 company authorized to transact business in this state. If a
17 security deposit is used to meet the security requirement, the
18 following are acceptable securities:

19 (1) a bond or other evidences of indebtedness issued,
20 assumed, or guaranteed by the United States of America or by an
21 agency or instrumentality of the United States of America;

22 (2) certificates of deposit in a federally insured
23 bank;

24 (3) shares or savings deposits in a federally insured
25 savings and loan association or credit union;

26 (4) a bond or security issued by a state and backed by
27 the full faith and credit of that state;

1 (5) a financial security endorsement described by
2 Subsection (e);

3 (6) public securities described by Subsection (f); and

4 (7) commercial paper payable in United States currency
5 that is rated in one of the two highest credit rating categories by
6 each rating agency.

7 (d) Any securities posted must be deposited in the state
8 treasury and must be assigned to and made negotiable by the
9 executive director of the commission under a trust document
10 acceptable to the commissioner. Interest accruing on a negotiable
11 security deposited under this subsection shall be collected and
12 transmitted to the depositor if the depositor is not in default.

13 (e) A financial security endorsement that is issued as part
14 of an acceptable contract for excess insurance coverage may be used
15 to meet all or part of the security requirement in lieu of a
16 security described under Subsection (c). A bond, security deposit,
17 or financial security endorsement must be:

18 (1) made for the benefit of the state, to be used
19 solely to pay claims and associated expenses; and

20 (2) payable on the failure of the group to pay workers'
21 compensation benefits that it is legally obligated to pay.

22 (f) Public securities may be used as security under this
23 section if the public securities bear interest or are sold at a
24 discount and are issued by any corporation, denominated in United
25 States dollars.

26 Sec. 407A.054. EXCESS INSURANCE REQUIREMENTS. (a) To
27 obtain an initial certificate of approval and to be eligible to

1 renew its certificate of approval, each group must comply with the
2 excess insurance requirements adopted under this section.

3 (b) Each group shall obtain specific excess insurance for
4 losses that exceed the group's retention in a form prescribed by the
5 commissioner. The commissioner may establish minimum requirements
6 for the amount of specific excess insurance based on differences
7 among groups in size, types of employment, years in existence, and
8 other relevant factors.

9 Sec. 407A.055. STANDARD PREMIUM REQUIREMENTS. Each group
10 must have an estimated annual standard premium of at least \$250,000
11 during the group's first year of operation. Thereafter, the annual
12 standard premium must be at least \$500,000.

13 Sec. 407A.056. INDEMNITY AGREEMENT REQUIREMENTS. (a) An
14 indemnity agreement filed under Section 407A.051 must jointly and
15 severally bind the group and each employer who is a member of the
16 group to meet the workers' compensation obligations of each member.

17 (b) The indemnity agreement must be in the form prescribed
18 by the commissioner and must include minimum uniform substantive
19 provisions as prescribed by the commissioner. Subject to the
20 commissioner's approval, a group may add other provisions necessary
21 because of that group's particular circumstances.

22 Sec. 407A.057. ADDITIONAL PERFORMANCE BOND REQUIREMENTS.
23 In addition to the requirements under Section 407A.051, the
24 commissioner may require a service company providing claim services
25 to furnish a performance bond of \$250,000 in the form prescribed by
26 the commissioner.

27 [Sections 407A.058-407A.100 reserved for expansion]

1 SUBCHAPTER C. TERMINATION OF CERTIFICATE OF APPROVAL

2 Sec. 407A.101. CERTIFICATE OF APPROVAL; TERMINATION. (a)

3 A certificate of approval remains in effect until terminated at the
4 request of the group or revoked by the commissioner.

5 (b) The commissioner may not grant the request of any group
6 to terminate its certificate of approval unless the group has
7 insured or reinsured all incurred workers' compensation
8 obligations with an authorized insurer under an agreement filed
9 with and approved in writing by the commissioner. For purposes of
10 this subsection, those obligations include:

11 (1) known claims and expenses associated with those
12 claims; and

13 (2) incurred but not reported claims and expenses
14 associated with those claims.

15 [Sections 407A.102-407A.150 reserved for expansion]

16 SUBCHAPTER D. BOARD OF TRUSTEES

17 Sec. 407A.151. BOARD MEMBERSHIP. (a) Each group shall be

18 operated by a board of trustees composed of at least five persons
19 whom the members of the group elect for stated terms of office. The
20 trustees must be employees, officers, or directors of employers who
21 are members of the group. Each board member shall be a resident of
22 this state or an officer of a corporation authorized to do business
23 in this state.

24 (b) An administrator or service company of the group, or
25 owner, officer, employee of, or any other person affiliated with
26 the administrator or service company, may not serve on the board of
27 trustees.

