

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.

(5) "Net premium" means premium derived from standard premium adjusted by any advance premium discounts.

(6) "Service company" means a person that provides services to the group other than services provided by the administrator, including:

1 (A) claims adjustment;

2 (B) safety engineering;

3 (C) compilation of statistics and the
4 preparation of premium, loss, and tax reports;

5 (D) preparation of other required self-insurance
6 reports;

7 (E) development of members' assessments and
8 fees; and

9 (F) administration of a claim fund.

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

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

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

22 (1) are engaged in the same or similar type of
23 business;

24 (2) are members of a bona fide trade or professional
25 association that has been in existence for at least five years
26 before the establishment of the group; and

27 (3) enter into agreements to pool their liabilities

1 for workers' compensation benefits and employers' liability in this
2 state.

3 (b) This chapter does not apply to public employees or
4 governmental entities.

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

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

12 Sec. 407A.004. GROUP NOT INSURER. A group issued a
13 certificate of approval by the commissioner under this chapter is
14 not:

- 15 (1) an insurer based on that certificate; and
16 (2) subject to the insurance laws and rules of this
17 state except as otherwise provided by this chapter.

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

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

26 (b) The appointment of the commissioner is irrevocable,
27 binds any successor in interest, and remains in effect as long as

1 any obligation or liability of the group for workers' compensation
2 benefits exists in this state.

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

7 Sec. 407A.008. RULES. The commissioner shall adopt rules
8 as specifically required by this chapter.

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

10 SUBCHAPTER B. APPLICATION REQUIREMENTS FOR
11 CERTIFICATE OF APPROVAL FOR SELF-INSURANCE GROUP

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

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

- 19 (1) the name of the group;
20 (2) the location of the group's principal office;
21 (3) the date of organization of the group;
22 (4) the name and address of each employer that is a
23 member of the group; and

24 (5) any other information reasonably required by the
25 commissioner.

26 (c) The application must be accompanied by:

- 27 (1) a nonrefundable \$500 filing fee;

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

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

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

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

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

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

12 (A) secures the payment of workers' compensation
13 benefits; and

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

16 (8) designation of the initial board of trustees and
17 administrator of the group;

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

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

24 (11) proof of one of the following:

25 (A) payment to the group by each employer who is a
26 member of the group of not less than 25 percent of that member's
27 first year estimated annual net premium on a date prescribed by the

1 commissioner, which shall be considered part of the first year
2 premium payment of each member; or

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

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

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

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

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

14 (1) the information required to be filed under
15 Subsection (c); or

16 (2) the manner of the group's compliance with
17 Subsection (c).

18 (e) The commissioner shall evaluate the financial
19 information provided with the application as necessary to ensure
20 that:

21 (1) gaps in funding do not exist; and

22 (2) the funds necessary to pay workers' compensation
23 benefits will be available on a timely basis.

24 (f) Except as otherwise provided by this subsection, the
25 commissioner shall act on a complete application for a certificate
26 of approval not later than the 90th day after the date on which the
27 application is filed with the department. If, because of the number

1 of applications, the commissioner is unable to act on an
2 application in a timely manner, the commissioner may extend the
3 period for an additional 30 days.

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

8 (b) If the commissioner determines that a proposed group
9 has not satisfied the requirements under this subchapter for a
10 certificate of approval, the commissioner shall issue an order
11 refusing the certificate. The order must set forth the reasons for
12 the refusal.

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

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

19 (b) The combined net worth of all employers who are members
20 of the group must be at least \$1 million. No member of the group may
21 be required to submit an audited financial statement. An existing
22 trust may show that the trust has assets at least equal in value to
23 \$5 million in lieu of the requirement of \$1 million combined net
24 worth of its members.

25 (c) The group must post security in the form and amount
26 prescribed by the commissioner, not to exceed \$200,000. The
27 security may be provided by a surety bond, security deposit,

1 financial security endorsement, or any combination of those
2 securities. If a surety bond is used to meet the security
3 requirement, the surety bond must be issued by a corporate surety
4 company authorized to transact business in this state. If a
5 security deposit is used to meet the security requirement, the
6 following are acceptable securities:

7 (1) a bond or other evidences of indebtedness issued,
8 assumed, or guaranteed by the United States of America or by an
9 agency or instrumentality of the United States of America;

10 (2) certificates of deposit in a federally insured
11 bank;

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

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

16 (5) a financial security endorsement described by
17 Subsection (e);

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

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

22 (d) Any securities posted must be deposited in the state
23 treasury and must be assigned to and made negotiable by the
24 executive director of the commission under a trust document
25 acceptable to the commissioner. Interest accruing on a negotiable
26 security deposited under this subsection shall be collected and
27 transmitted to the depositor if the depositor is not in default.

