

By: Eiland

H.B. No. 998

Substitute the following for H.B. No. 998:

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C.S.H.B. No. 998

A BILL TO BE ENTITLED

1

AN ACT

2 relating to insurance market conduct surveillance; imposing
3 sanctions.

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

5 SECTION 1. Title 5, Insurance Code, is amended by adding
6 Subtitle G to read as follows:

7 SUBTITLE G. REGULATION OF INSURER MARKET CONDUCT

8 CHAPTER 751. MARKET CONDUCT SURVEILLANCE

9 SUBCHAPTER A. GENERAL PROVISIONS

10 Sec. 751.001. SHORT TITLE. This chapter may be cited as the
11 Insurance Market Conduct Surveillance Act.

12 Sec. 751.002. PURPOSE. The purpose of this chapter is to
13 establish a framework for department market conduct actions,
14 including:

15 (1) processes and systems for identifying, assessing,
16 and prioritizing market conduct problems that have a substantial
17 adverse impact on consumers, policyholders, and claimants;

18 (2) development of appropriate market conduct actions
19 by the commissioner as required to:

20 (A) substantiate market conduct problems; and

21 (B) remedy significant market conduct problems;

22 and

23 (3) procedures to communicate and coordinate market
24 conduct actions with other states to foster the most efficient and

1 effective use of resources.

2 Sec. 751.003. DEFINITIONS. (a) In this chapter:

3 (1) "Complaint" means a written or documented oral
4 communication, the primary intent of which is to express a
5 grievance or an expression of dissatisfaction.

6 (2) "Desk examination" means a targeted examination
7 conducted by an examiner at a location other than an insurer's
8 premises. The term includes an examination performed at the
9 department's offices during which the insurer provides requested
10 documents for department review by hard copy or by microfiche,
11 disk, or other electronic media.

12 (3) "Market analysis" means a process under which
13 market conduct surveillance personnel collect and analyze
14 information from filed schedules, surveys, required reports, and
15 other sources as necessary to:

16 (A) develop a baseline understanding of the
17 marketplace; and

18 (B) identify insurer patterns or practices that:
19 (i) deviate significantly from the norm; or
20 (ii) pose a potential risk to the insurance
21 consumer.

22 (4) "Market analysis handbook" means the outline of
23 the elements and objectives of market analysis as developed and
24 adopted by the National Association of Insurance Commissioners, and
25 used to establish a uniform process by which states may establish
26 and implement market analysis programs.

27 (5) "Market conduct action" means any activity that

1 the commissioner may initiate to assess and address insurer market
2 practices before conducting a targeted examination. The term does
3 not include a commissioner action taken to resolve:

4 (A) an individual consumer complaint; or

5 (B) another report relating to a specific
6 instance of insurer misconduct.

7 (6) "Market conduct examiner's handbook" means the set
8 of guidelines, developed and adopted by the National Association of
9 Insurance Commissioners, that document established practices to be
10 used by market conduct surveillance personnel in developing and
11 executing an examination under this chapter.

12 (7) "Market conduct surveillance personnel" means
13 those individuals employed by or under contract with the department
14 who collect, analyze, review, or act on information regarding
15 insurer patterns or practices.

16 (8) "Market conduct uniform examination procedures"
17 means the set of guidelines developed and adopted by the National
18 Association of Insurance Commissioners designed to be used by
19 market conduct surveillance personnel in conducting an examination
20 under this chapter.

21 (9) "On-site examination" means a targeted
22 examination that is conducted at:

23 (A) the insurer's home office; or

24 (B) another location at which the records under
25 review are stored.

26 (10) "Qualified contract examiner" means a person
27 qualified by education, experience, and any applicable

1 professional designations who is under contract with the
2 commissioner to perform market conduct actions.

3 (11) "Standard data request" means the set of field
4 names and descriptions developed and adopted by the National
5 Association of Insurance Commissioners for use by market conduct
6 surveillance personnel in an examination.

7 (12) "Targeted examination" means a limited
8 review and analysis, conducted through a desk examination or an
9 on-site examination and in accordance with the market conduct
10 uniform examination procedures, of specific insurer conduct,
11 practices, or risks that have not been remedied by the insurer,
12 including:

13 (A) underwriting and rating;

14 (B) marketing and sales;

15 (C) complaint handling operations and
16 management;

17 (D) advertising materials;

18 (E) licensing;

19 (F) policyholder services;

20 (G) claims handling; or

21 (H) policy forms and filings.

