

By: Smithee

H.B. No. 2636

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the nonsubstantive revision of statutes relating to the  
3 Texas Department of Insurance, the business of insurance, and  
4 certain related businesses, to nonsubstantive additions to and  
5 corrections in the codified Insurance Code, and to conforming the  
6 provisions of that code that were codified by the 79th Legislature  
7 to other Acts of that legislature, including conforming amendments,  
8 repeals, and penalties.

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

10 ARTICLE 1. REVISION OF THE INSURANCE CODE OF 1951

11 PART A. ADDITIONS AND CONFORMING AMENDMENTS TO TITLE 2,

12 INSURANCE CODE

13 SECTION 1A.001. CONFORMING AMENDMENT. Chapter 30,  
14 Insurance Code, is amended to read as follows:

15 CHAPTER 30. GENERAL PROVISIONS

16 Sec. 30.001. PURPOSE OF TITLES 2, 3, 4, 5, 6, 7, 8, 9, 10,  
17 11, 12, 13, ~~[AND]~~ 14, AND 20. (a) This title and Titles 3, 4, 5, 6,  
18 7, 8, 9, 10, 11, 12, 13, ~~[and]~~ 14, and 20 are enacted as a part of the  
19 state's continuing statutory revision program, begun by the Texas  
20 Legislative Council in 1963 as directed by the legislature in the  
21 law codified as Section 323.007, Government Code. The program  
22 contemplates a topic-by-topic revision of the state's general and  
23 permanent statute law without substantive change.

24 (b) Consistent with the objectives of the statutory

1 revision program, the purpose of this title and Titles 3, 4, 5, 6,  
2 7, 8, 9, 10, 11, 12, 13, [~~and~~] 14, and 20 is to make the law  
3 encompassed by the titles more accessible and understandable by:

4 (1) rearranging the statutes into a more logical  
5 order;

6 (2) employing a format and numbering system designed  
7 to facilitate citation of the law and to accommodate future  
8 expansion of the law;

9 (3) eliminating repealed, duplicative,  
10 unconstitutional, expired, executed, and other ineffective  
11 provisions; and

12 (4) restating the law in modern American English to  
13 the greatest extent possible.

14 Sec. 30.002. CONSTRUCTION. Except as provided by Section  
15 30.003 and as otherwise expressly provided in this code, Chapter  
16 311, Government Code (Code Construction Act), applies to the  
17 construction of each provision in this title and in Titles 3, 4, 5,  
18 6, 7, 8, 9, 10, 11, 12, 13, [~~and~~] 14, and 20.

19 Sec. 30.003. DEFINITION OF PERSON. The definition of  
20 "person" assigned by Section 311.005, Government Code, does not  
21 apply to any provision in this title or in Title 3, 4, 5, 6, 7, 8, 9,  
22 10, 11, 12, 13, [~~or~~] 14, or 20.

23 Sec. 30.004. REFERENCE IN LAW TO STATUTE REVISED BY TITLE 2,  
24 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, [~~OR~~] 14, OR 20. A reference in a  
25 law to a statute or a part of a statute revised by this title or by  
26 Title 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, [~~or~~] 14, or 20 is  
27 considered to be a reference to the part of this code that revises

1 that statute or part of that statute.

2 SECTION 1A.002. ADDITION. Subchapter A, Chapter 32,  
3 Insurance Code, is amended by adding Sections 32.0015 and 32.004 to  
4 read as follows:

5 Sec. 32.0015. FILING ARTICLES OF INCORPORATION AND OTHER  
6 PAPERS; CERTIFIED COPIES. (a) The department shall file and  
7 maintain in a department office:

8 (1) all insurance companies' acts or articles of  
9 incorporation; and

10 (2) any other paper required by law to be filed with  
11 the department.

12 (b) The department shall provide a certified copy of a  
13 document described by Subsection (a)(1) or (2) to a party  
14 interested in the document who:

15 (1) submits an application; and

16 (2) pays the fee prescribed by law. (V.T.I.C. Art.  
17 1.10, Sec. 2.)

18 Sec. 32.004. PUBLICATION OF RESULTS OF EXAMINATION. The  
19 department shall publish the results of an examination of a  
20 company's affairs if the commissioner determines that publication  
21 is in the public interest. (V.T.I.C. Art. 1.10, Sec. 6.)