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

6 (1) made for the benefit of the state, to be used
7 solely to pay claims and associated expenses under this chapter;
8 and

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

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

15 Sec. 407A.054. EXCESS INSURANCE REQUIREMENTS. (a) To
16 obtain an initial certificate of approval and to be eligible to
17 renew its certificate of approval, each group must comply with the
18 excess insurance requirements adopted under this section.

19 (b) Each group shall obtain specific excess insurance in an
20 amount not to exceed \$2 million. The insurance must be issued in a
21 form prescribed by the commissioner by an insurer licensed to
22 operate in the State of Texas. The commissioner may:

23 (1) establish minimum requirements for the amount of
24 specific and aggregate excess insurance based on differences among
25 groups in size, types of employment, years in existence, and other
26 relevant factors; and

27 (2) permit a group to meet this requirement by placing

1 in a designated depository securities of the type described by
2 Section 407A.053.

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

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

11 (b) The indemnity agreement must be in the form prescribed
12 by the commissioner and must include minimum uniform substantive
13 provisions as prescribed by the commissioner. Subject to the
14 commissioner's approval, a group may add other provisions necessary
15 because of that group's particular circumstances.

16 Sec. 407A.057. ADDITIONAL PERFORMANCE BOND REQUIREMENTS.
17 In addition to the requirements under Section 407A.051, the
18 commissioner may require a service company providing claim services
19 to furnish a performance bond of \$250,000 in the form prescribed by
20 the commissioner.

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

22 SUBCHAPTER C. TERMINATION OF CERTIFICATE OF APPROVAL

23 Sec. 407A.101. CERTIFICATE OF APPROVAL; TERMINATION. (a)
24 A certificate of approval remains in effect until terminated at the
25 request of the group or revoked by the commissioner.

26 (b) The commissioner may not grant the request of any group
27 to terminate its certificate of approval unless the group has

1 insured or reinsured all incurred workers' compensation
2 obligations with an authorized insurer under an agreement filed
3 with and approved in writing by the commissioner. For purposes of
4 this subsection, those obligations include:

5 (1) known claims and expenses associated with those
6 claims; and

7 (2) incurred but not reported claims and expenses
8 associated with those claims.

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

10 SUBCHAPTER D. BOARD OF TRUSTEES

11 Sec. 407A.151. BOARD MEMBERSHIP. (a) Each group shall be
12 operated by a board of trustees composed of at least five persons
13 whom the members of the group elect for stated terms of office. The
14 trustees must be employees, officers, or directors of employers who
15 are members of the group. Each board member shall be a resident of
16 this state or an officer of a corporation authorized to do business
17 in this state.

18 (b) An administrator or service company of the group, or
19 owner, officer, employee of, or any other person affiliated with
20 the administrator or service company, may not serve on the board of
21 trustees.

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

24 (1) maintain minutes of its meetings and make the
25 minutes available to the commissioner;

26 (2) designate an administrator and delineate in the
27 written minutes of its meetings the areas of authority it delegates

1 to the administrator; and

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

4 Sec. 407A.153. PROHIBITED ACTIVITIES. The board of
5 trustees may not:

6 (1) extend credit to individual members for payment of
7 a premium, except under payment plans approved by the commissioner;
8 or

9 (2) without first advising the commissioner of the
10 nature and purpose of the loan and obtaining prior approval from the
11 commissioner, borrow any monies from the group or in the name of the
12 group except in the ordinary course of business.

13 Sec. 407A.154. GROUP FUNDS. The board of trustees shall
14 maintain responsibility for all monies collected or disbursed from
15 the group.

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

17 SUBCHAPTER E. GROUP MEMBERSHIP; TERMINATION; LIABILITY

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

21 (1) submit an application for membership to the board
22 of trustees or its administrator; and

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

25 (b) The board of trustees shall maintain as a permanent
26 record the employer's application for membership and the approval
27 of the application.