1 Sec. 407A.152. BOARD GENERAL POWERS AND DUTIES. The board
2 of trustees shall:

3 (1) maintain minutes of its meetings and make the
4 minutes available to the commissioner;

5 (2) designate an administrator and delineate in the
6 written minutes of its meetings the areas of authority it delegates
7 to the administrator; and

8 (3) retain an independent certified public accountant
9 to audit the financial statements required by Section 407A.251.

10 Sec. 407A.153. PROHIBITED ACTIVITIES. The board of
11 trustees may not:

12 (1) extend credit to individual members for payment of
13 a premium, except under payment plans approved by the commissioner;
14 or

15 (2) without first advising the commissioner of the
16 nature and purpose of the loan and obtaining prior approval from the
17 commissioner, borrow any monies from the group or in the name of the
18 group except in the ordinary course of business.

19 Sec. 407A.154. GROUP FUNDS. The board of trustees shall
20 maintain responsibility for all monies collected or disbursed from
21 the group.

22 [Sections 407A.155-407A.200 reserved for expansion]

23 SUBCHAPTER E. GROUP MEMBERSHIP; TERMINATION; LIABILITY

24 Sec. 407A.201. ADMISSION OF EMPLOYER AS MEMBER. (a) An
25 employer who joins an approved workers' compensation
26 self-insurance group shall:

27 (1) submit an application for membership to the board

1 of trustees or its administrator; and

2 (2) enter into the indemnity agreement as required by
3 Section 407A.056.

4 (b) The board of trustees shall maintain as a permanent
5 record the employer's application for membership and the approval
6 of the application.

7 (c) The membership of an individual member of a group is
8 subject to cancellation by the group as provided by the bylaws of
9 the group. An individual member may also elect to terminate
10 participation in the group. The group shall notify the
11 commissioner and the commission of the cancellation or termination
12 of a membership not later than the 10th day after the date on which
13 the cancellation or termination takes effect and shall maintain
14 coverage of each canceled or terminated member until the 30th day
15 after the date of the notice, at the terminating member's expense,
16 unless before that date the commission notifies the group that the
17 canceled or terminated member has:

18 (1) obtained workers' compensation insurance
19 coverage;

20 (2) become a certified self-insurer; or

21 (3) become a member of another group.

22 (d) The group shall pay each workers' compensation claim for
23 which a member of the group incurs liability during the period of
24 membership. A member who elects to terminate membership or whose
25 membership is canceled by the group remains jointly and severally
26 liable for the workers' compensation obligations of the group and
27 its members incurred during the canceled or terminated member's

1 period of membership.

2 (e) A member of a group is not relieved of workers'
3 compensation liabilities incurred during its period of membership
4 except through payment by the group or the member of required
5 workers' compensation benefits.

6 (f) The insolvency or bankruptcy of a member does not
7 relieve a group or any other member of the group of liability for
8 the payment of any workers' compensation benefits incurred during
9 the insolvent or bankrupt member's period of membership.

10 [Sections 407A.202-407A.250 reserved for expansion]

11 SUBCHAPTER F. EXAMINATIONS, FINANCIAL STATEMENTS, AND OTHER
12 REPORTS

13 Sec. 407A.251. FINANCIAL STATEMENT. (a) Each group shall
14 submit to the commissioner financial statements audited by an
15 independent certified public accountant on or before the last day
16 of the sixth month following the end of the group's fiscal year.

17 (b) The financial statement must include a balance sheet,
18 income statement, and statement of cash flow and must be prepared on
19 the basis of accounting principles generally accepted in the United
20 States.

21 (c) The actuarial opinion required by this section must be
22 given by a member of the American Academy of Actuaries or another
23 qualified loss reserve specialist, as defined in the annual
24 statement adopted by the National Association of Insurance
25 Commissioners.

26 Sec. 407A.252. EXAMINATION. (a) The commissioner may
27 examine the financial condition of each group to determine the

1 group's ability to meet the group's obligations under this
2 subtitle. The commissioner may not examine a group more frequently
3 than once every three years unless the commissioner determines that
4 the group:

5 (1) is in an impaired financial condition; or

6 (2) otherwise may not be able to continue to meet the
7 group's obligations under this subtitle.

8 (b) The commissioner has full access to the records,
9 officers, agents, and employees of a group as necessary to complete
10 an examination under this section.

11 [Sections 407A.253-407A.300 reserved for expansion]

12 SUBCHAPTER G. TAXES, FEES, AND ASSESSMENTS

13 Sec. 407A.301. MAINTENANCE TAX FOR COMMISSION. (a) Each
14 group shall pay a self-insurance group maintenance tax under this
15 section for:

16 (1) the administration of the commission; and

17 (2) the prosecution of workers' compensation insurance
18 fraud in this state.

19 (b) The tax liability of a group under this section is based
20 on gross premium for the group's retention multiplied by the rate
21 assessed insurance carriers under Sections 403.002 and 403.003.
22 The tax under this section does not apply to premium collected by
23 the group for excess insurance.