22 PART B. ADDITIONS TO TITLE 3, INSURANCE CODE

23 SECTION 1B.001. ADDITION. Subtitle B, Title 3, Insurance  
24 Code, is amended by adding Chapter 228 to read as follows:

25 CHAPTER 228. PREMIUM TAX CREDIT FOR CERTAIN INVESTMENTS

26 SUBCHAPTER A. GENERAL PROVISIONS

27 Sec. 228.001. GENERAL DEFINITIONS. In this chapter:

1           (1) "Allocation date" means the date on which  
2 certified investors are allocated premium tax credits.

3           (2) "Certified capital" means cash invested by a  
4 certified investor that fully funds the purchase price of an equity  
5 interest in a certified capital company or a qualified debt  
6 instrument issued by the company.

7           (3) "Certified capital company" means a partnership,  
8 corporation, or trust or limited liability company, whether  
9 organized on a profit or nonprofit basis, that:

10           (A) has as the company's primary business  
11 activity the investment of cash in qualified businesses; and

12           (B) is certified as meeting the criteria of this  
13 chapter.

14           (4) "Certified investor" means an insurer or other  
15 person that has state premium tax liability and that contributes  
16 certified capital pursuant to a premium tax credit allocation under  
17 this chapter.

18           (5) "Early stage business" means a business described  
19 by Section 228.152(a).

20           (6) "Person" means an individual or entity, including  
21 a corporation, general or limited partnership, or trust or limited  
22 liability company.

23           (7) "Premium tax credit allocation claim" means a  
24 claim for allocation of premium tax credits.

25           (8) "Qualified business" means a business described by  
26 Section 228.201.

27           (9) "Qualified debt instrument" means a debt

1 instrument issued by a certified capital company, at par value or a  
2 premium, that:

3 (A) has an original maturity date that is a date  
4 on or after the fifth anniversary of the date of issuance;

5 (B) has a repayment schedule that is not faster  
6 than a level principal amortization over five years; and

7 (C) does not have interest, distribution, or  
8 payment features that are related to:

9 (i) the profitability of the company; or

10 (ii) the performance of the company's  
11 investment portfolio.

12 (10) "Qualified investment" means the investment of  
13 cash by a certified capital company in a qualified business for the  
14 purchase of any debt, debt participation, equity, or hybrid  
15 security of any nature or description, including a debt instrument  
16 or security that has the characteristics of debt but that provides  
17 for conversion into equity or equity participation instruments such  
18 as options or warrants.

19 (11) "State premium tax liability" means:

20 (A) any liability incurred by any person under  
21 Chapter 221, 222, 223, or 224; or

22 (B) if the tax liability imposed under Chapter  
23 221, 222, 223, or 224 is eliminated or reduced, any tax liability  
24 imposed on an insurer or other person that had premium tax liability  
25 under Subchapter A, Chapter 4, or Article 9.59 as those laws existed  
26 on January 1, 2003.

27 (12) "Strategic investment business" means a business

1 described by Section 228.153(a). (V.T.I.C. Art. 4.51, Subdivs.  
2 (2), (3), (4), (5), (6) (part), (7), (8), (9) (part), (10), (12),  
3 (13), (15) (part).)

4 Sec. 228.002. DEFINITION OF AFFILIATE. In this chapter,  
5 "affiliate" of another person means:

6 (1) a person that is an affiliate for purposes of  
7 Section 823.003;

8 (2) a person that directly or indirectly:

9 (A) beneficially owns 10 percent or more of the  
10 outstanding voting securities or other voting or management  
11 interests of the other person, whether through rights, options,  
12 convertible interests, or otherwise; or

13 (B) controls or holds power to vote 10 percent or  
14 more of the outstanding voting securities or other voting or  
15 management interests of the other person;

16 (3) a person 10 percent or more of the outstanding  
17 voting securities or other voting or management interests of which  
18 are directly or indirectly:

19 (A) beneficially owned by the other person,  
20 whether through rights, options, convertible interests, or  
21 otherwise; or

22 (B) controlled or held with power to vote by the  
23 other person;

24 (4) a partnership in which the other person is a  
25 general partner;

26 (5) an officer, director, employee, or agent of the  
27 other person; or

1           (6) an immediate family member of an officer,  
2 director, employee, or agent described by Subdivision (5).  
3 (V.T.I.C. Art. 4.51, Subdiv. (1).)