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

12 (1) obtained workers' compensation insurance
13 coverage;

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

15 (3) become a member of another group.

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

23 (e) A member of a group is not relieved of workers'
24 compensation liabilities incurred during its period of membership
25 except through payment by the group or the member of required
26 workers' compensation benefits.

27 (f) The insolvency or bankruptcy of a member does not

1 relieve a group or any other member of the group of liability for
2 the payment of any workers' compensation benefits incurred during
3 the insolvent or bankrupt member's period of membership.

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

5 SUBCHAPTER F. EXAMINATIONS, FINANCIAL STATEMENTS, AND OTHER
6 REPORTS

7 Sec. 407A.251. FINANCIAL STATEMENT. (a) Each group shall
8 submit to the commissioner financial statements audited by an
9 independent certified public accountant on or before the last day
10 of the sixth month following the end of the group's fiscal year.
11 The financial statement shall include a balance sheet, income
12 statement, and statement of cash flow. These financial statements
13 will be prepared on the basis of generally accepted accounting
14 principles in the United States of America.

15 (b) The actuarial opinion required by this section must be
16 given by a member of the American Academy of Actuaries or another
17 qualified loss reserve specialist, as defined in the annual
18 statement adopted by the National Association of Insurance
19 Commissioners.

20 [Sections 407A.252-407A.300 reserved for expansion]

21 SUBCHAPTER G. TAXES, FEES, AND ASSESSMENTS

22 Sec. 407A.301. MAINTENANCE TAX. (a) Each group shall pay a
23 self-insurance group maintenance tax under this section for:

- 24 (1) the administration of the commission; and
25 (2) the prosecution of workers' compensation insurance
26 fraud in this state.

27 (c) The tax liability of a group under this section is based

1 on net premium and multiplied by the rate assessed insurance
2 carriers under Sections 403.002 and 403.003.

3 Sec. 407A.302. ANNUAL FEE. (a) Each group shall pay an
4 annual fee to cover the administrative costs incurred by the
5 commissioner in implementing this chapter.

6 (b) The commissioner shall base the fee on the total amount
7 of income benefit payments made in the preceding calendar year. The
8 commissioner shall assess each group a pro rata share based on the
9 ratio that the total amount of income benefit payments made by that
10 group bears to the total amount of income benefit payments made by
11 all groups.

12 (c) The annual fee required by this section may not exceed
13 one percent of the tax base of the group computed under Section
14 407A.301(b).

15 Sec. 407A.303. COLLECTION AND PAYMENT OF TAXES AND FEES.

16 (a) The taxes imposed under Section 407A.301 and the fee imposed
17 under Section 407A.302 are due on the 60th day after the date of the
18 issuance of a certificate of approval and on the 60th day after each
19 anniversary of the date of certificate of approval.

20 (b) The commission shall compute the fee and taxes and
21 notify the group of the amounts due. The group shall remit the
22 taxes and fees to the commission.

23 (c) The maintenance tax imposed under Section 407A.301
24 shall be deposited in the state treasury to the credit of the
25 commission. The fee imposed under Section 407A.302 shall be
26 deposited in the state treasury to the credit of the department.

27 (d) A group commits a violation if the group does not pay the

1 taxes and fee imposed under Sections 407A.301 and 407A.302 in a
2 timely manner. A violation under this subsection is a Class B
3 administrative violation. Each day of noncompliance constitutes a
4 separate violation.

5 (e) If the certificate of approval of a group is terminated,
6 the commissioner or the executive director of the commission shall
7 proceed immediately to collect taxes due under this subchapter,
8 using legal process as necessary.

9 [Sections 407A.304-407A.350 reserved for expansion]

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

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

15 (b) A group may:

16 (1) use the relativities promulgated by the department
17 modified to produce rates in accordance with the group's historical
18 experience; or

19 (2) file its own rates with the department, including
20 any reasonable and supporting information required by the
21 commissioner.

22 (c) A group may use rating debits or credits and optional
23 rating plans as approved by the commissioner.

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

26 Sec. 407A.352. AUDITS. (a) Each group shall be audited
27 annually by the administrator or by an auditor acceptable to the

1 commissioner to verify proper classifications, experience rating,
2 payroll, and rates. The group shall make a report of the audit
3 available on the request of the commissioner in a format acceptable
4 to the commissioner. The audit shall be performed at the expense of
5 the group.