24 Sec. 407A.302. MAINTENANCE TAX FOR DEPARTMENT. (a) Each
25 group shall pay a self-insurance group maintenance tax under this
26 section for the administrative costs incurred by the department in
27 implementing this chapter.

1 (b) The tax liability of a group under this section is based
2 on gross premium for the group's retention and does not include
3 premium collected by the group for excess insurance.

4 (c) The maintenance tax assessed under this section is
5 subject to Article 5.68, Insurance Code, and shall be collected by
6 the comptroller in the manner provided by that article.

7 Sec. 407A.303. COLLECTION AND PAYMENT OF TAXES. (a) The
8 taxes imposed under Section 407A.301 are due on the 60th day after
9 the date of the issuance of a certificate of approval and on the
10 60th day after each anniversary of the date of certificate of
11 approval.

12 (b) The commission shall compute the taxes due under Section
13 407A.301 and notify the group of the amounts due. The group shall
14 remit the taxes to the commission for deposit in the state treasury
15 to the credit of the commission.

16 (c) A group commits a violation if the group does not pay the
17 taxes imposed under Sections 407A.301 and 407A.302 in a timely
18 manner. A violation under this subsection is a Class B
19 administrative violation. Each day of noncompliance constitutes a
20 separate violation.

21 (d) If the certificate of approval of a group is terminated,
22 the commissioner or the executive director of the commission shall
23 immediately notify the comptroller to collect taxes as directed
24 under Sections 407A.301 and 407A.302.

25 Sec. 407A.304. PREMIUM TAX. (a) Each group shall pay to the
26 comptroller a premium tax on gross premiums for the group's
27 retention. The premium tax assessed under this subsection does not

1 apply to premium collected for excess insurance.

2 (b) The rate for the premium tax under this section is the
3 rate assessed under Article 4.10, Insurance Code.

4 [Sections 407A.305-407A.350 reserved for expansion]

5 SUBCHAPTER H. RATES; REFUNDS; PREMIUM PAYMENTS; RESERVES; DEFICITS

6 Sec. 407A.351. RATES. (a) Except as provided by
7 Subsection (b), each group shall use the uniform classification
8 system, experience rating plan, and rate relativities of the
9 department.

10 (b) A group may:

11 (1) use the relativities promulgated by the department
12 modified to produce rates in accordance with the group's historical
13 experience; or

14 (2) file its own rates with the department, including
15 any reasonable and supporting information required by the
16 commissioner.

17 (c) As approved by the commissioner, a group may use rating
18 debits or credits and optional rating plans.

19 (d) Rates of the group may not be excessive, inadequate, or
20 unfairly discriminatory.

21 Sec. 407A.352. AUDITS. Each member of a group shall be
22 audited annually by the administrator or by an auditor acceptable
23 to the commissioner to verify proper classifications, experience
24 rating, payroll, and rates. The group shall maintain a record of
25 the audit as part of the group's records that are available to the
26 commissioner during an examination conducted under Section
27 407A.252. The audit shall be performed at the expense of the group.

1 Sec. 407A.353. REFUNDS. (a) The board of trustees may
2 declare refundable any money for a fund year in excess of the amount
3 necessary to fund all obligations.

4 (b) The board of trustees shall give each member a written
5 description of the group's refund plan at the time of application
6 for membership.

7 Sec. 407A.354. PREMIUM PAYMENT PLAN; RESERVES. (a) Until
8 the assets of a group reach a level sufficient to cover the group's
9 liabilities, each group shall establish to the satisfaction of the
10 commissioner a premium payment plan.

11 (b) As long as the assets of the group remain sufficient to
12 cover the group's liabilities, the group may determine its own
13 premium plan if the premium plan is disclosed to each member at the
14 time of application and is filed with the commissioner.

15 (c) Each group shall establish and maintain actuarially
16 appropriate loss reserves, which must include reserves for:

17 (1) known claims and expenses associated with those
18 claims; and

19 (2) claims incurred but not reported and expenses
20 associated with those claims.

21 (d) Each group shall establish and maintain bad debt
22 reserves based on the historical experience of the group or of other
23 groups composed of similar employer members.

24 Sec. 407A.355. DEFICITS; INSOLVENCIES. (a) For purposes
25 of this section, "insolvent" means the inability of a group to pay
26 the group's outstanding lawful obligations as they mature in the
27 regular course of business.

1 (b) If the assets of a group are at any time insufficient to
2 enable the group to discharge its legal liabilities and other
3 obligations and to maintain the reserves required under this
4 chapter, the group shall make up the deficiency or levy an
5 assessment on its members for the amount needed to make up the
6 deficiency.