22 (13) "Third-party model or product" means a model or
23 product provided by an entity that is separate from and not under
24 direct or indirect corporate control of the insurer using the model
25 or product.

26 (b) In this chapter, "affiliate" and "subsidiary" have the
27 meanings described by Section 823.003.

1 Sec. 751.004. IMMUNITY. (a) A cause of action does not
2 arise, and liability may not be imposed, for any statements made or
3 conduct performed in good faith while implementing this chapter,
4 against:

5 (1) the commissioner;

6 (2) an authorized representative of the commissioner;

7 or

8 (3) an examiner appointed by the commissioner.

9 (b) A cause of action does not arise, and liability may not
10 be imposed, against any person for the act of communicating or
11 delivering information or data to the commissioner or the
12 commissioner's authorized representative or examiner under an
13 examination made under this chapter, if the act of communication or
14 delivery was performed in good faith and without fraudulent intent
15 or the intent to deceive.

16 (c) A person identified in Subsection (a) is entitled to
17 attorney's fees and costs if the person is the prevailing party in a
18 civil cause of action for libel, slander, or any other relevant tort
19 arising out of activities conducted in implementing this chapter,
20 and the party bringing the action was not substantially justified
21 in doing so. For purposes of this subsection, an action is
22 "substantially justified" if the action had a reasonable basis in
23 law or fact at the time that it was initiated.

24 (d) This section does not abrogate or modify any common law
25 or statutory privilege or immunity.

26 [Sections 751.005-751.050 reserved for expansion]

1 SUBCHAPTER B. GENERAL POWERS AND DUTIES OF COMMISSIONER

2 Sec. 751.051. PARTICIPATION IN NATIONAL MARKET CONDUCT
3 DATABASES. (a) The commissioner shall collect and report market
4 data to the National Association of Insurance Commissioner's market
5 information systems, including the complaint database system, the
6 examination tracking system, the regulatory information retrieval
7 system, or other successor systems of that association, as
8 determined by the commissioner.

9 (b) Information collected and maintained by the department
10 shall be compiled in a manner that meets the requirements of the
11 National Association of Insurance Commissioners.

12 Sec. 751.052. COORDINATION WITH OTHER STATES. The
13 commissioner shall share information and coordinate the
14 department's market analysis and examination efforts with other
15 states through the National Association of Insurance
16 Commissioners.

17 Sec. 751.053. INFORMATION FROM COMMISSIONER. (a) At least
18 once annually or more frequently if determined necessary by the
19 commissioner, the commissioner shall provide in an appropriate
20 manner to insurers and other entities subject to this code
21 information regarding new laws and rules, enforcement actions, and
22 other information the commissioner considers relevant to ensure
23 compliance with market conduct requirements.

24 (b) Failure by the commissioner to provide the information
25 described by Subsection (a) does not constitute a defense for an
26 insurer who fails to comply with an insurance law of this state.

27 Sec. 751.054. REPORT OF VIOLATIONS. (a) The commissioner

1 shall designate an individual within the department whose
2 responsibilities shall include the receipt of information from
3 employees of insurers and other entities regulated by the
4 department regarding violations of laws or rules by their
5 employers. The commissioner's designee shall be properly trained
6 in the handling of that information.

7 (b) Information received under this section is a
8 confidential communication and is not public information.

9 Sec. 751.055. EXERCISE OF SUBPOENA AUTHORITY. The
10 commissioner has the subpoena power authorized by Subchapter C,
11 Chapter 36, for the production of documents under this chapter and
12 enforcement of this subtitle.

13 [Sections 751.056-751.100 reserved for expansion]

14 SUBCHAPTER C. RELATIONS WITH OTHER STATES

15 Sec. 751.101. COMMISSIONER AUTHORITY; INTERACTIONS WITH
16 OTHER INSURANCE COMMISSIONERS OF OTHER STATES. (a) The commissioner
17 has responsibility for conducting market conduct examinations on
18 domestic insurers. The commissioner may delegate that
19 responsibility to the insurance commissioner of another state, if
20 that insurance commissioner agrees to accept the delegated
21 responsibility. If the commissioner elects to delegate
22 responsibility for examining an insurer, the commissioner shall
23 accept a report of the examination prepared by the insurance
24 commissioner to whom the responsibility has been delegated.

25 (b) If the insurer to be examined is part of an insurance
26 holding company system, the commissioner may also seek to
27 simultaneously examine any affiliate of the insurer that is

1 authorized to write the same types of insurance in this state as the
2 insurer if the insurance commissioner of the state in which the
3 affiliate is organized consents and delegates responsibility for
4 that examination.