4           [Sections 228.003-228.050 reserved for expansion]

5           SUBCHAPTER B. ADMINISTRATION AND PROMOTION

6           Sec. 228.051. ADMINISTRATION BY COMPTROLLER.        The  
7 comptroller shall administer this chapter. (V.T.I.C. Art. 4.52  
8 (part).)

9           Sec. 228.052. RULES; FORMS.    The comptroller shall adopt  
10 rules and forms as necessary to implement this chapter, including  
11 rules that:

12           (1) establish the application procedures for  
13 certified capital companies; and

14           (2) facilitate the transfer or assignment of premium  
15 tax credits by certified investors. (V.T.I.C. Art. 4.52 (part);  
16 Art. 4.53, Sec. (a); Art. 4.71, Sec. (a) (part).)

17           Sec. 228.053. REPORT TO LEGISLATURE. (a) The comptroller  
18 shall prepare a biennial report concerning the results of the  
19 implementation of this chapter. The report must include:

20           (1) the number of certified capital companies holding  
21 certified capital;

22           (2) the amount of certified capital invested in each  
23 certified capital company;

24           (3) the amount of certified capital the certified  
25 capital company invested in qualified businesses as of January 1,  
26 2006, and the cumulative total for each subsequent year;

27           (4) the total amount of tax credits granted under this

1 chapter for each year that credits have been granted;

2 (5) the performance of each certified capital company  
3 with respect to renewal and reporting requirements imposed under  
4 this chapter;

5 (6) with respect to the qualified businesses in which  
6 certified capital companies have invested:

7 (A) the classification of the qualified  
8 businesses according to the industrial sector and size of the  
9 business;

10 (B) the total number of jobs created by the  
11 investment and the average wages paid for the jobs; and

12 (C) the total number of jobs retained as a result  
13 of the investment and the average wages paid for the jobs; and

14 (7) the certified capital companies that have been  
15 decertified or that have failed to renew the certification and the  
16 reason for any decertification.

17 (b) The comptroller shall file the report with the governor,  
18 the lieutenant governor, and the speaker of the house of  
19 representatives not later than December 15 of each even-numbered  
20 year. (V.T.I.C. Art. 4.73.)

21 Sec. 228.054. PROMOTION OF PROGRAM. The Texas Economic  
22 Development and Tourism Office shall promote the program  
23 established under this chapter in the Texas Business and Community  
24 Economic Development Clearinghouse. (V.T.I.C. Art. 4.72.)

25 [Sections 228.055-228.100 reserved for expansion]



1 SUBCHAPTER C. APPLICATION FOR AND GENERAL OPERATION OF CERTIFIED

2 CAPITAL COMPANIES

3 Sec. 228.101. APPLICATION FOR CERTIFICATION. (a) An  
4 applicant for certification must file the application in the form  
5 prescribed by the comptroller. The application must be accompanied  
6 by a nonrefundable application fee of \$7,500.

7 (b) The application must include an audited balance sheet of  
8 the applicant, with an unqualified opinion from an independent  
9 certified public accountant, as of a date not more than 35 days  
10 before the date of the application. (V.T.I.C. Art. 4.53, Sec. (b).)

11 Sec. 228.102. QUALIFICATION. To qualify as a certified  
12 capital company:

13 (1) the applicant must have, at the time of  
14 application for certification, an equity capitalization of at least  
15 \$500,000 in unencumbered cash or cash equivalents;

16 (2) at least two principals or persons employed to  
17 manage the funds of the applicant must have at least four years of  
18 experience in the venture capital industry; and

19 (3) the applicant must satisfy any additional  
20 requirement imposed by the comptroller by rule. (V.T.I.C. Art.  
21 4.53, Sec. (c).)

22 Sec. 228.103. MANAGEMENT BY AND CERTAIN OWNERSHIP INTERESTS  
23 OF INSURANCE ENTITIES PROHIBITED. (a) An insurer, group of  
24 insurers, or other persons who may have state premium tax liability  
25 or the insurer's or person's affiliates may not directly or  
26 indirectly:

27 (1) manage a certified capital company;

1           (2) beneficially own, whether through rights,  
2 options, convertible interests, or otherwise, more than 10 percent  
3 of the outstanding voting securities of a certified capital  
4 company; or

5           (3) control the direction of investments for a  
6 certified capital company.