7 (c) In the event of a deficiency in any fund year, the
8 deficiency shall be made up immediately from:

9 (1) surplus from a fund year other than the current
10 fund year;

11 (2) administrative funds;

12 (3) assessments of the membership, if ordered by the
13 group; or

14 (4) any alternate method that the commissioner
15 approves or directs.

16 (d) The commissioner shall be notified before any transfer
17 of surplus funds from one fund year to another under Subsection (c).

18 (e) If the group fails to assess its members or to otherwise
19 make up a deficit, the commissioner shall order the group to do so.
20 If the commissioner determines that the group is in a hazardous
21 financial condition, the commissioner may order the group to
22 rectify the condition through an alternate method under Subsection
23 (c)(4).

24 (f) If the group fails to make the required assessment of
25 its members after the commissioner's order under Subsection (e), or
26 if the deficiency is not fully made up, the group shall be deemed to
27 be insolvent.

1 (g) If a group is liquidated, the commissioner shall secure
2 release of the security deposit and levy an assessment on the
3 members of the group in an amount determined necessary by the
4 commissioner to discharge all liabilities of the group, including
5 the reasonable cost of liquidation.

6 [Sections 407A.356-407A.400 reserved for expansion]

7 SUBCHAPTER I. DISCIPLINARY ACTIONS; PENALTIES

8 Sec. 407A.401. PROHIBITED SOLICITATION. In connection
9 with the solicitation of membership in a group, a person may not
10 make an untrue statement of a material fact, or omit to state a
11 material fact necessary to make the statement made, in light of the
12 circumstances under which it is made, not misleading.

13 Sec. 407A.402. FINES. After notice and an opportunity for
14 a hearing, the commissioner may impose a fine on any person or group
15 found to be in violation of this chapter or a rule adopted under
16 this chapter. A fine assessed under this section may not exceed
17 \$1,000 for each act or violation and may not exceed \$10,000 in the
18 aggregate. The amount of any fine assessed under this section shall
19 be paid to the commissioner and deposited in the state treasury.

20 Sec. 407A.403. CEASE AND DESIST ORDERS. (a) After notice
21 and an opportunity for a hearing, the commissioner may issue an
22 order requiring a person or group to cease and desist from engaging
23 in an act or practice found to be in violation of this chapter or a
24 rule adopted under this chapter.

25 (b) On a finding, after notice and opportunity for a
26 hearing, that a person or group has violated a cease and desist
27 order issued under this section, the commissioner may:

1 (1) impose a fine not to exceed \$1,000 for each
2 violation of the order, not to exceed an aggregate fine of \$100,000;

3 (2) revoke the group's certificate of approval or any
4 license held by the person issued under the Insurance Code; or

5 (3) impose the fine and revoke the certificate or
6 license.

7 Sec. 407A.404. REVOCATION OF CERTIFICATE OF APPROVAL. (a)
8 After notice and an opportunity for a hearing, the commissioner may
9 revoke a group's certificate of approval if the group:

10 (1) is found to be insolvent;

11 (2) fails to pay a tax, assessment, or special fund
12 contribution imposed on the group; or

13 (3) fails to comply in a timely manner with this
14 chapter, a rule adopted under this chapter, or an order of the
15 commissioner.

16 (b) In addition, the commissioner may revoke a group's
17 certificate of approval if, after notice and an opportunity for
18 hearing, the commissioner determines that:

19 (1) a certificate of approval issued to the group was
20 obtained by fraud;

21 (2) there was a material misrepresentation in the
22 application for the certificate of approval; or

23 (3) the group or its administrator has
24 misappropriated, converted, illegally withheld, or refused to pay
25 on proper demand any money that belongs to a member, an employee of
26 a member, or a person otherwise entitled to the money and that has
27 been entrusted to the group or its administrator in their fiduciary

1 capacities.

2 SECTION 2. Section 401.011(27), Labor Code, is amended to
3 read as follows:

4 (27) "Insurance carrier" means:

5 (A) an insurance company;

6 (B) a certified self-insurer for workers'
7 compensation insurance; ~~[or]~~

8 (C) a certified self-insurance group under
9 Chapter 407A; or

10 (D) a governmental entity that self-insures,
11 either individually or collectively.

12 SECTION 3. (a) Except as provided by Subsection (b) of
13 this section, this Act takes effect September 1, 2003.

14 (b) A workers' compensation self-insurance group created
15 under Chapter 407A, Labor Code, as added by this Act, that is issued
16 a certificate of approval by the commissioner of insurance under
17 that chapter, may offer workers' compensation insurance coverage
18 beginning January 1, 2004. Chapter 407A, Labor Code, as added by
19 this Act, applies only to a claim for workers' compensation
20 benefits based on a compensable injury that occurs on or after
21 January 1, 2004. A claim based on a compensable injury that occurs
22 before that date is governed by the law in effect on the date that
23 the compensable injury occurred, and the former law is continued in
24 effect for that purpose.