5 (c) In lieu of conducting a market conduct examination of an
6 insurer that holds a certificate of authority in this state but is
7 not a domestic insurer, the commissioner shall accept a report of a
8 market conduct examination regarding that insurer prepared by the
9 insurance commissioner of the state in which the insurer is
10 organized or by another state if:

11 (1) the laws of the examining state that are
12 applicable to the subject of the examination are substantially
13 similar to those of this state; and

14 (2) the examining state has a market conduct
15 surveillance system that the commissioner deems comparable to the
16 market conduct surveillance system required under this chapter.

17 (d) The commissioner's determination under Subsection
18 (c)(2) is discretionary with the commissioner and is not subject to
19 appeal.

20 (e) If a market conduct examination conducted by another
21 state results in a finding that an insurer should modify a specific
22 practice or procedure, the commissioner shall accept documentation
23 that the insurer has made a similar modification in this state in
24 lieu of initiating a market conduct action or examination related
25 to that practice or procedure. The commissioner may require other
26 or additional practice or procedure modifications.

27 [Sections 751.102-751.150 reserved for expansion]

1 SUBCHAPTER D. MARKET ANALYSIS PROCEDURES

2 Sec. 751.151. COLLECTION OF INFORMATION; COMMISSIONER
3 ANALYSIS. (a) The commissioner shall gather insurance market
4 information from:

5 (1) data available to the department, including survey
6 results and information required to be reported to the department;

7 (2) information collected by the National Association
8 of Insurance Commissioners and other public and private sources;
9 and

10 (3) information from within and outside the insurance
11 industry.

12 (b) The commissioner shall analyze the information compiled
13 under Subsection (a) as necessary to:

14 (1) develop a baseline understanding of the insurance
15 marketplace; and

16 (2) identify for further review insurers or insurance
17 practices that deviate significantly from the norm or that pose a
18 potential risk to the insurance consumer.

19 (c) The commissioner shall use the market analysis handbook
20 as a resource in performing the analysis required under this
21 section.

22 Sec. 751.152. ADDITIONAL ANALYSIS OF MARKET ACTIONS. (a)
23 If, as a result of the market analysis, the commissioner determines
24 that further inquiry into a particular insurer or insurance
25 practice is needed, the commissioner shall consider taking one or
26 more of the market conduct actions described by Subsection (b)
27 before conducting a targeted examination. If a market conduct

1 action selected by the commissioner requires the participation of
2 or a response by the affected insurer, the commissioner shall
3 notify the insurer of the action selected in writing.

4 (b) Market conduct actions described by Subsection (a) may
5 include:

6 (1) correspondence with the insurer;

7 (2) insurer interviews;

8 (3) information gathering;

9 (4) policy and procedure reviews;

10 (5) interrogatories;

11 (6) review of insurer self-evaluation and compliance
12 programs, including insurer membership in a best-practice
13 organization; and

14 (7) desk examinations.

15 (c) The commissioner shall select market conduct actions
16 that are efficient and cost-effective for the department and the
17 insurer while protecting the interests of the insurance consumer.

18 (d) The commissioner shall take steps reasonably necessary
19 to:

20 (1) eliminate requests for information that
21 duplicates or conflicts with information provided as part of an
22 insurer's annual financial statement, the annual market conduct
23 statement of the National Association of Insurance Commissioners,
24 or other required schedules, surveys, or reports that are regularly
25 submitted to the commissioner, or with data requests made by other
26 states if that information is available to the commissioner, unless
27 the information is state specific; and

1 (2) coordinate the market conduct actions and findings
2 of this state with those of other states.

3 Sec. 751.153. PROTOCOLS FOR MARKET CONDUCT ACTIONS. (a)
4 Each market conduct action taken as a result of a market analysis
5 must focus on the general business practices and compliance
6 activities of insurers, rather than identifying infrequent or
7 unintentional random errors that do not cause significant consumer
8 harm.

9 (b) The commissioner may determine the frequency and timing
10 of the market conduct actions. The timing of an action depends on
11 the specific market conduct action to be initiated unless
12 extraordinary circumstances indicating a risk to consumers require
13 immediate action.

14 (c) If the commissioner has information that more than one
15 insurer is engaged in practices that may violate statutes or rules,
16 the commissioner may schedule and coordinate multiple examinations
17 simultaneously.