7           (b) Subsection (a) applies without regard to whether the  
8 insurer or other person or the affiliate of the insurer or other  
9 person is authorized by or engages in business in this state.

10           (c) Subsections (a) and (b) do not preclude an insurer,  
11 certified investor, or any other party from exercising its legal  
12 rights and remedies, including interim management of a certified  
13 capital company, if authorized by law, with respect to a certified  
14 capital company that is in default of the company's statutory or  
15 contractual obligations to the insurer, certified investor, or  
16 other party.

17           (d) This chapter does not limit an insurer's ownership of  
18 nonvoting equity interests in a certified capital company.

19 (V.T.I.C. Art. 4.54; Art. 4.56, Sec. (d).)

20           Sec. 228.104. ACTION ON APPLICATION. (a) The comptroller  
21 shall:

22           (1) review the application, organizational documents,  
23 and business history of each applicant; and

24           (2) ensure that the applicant satisfies the  
25 requirements of this chapter.

26           (b) Not later than the 30th day after the date an  
27 application is filed, the comptroller shall:

1           (1) issue the certification; or

2           (2) refuse to issue the certification and communicate  
3 in detail to the applicant the grounds for the refusal, including  
4 suggestions for the removal of those grounds. (V.T.I.C. Art. 4.53,  
5 Secs. (d), (e).)

6           Sec. 228.105. CONTINUATION OF CERTIFICATION. To continue  
7 to be certified, a certified capital company must make qualified  
8 investments according to the schedule established by Section  
9 228.151. (V.T.I.C. Art. 4.56, Sec. (a) (part).)

10           Sec. 228.106. REPORTS TO COMPTROLLER; AUDITED FINANCIAL  
11 STATEMENT. (a) Each certified capital company shall report to the  
12 comptroller as soon as practicable after the receipt of certified  
13 capital:

14           (1) the name of each certified investor from whom the  
15 certified capital was received, including the certified investor's  
16 insurance premium tax identification number;

17           (2) the amount of each certified investor's investment  
18 of certified capital and premium tax credits; and

19           (3) the date on which the certified capital was  
20 received.

21           (b) Not later than January 31 of each year, each certified  
22 capital company shall report to the comptroller:

23           (1) the amount of the company's certified capital at  
24 the end of the preceding year;

25           (2) whether or not the company has invested more than  
26 15 percent of the company's total certified capital in a single  
27 business;

1           (3) each qualified investment that the company made  
2 during the preceding year and, with respect to each qualified  
3 investment, the number of employees of the qualified business at  
4 the time the qualified investment was made; and

5           (4) any other information required by the comptroller,  
6 including any information required by the comptroller to comply  
7 with Section 228.053.

8           (c) Not later than April 1 of each year, each certified  
9 capital company shall provide to the comptroller an annual audited  
10 financial statement that includes the opinion of an independent  
11 certified public accountant. The audit must address the methods of  
12 operation and conduct of the business of the company to determine  
13 whether:

14           (1) the company is complying with this chapter and the  
15 rules adopted under this chapter;

16           (2) the funds received by the company have been  
17 invested as required within the time provided by Section 228.151;  
18 and

19           (3) the company has invested the funds in qualified  
20 businesses. (V.T.I.C. Art. 4.58.)

21           Sec. 228.107. RENEWAL FEE; LATE FEE; EXCEPTION. (a) Not  
22 later than January 31 of each year, each certified capital company  
23 shall pay a nonrefundable renewal fee of \$5,000 to the comptroller.

24           (b) If a certified capital company fails to pay the renewal  
25 fee on or before the date specified by Subsection (a), the company  
26 must pay, in addition to the renewal fee, a late fee of \$5,000 to  
27 continue the company's certification.

1        (c) Notwithstanding Subsection (a), a renewal fee is not  
2 required within six months of the date on which a certified capital  
3 company's initial certification is issued under Section  
4 228.104(b). (V.T.I.C. Art. 4.59.)

5        Sec. 228.108. OFFERING MATERIAL USED BY CERTIFIED CAPITAL  
6 COMPANY. Any offering material involving the sale of securities of  
7 the certified capital company must include the following statement:

8            By authorizing the formation of a certified  
9            capital company, the State of Texas does not endorse  
10           the quality of management or the potential for  
11           earnings of the company and is not liable for damages  
12           or losses to a certified investor in the company. Use  
13           of the word "certified" in an offering does not  
14           constitute a recommendation or endorsement of the  
15           investment by the comptroller of public accounts. If  
16           applicable provisions of law are violated, the State  
17           of Texas may require forfeiture of unused premium tax  
18           credits and repayments of used premium tax credits.