6 (b) A group or any member of a group may request a hearing on
7 any objections to the classification. If the commissioner
8 determines that, as a result of an improper classification, a
9 member's premium contribution is:

10 (1) insufficient, the commissioner shall order the
11 group to assess that member an amount equal to the deficiency; or

12 (2) excessive, the commissioner shall order the group
13 to refund to the member the excess premium collected.

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

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

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

24 (b) The premium payment plan must include:

25 (1) an initial payment by each member of at least 25
26 percent of that member's annual premium before the start of the
27 group's fund year; and

1 (2) payment of the balance of each member's annual
2 premium in monthly or quarterly installments.

3 (c) As long as the assets of the group remain sufficient to
4 cover the group's liabilities, the group may determine its own
5 premium plan if the premium plan is disclosed to each member at the
6 time of application and is filed with the commissioner.

7 (d) Each group shall establish and maintain actuarially
8 appropriate loss reserves, which must include reserves for:

9 (1) known claims and expenses associated with those
10 claims; and

11 (2) claims incurred but not reported and expenses
12 associated with those claims.

13 (e) Each group shall establish and maintain bad debt
14 reserves based on the historical experience of the group or of other
15 groups composed of similar employer members.

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

20 (b) If the assets of a group are at any time insufficient to
21 enable the group to discharge its legal liabilities and other
22 obligations and to maintain the reserves required under this
23 chapter, the group shall make up the deficiency or levy an
24 assessment on its members for the amount needed to make up the
25 deficiency.

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

- 1 (1) surplus from a fund year other than the current
2 fund year;
3 (2) administrative funds;
4 (3) assessments of the membership, if ordered by the
5 group; or
6 (4) any alternate method that the commissioner
7 approves or directs.

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

10 (e) If the group fails to assess its members or to otherwise
11 make up a deficit, the commissioner shall order the group to do so.

12 (f) If the group fails to make the required assessment of
13 its members after the commissioner's order under Subsection (d) or
14 if the deficiency is not fully made up, the group shall be deemed to
15 be insolvent.

16 (g) If a group is liquidated, the commissioner shall levy an
17 assessment on the members of the group in an amount determined
18 necessary by the commissioner to discharge all liabilities of the
19 group, including the reasonable cost of liquidation.

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

21 SUBCHAPTER I. DISCIPLINARY ACTIONS; PENALTIES

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

27 Sec. 407A.402. FINES. After notice and an opportunity for a

1 hearing, the commissioner may impose a fine on any person or group
2 found to be in violation of this chapter or a rule adopted under
3 this chapter. A fine assessed under this section may not exceed
4 \$1,000 for each act or violation and may not exceed \$10,000 in the
5 aggregate. The amount of any fine assessed under this section shall
6 be paid to the commissioner and deposited in the state treasury.

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

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

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

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

19 (3) impose the fine and revoke the certificate or
20 license.

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

24 (1) is found to be insolvent;

25 (2) fails to pay a premium tax, regulatory fee or
26 assessment, or special fund contribution imposed on the group; or

27 (3) fails to comply in a timely manner with this

1 chapter, a rule adopted under this chapter, or an order of the
2 commissioner.

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

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

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

10 (3) the group or its administrator has
11 misappropriated, converted, illegally withheld, or refused to pay
12 on proper demand any money that belongs to a member, an employee of
13 a member, or a person otherwise entitled to the money and that has
14 been entrusted to the group or its administrator in their fiduciary
15 capacities.

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

18 (27) "Insurance carrier" means:

19 (A) an insurance company;

20 (B) a certified self-insurer for workers'
21 compensation insurance; ~~or~~

22 (C) a self-insurance group certified under
23 Chapter 407A; or

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

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

1 (b) A workers' compensation self-insurance group created
2 under Chapter 407A, Labor Code, as added by this Act, that is issued
3 a certificate of approval by the commissioner of insurance under
4 that chapter, may offer workers' compensation insurance coverage
5 beginning January 1, 2004. Chapter 407A, Labor Code, as added by
6 this Act, applies only to a claim for workers' compensation
7 benefits based on a compensable injury that occurs on or after
8 January 1, 2004. A claim based on a compensable injury that occurs
9 before that date is governed by the law in effect on the date that
10 the compensable injury occurred, and the former law is continued in
11 effect for that purpose.