18 (d) The commissioner shall provide an insurer with an
19 opportunity to resolve to the satisfaction of the commissioner any
20 matter that arises as a result of a market analysis before any
21 additional market conduct actions are taken against the insurer.
22 If the insurer has modified a practice or procedure as a result of a
23 market conduct action taken or examination conducted by the
24 insurance commissioner of another state, and the commissioner
25 deems that state's market conduct surveillance system comparable to
26 the system required under this chapter, the commissioner may accept
27 the modified practice or procedure and may require other or

1 additional practice or procedure modifications.

2 (e) For an application by the department of a handbook,
3 guideline, or other product referenced in this chapter that is the
4 work product of the National Association of Insurance Commissioners
5 that changes the way in which market conduct actions are conducted,
6 the commissioner shall give notice and provide interested parties
7 with an opportunity for a public hearing as provided by Chapter
8 2001, Government Code, if the change:

9 (1) necessitates a change in a statute or rule; or

10 (2) deviates from the applicable handbook, guideline,
11 or other product most recently adopted by the National Association
12 of Insurance Commissioners.

13 (f) Except as otherwise provided by law, each insurer or
14 person from whom information is sought, and each officer, director,
15 or agent of that insurer or person, shall provide the commissioner
16 with convenient and free access to all books, records, accounts,
17 papers, documents and any computer or other recordings relating to
18 the property, assets, business and affairs of the insurer or
19 person.

20 (g) Each officer, director, employee, insurance producer,
21 and agent of an insurer or person described by Subsection (f) shall,
22 to the extent of that individual's ability, facilitate and aid in a
23 department market conduct action.

24 [Sections 751.154-751.200 reserved for expansion]

25 SUBCHAPTER E. MARKET CONDUCT EXAMINATIONS

26 Sec. 751.201. EXAMINATION. (a) If the commissioner
27 determines that a market conduct action described by Section

1 751.152(b) is not appropriate, the commissioner may conduct a
2 targeted examination in accordance with the market conduct uniform
3 examination procedures and the market conduct examiners handbook.

4 (b) A targeted examination may be conducted through a desk
5 examination or an on-site examination. To the extent feasible, the
6 department shall conduct a market conduct examination through desk
7 examinations and data requests before conducting an on-site
8 examination.

9 (c) The department shall conduct a market conduct
10 examination in accordance with the market conduct examiners
11 handbook and the market conduct uniform examinations procedures.

12 (d) The department shall use the standard data request or a
13 successor product that is substantially similar to the standard
14 data request as adopted by the commissioner by rule.

15 (e) If the insurer to be examined is not a domestic insurer,
16 the commissioner shall coordinate the examination with the
17 insurance commissioner of the state in which the insurer is
18 organized.

19 Sec. 751.202. WORK PLAN. Before beginning a market conduct
20 examination, market conduct surveillance personnel shall prepare a
21 work plan that includes:

22 (1) the name and address of the insurer to be examined;

23 (2) the name and contact information of the
24 examiner-in-charge;

25 (3) a statement of the reasons for the examination;

26 (4) a description of the scope of the examination;

27 (5) the date the examination is scheduled to begin;

1 (6) notice to any non-insurance department personnel
2 who will assist in the examination;

3 (7) a time estimate for the examination; and

4 (8) if the cost of the examination is billed to the
5 affected insurer:

6 (A) a budget for the examination; and

7 (B) an identification of factors that will be
8 included in the billing.

9 Sec. 751.203. NOTICE OF MARKET CONDUCT EXAMINATION. (a)
10 Unless the examination is conducted in response to extraordinary
11 circumstances as described by Section 751.153(b), the department
12 shall notify an affected insurer of an examination not later than
13 the 60th day before the scheduled date of the beginning of the
14 examination. The notice must include the examination work plan and
15 a request that the insurer name an examination coordinator for the
16 insurer.

17 (b) In addition to the notice required under Subsection (a),
18 the commissioner shall post notice that a market conduct
19 examination has been scheduled on the National Association of
20 Insurance Commissioners examination tracking system.

21 (c) If a targeted examination is expanded beyond the reasons
22 provided to the insurer in the notice of the examination required
23 under Subsection (a), the commissioner shall provide written notice
24 to the insurer, explaining the extent of the expansion and the
25 reasons for the expansion. The department shall provide a revised
26 work plan to the insurer before the beginning of the expanded
27 examination.