19           (V.T.I.C. Art. 4.55.)

20           [Sections 228.109-228.150 reserved for expansion]

21        SUBCHAPTER D. INVESTMENT BY CERTIFIED CAPITAL COMPANIES

22        Sec. 228.151. REQUIRED SCHEDULE OF INVESTMENT. (a) Before  
23 the third anniversary of a certified capital company's allocation  
24 date, the company must make qualified investments in an amount  
25 cumulatively equal to at least 30 percent of the company's  
26 certified capital, subject to Section 228.153(b).

27        (b) Before the fifth anniversary of a certified capital

1 company's allocation date, the company must make qualified  
2 investments in an amount cumulatively equal to at least 50 percent  
3 of the company's certified capital, subject to Sections 228.152(b)  
4 and 228.153(b). (V.T.I.C. Art. 4.56, Sec. (a) (part).)

5 Sec. 228.152. INVESTMENT IN EARLY STAGE BUSINESS REQUIRED.

6 (a) In this section, "early stage business" means a qualified  
7 business that:

8 (1) is involved, at the time of a certified capital  
9 company's first investment, in activities related to the  
10 development of initial product or service offerings, such as  
11 prototype development or establishment of initial production or  
12 service processes;

13 (2) was initially organized less than two years before  
14 the date of the certified capital company's first investment; or

15 (3) during the fiscal year immediately preceding the  
16 year of the certified capital company's first investment had, on a  
17 consolidated basis with the business's affiliates, gross revenues  
18 of not more than \$2 million as determined in accordance with  
19 generally accepted accounting principles.

20 (b) A certified capital company must place at least 50  
21 percent of the amount of qualified investments required by Section  
22 228.151(b) in early stage businesses. (V.T.I.C. Art. 4.51, Subdiv.  
23 (6); Art. 4.56, Sec. (b) (part).)

24 Sec. 228.153. INVESTMENT IN STRATEGIC INVESTMENT BUSINESS  
25 REQUIRED. (a) In this section:

26 (1) "Strategic investment area" means an area of this  
27 state that qualifies as a strategic investment area under

1 Subchapter O, Chapter 171, Tax Code, or, after the date that  
2 subchapter expires, an area that qualified as a strategic  
3 investment area under that subchapter immediately before that date.

4 (2) "Strategic investment business" means a qualified  
5 business that:

6 (A) has the business's principal business  
7 operations located in one or more strategic investment areas; and

8 (B) intends to maintain business operations in  
9 the strategic investment areas after receipt of the investment by  
10 the certified capital company.

11 (b) A certified capital company must place at least 30  
12 percent of the amount of qualified investments required by Sections  
13 228.151(a) and (b) in a strategic investment business. (V.T.I.C.  
14 Art. 4.51, Subdivs. (14), (15); Art. 4.56, Sec. (b) (part).)

15 Sec. 228.154. CERTIFIED CAPITAL NOT INVESTED IN QUALIFIED  
16 INVESTMENTS. A certified capital company shall invest any  
17 certified capital not invested in qualified investments only in:

18 (1) cash deposited with a federally insured financial  
19 institution;

20 (2) certificates of deposit in a federally insured  
21 financial institution;

22 (3) investment securities that are:

23 (A) obligations of the United States or agencies  
24 or instrumentalities of the United States; or

25 (B) obligations that are guaranteed fully as to  
26 principal and interest by the United States;

27 (4) debt instruments rated at least "A" or the

1 equivalent by a nationally recognized credit rating organization,  
2 or issued by, or guaranteed with respect to payment by, an entity  
3 whose unsecured indebtedness is rated at least "A" or the  
4 equivalent by a nationally recognized credit rating organization,  
5 and which indebtedness is not subordinated to other unsecured  
6 indebtedness of the issuer or the guarantor;

7 (5) obligations of this state or a municipality or  
8 political subdivision of this state; or

9 (6) any other investment approved in advance in  
10 writing by the comptroller. (V.T.I.C. Art. 4.56, Sec. (h).)