1 Sec. 751.204. PRE-EXAMINATION CONFERENCE. Not later than
2 the 30th day before the scheduled date of the examination, the
3 commissioner shall conduct a pre-examination conference with the
4 insurer's examination coordinator and key personnel to clarify
5 expectations.

6 Sec. 751.205. EXIT CONFERENCE. Before the conclusion of a
7 targeted examination, the member of the market conduct surveillance
8 personnel who is designated as the examiner-in-charge shall
9 schedule an exit conference with the insurer.

10 Sec. 751.206. EXAMINATION REPORT. (a) Unless the
11 commissioner and the insurer agree to a different schedule, the
12 commissioner shall follow the time line established under this
13 section.

14 (b) The commissioner shall deliver the draft examination
15 report to the insurer not later than the 60th day after the date the
16 examination is completed. For purposes of this section, the date
17 the examination is completed is the date on which the exit
18 conference is conducted.

19 (c) Not later than the 30th day after the date on which the
20 insurer receives the draft examination report, the insurer shall
21 provide any written comments regarding the report to the
22 department.

23 (d) The department shall make a good faith effort to resolve
24 issues with the insurer informally and shall prepare a final
25 examination report not later than the 30th day after the date of
26 receipt of the insurer's written comments on the draft report
27 unless a mutual agreement is reached to extend the deadline.

1 (e) The department shall include the insurer's responses in
2 the final examination report. The responses may be included as an
3 appendix or in the text of the examination report. An insurer is
4 not obligated to submit a response. An individual involved in the
5 examination may not be named in either the report or the insurer
6 response except to acknowledge the individual's involvement.

7 (f) The commissioner may make corrections and other changes
8 to the final examination report as appropriate, and shall issue the
9 report to the insurer. Not later than the 30th day after receipt of
10 the final examination report under this subsection, the insurer
11 shall accept the report, accept the findings of the report, or
12 request a hearing. The commissioner and the insurer by mutual
13 agreement may extend the period for an additional 30 days. A
14 request for a hearing must be made in writing and must follow the
15 requirements of Chapter 2001, Government Code.

16 Sec. 751.207. CONFIDENTIALITY OF EXAMINATION REPORT
17 INFORMATION. (a) A final or preliminary market conduct
18 examination report, and any information obtained during the course
19 of an examination, is confidential and is not subject to disclosure
20 under Chapter 552, Government Code. This section may not be
21 construed to limit the commissioner's authority to use any final or
22 preliminary market conduct examination report, any examiner or
23 company work papers or other documents, or any other information
24 discovered or developed during the course of an examination in the
25 furtherance of any legal or regulatory action that the
26 commissioner, in the commissioner's sole discretion, may deem
27 appropriate.

1 (b) This chapter does not prevent the commissioner from
2 disclosing at any time the contents of an examination report,
3 including a preliminary examination report, or the results of an
4 examination, or any matter relating to an examination report,
5 preliminary examination report, or the results of an examination,
6 to the department, the insurance department of any other state, or
7 an agency of the federal government, if the department or agency
8 receiving the report or matter relating to the report agrees to
9 maintain the information as confidential and in a manner consistent
10 with this chapter.

11 Sec. 751.208. ASSESSMENT OF COSTS OF EXAMINATION. (a) If
12 the reasonable and necessary cost of a market conduct examination
13 is to be assessed against the affected insurer, fees for that cost
14 must be consistent with those otherwise authorized by law. The fees
15 must be itemized and bills for the fees must be provided to the
16 insurer on a monthly basis for review prior to submission for
17 payment.

18 (b) The commissioner shall actively manage and oversee
19 examination costs, including costs associated with the use of
20 department examiners and with retaining qualified contract
21 examiners necessary to perform an on-site examination. To the
22 extent the commissioner retains outside assistance, the
23 commissioner shall adopt by rule written protocols that:

24 (1) clearly identify the types of functions to be
25 subject to outsourcing;

26 (2) provide specific time lines for completion of the
27 outsourced review;

1 (3) require disclosure of recommendations made by
2 contract examiners;

3 (4) establish and use a dispute resolution or
4 arbitration mechanism to resolve conflicts with insurers regarding
5 examination fees; and

6 (5) require disclosure of the terms of contracts
7 entered into with outside consultants, and specifically terms
8 regarding the fees or hourly rates that may be charged by those
9 consultants.

10 (c) The commissioner must review and affirmatively endorse
11 detailed billings made by a qualified contract examiner before the
12 detailed billings are sent to the insurer.

13 [Sections 751.209-751.250 reserved for expansion]

14 SUBCHAPTER F. CONFIDENTIALITY REQUIREMENTS

15 Sec. 751.251. NO WAIVER. The disclosure to the
16 commissioner under this subchapter of a document, material, or
17 information does not constitute the waiver of any applicable
18 privilege or claim of confidentiality regarding the document,
19 material, or information.

20 Sec. 751.252. AUTHORITY OF COMMISSIONER. (a) The
21 commissioner may share documents, materials, or other information
22 created, produced, obtained by or disclosed to the commissioner
23 under this chapter with other state, federal and international
24 regulatory agencies and law enforcement authorities and the
25 National Association of Insurance Commissioners and that
26 association's affiliates and subsidiaries, if the recipient agrees
27 to and has the legal authority to maintain the confidentiality and

1 privileged status of the document, material, or other information.

2 (b) The commissioner may receive documents, materials, or
3 information, including otherwise confidential and privileged
4 documents, materials, or information, from the National
5 Association of Insurance Commissioners and that association's
6 affiliates or subsidiaries, and from regulatory and law enforcement
7 officials of other foreign or domestic jurisdictions. The
8 commissioner shall maintain as confidential or privileged any
9 document, material, or information received with notice or the
10 understanding that the document, material, or information is
11 confidential or privileged under the laws of the jurisdiction that
12 is the source of the document, material, or information.

13 (c) Consistent with this section, the commissioner may
14 enter into agreements governing the sharing and use of information.

15 [Sections 751.253-751.300 reserved for expansion]

16 SUBCHAPTER G. MARKET CONDUCT SURVEILLANCE PERSONNEL

17 Sec. 751.301. PERSONNEL; QUALIFICATIONS. (a) To conduct
18 market conduct surveillance under this chapter, the commissioner
19 may designate department staff to perform duties under this
20 chapter, and may supplement that staff with qualified outside
21 professional assistance if the commissioner determines that that
22 assistance is necessary.

23 (b) Market conduct surveillance personnel must be qualified
24 by education and experience and, if applicable, must hold
25 appropriate professional designations.

26 Sec. 751.302. CONFLICT OF INTEREST. (a) An individual who
27 is a member of the market conduct surveillance personnel has a

1 conflict of interest, either directly or indirectly, if the
2 individual is affiliated with the management of, has been employed
3 by, or owns a pecuniary interest in, an insurer subject to an
4 examination conducted under this chapter.

5 (b) This section may not be construed to automatically
6 preclude the individual from being:

7 (1) a policyholder or claimant under an insurance
8 policy;

9 (2) a grantee of a mortgage or similar instrument on
10 the individual's residence from a regulated entity if done under
11 customary terms and in the ordinary course of business;

12 (3) an investment owner in shares of regulated
13 diversified investment companies; or

14 (4) a settlor or beneficiary of a blind trust into
15 which any otherwise permissible holdings have been placed.

16 Sec. 751.303. ACCESS TO INFORMATION. (a) Except as
17 otherwise provided by law, market conduct surveillance personnel
18 shall, as practicable, have free and full access to all books and
19 records, and all employees, officers, and directors, of the insurer
20 during regular business hours.

21 (b) On the request of market conduct surveillance
22 personnel, an insurer that uses a third-party model or product for
23 any of the activities under examination shall make the details of
24 those models or products available to that personnel.

25 Sec. 751.304. AUTHORITY OF MARKET CONDUCT SURVEILLANCE
26 PERSONNEL. Market conduct surveillance personnel may issue
27 subpoenas and examine insurance company personnel under oath if

1 that action is ordered by the commissioner under Subchapter C,
2 Chapter 36.

3 [Sections 751.305-751.350 reserved for expansion]

4 SUBCHAPTER H. SANCTIONS

5 Sec. 751.351. SANCTIONS. (a) The commissioner may impose
6 sanctions under Chapter 82 against an insurer determined, as a
7 result of a market conduct action or other action under this
8 chapter, to have violated this code, a rule adopted under this code,
9 or another insurance law of this state.

10 (b) In determining an appropriate sanction under Subsection
11 (a) the commissioner shall consider:

12 (1) any actions taken by the insurer to maintain
13 membership in, and comply with the standards of, best-practice
14 organizations that promote high ethical standards of conduct in the
15 insurance marketplace; and

16 (2) the extent to which the insurer maintains
17 regulatory compliance programs to self-assess, self-report, and
18 remediate problems detected by the insurer.

19 SECTION 2. This Act takes effect September 1, 2005.