11 Sec. 228.155. COMPUTATION OF AMOUNT OF INVESTMENTS. (a)

12 The aggregate cumulative amount of all qualified investments made  
13 by a certified capital company after the company's allocation date  
14 shall be considered in the computation of the percentage  
15 requirements under this subchapter.

16 (b) A certified capital company may invest proceeds  
17 received from a qualified investment in another qualified  
18 investment, and that investment counts toward any requirement of  
19 this chapter with respect to investments of certified capital.  
20 (V.T.I.C. Art. 4.56, Sec. (c).)

21 Sec. 228.156. LIMIT ON QUALIFIED INVESTMENT. A certified  
22 capital company may not make a qualified investment at a cost to the  
23 company that is greater than 15 percent of the company's total  
24 certified capital at the time of investment. (V.T.I.C. Art. 4.56,  
25 Sec. (f).)

26 Sec. 228.157. DISTRIBUTIONS BY CERTIFIED CAPITAL COMPANY.

27 (a) In this section, "qualified distribution" means any



1 distribution or payment from certified capital by a certified  
2 capital company in connection with:

3 (1) the reasonable costs and expenses of forming,  
4 syndicating, managing, and operating the company, provided that the  
5 distribution or payment is not made directly or indirectly to a  
6 certified investor, including:

7 (A) reasonable and necessary fees paid for  
8 professional services, including legal and accounting services,  
9 related to the company's formation and operation; and

10 (B) an annual management fee in an amount that  
11 does not exceed 2.5 percent of the company's certified capital; and

12 (2) a projected increase in federal or state taxes,  
13 including penalties and interest related to state and federal  
14 income taxes, of the company's equity owners resulting from the  
15 earnings or other tax liability of the company to the extent that  
16 the increase is related to the ownership, management, or operation  
17 of the company.

18 (b) A certified capital company may make a qualified  
19 distribution at any time. To make a distribution or payment other  
20 than a qualified distribution, a company must have made qualified  
21 investments in an amount cumulatively equal to 100 percent of the  
22 company's certified capital.

23 (c) If a business in which a qualified investment is made  
24 relocates the business's principal business operations to another  
25 state during the term of the certified capital company's investment  
26 in the business, the cumulative amount of qualified investments  
27 made by the certified capital company for purposes of satisfying

1 the requirements of Subsection (b) only is reduced by the amount of  
2 the certified capital company's qualified investments in the  
3 business that has relocated.

4 (d) Subsection (c) does not apply if the business  
5 demonstrates that the business has returned the business's  
6 principal business operations to this state not later than the 90th  
7 day after the date of the relocation. (V.T.I.C. Art. 4.51, Subdiv.  
8 (11); Art. 4.60, Secs. (a), (c).)

9 Sec. 228.158. REPAYMENT OF DEBT. Notwithstanding Section  
10 228.157(b), a certified capital company may make repayments of  
11 principal and interest on the company's indebtedness without any  
12 restriction, including repaying the company's indebtedness on  
13 which certified investors earned premium tax credits. (V.T.I.C.  
14 Art. 4.60, Sec. (b).)

15 [Sections 228.159-228.200 reserved for expansion]

16 SUBCHAPTER E. QUALIFIED BUSINESS

17 Sec. 228.201. DEFINITION OF QUALIFIED BUSINESS. (a) In  
18 this chapter, "qualified business" means a business that complies  
19 with this section at the time of a certified capital company's first  
20 investment in the business.

21 (b) A qualified business must:

22 (1) be headquartered in this state and intend to  
23 remain in this state after receipt of the certified capital  
24 company's investment; and

25 (2) have the business's principal business operations  
26 located in this state and intend to maintain business operations in  
27 this state after receipt of the certified capital company's

1 investment.

2 (c) A qualified business must agree to use the qualified  
3 investment primarily to:

4 (1) support business operations in this state, other  
5 than advertising, promotion, and sales operations which may be  
6 conducted outside of this state; or

7 (2) in the case of a start-up company, establish and  
8 support business operations in this state, other than advertising,  
9 promotion, and sales operations which may be conducted outside of  
10 this state.

11 (d) A qualified business may not have more than 100  
12 employees and must:

13 (1) employ at least 80 percent of the business's  
14 employees in this state; or

15 (2) pay 80 percent of the business's payroll to  
16 employees in this state.

17 (e) A qualified business must be primarily engaged in:

18 (1) manufacturing, processing, or assembling  
19 products;

20 (2) conducting research and development; or

21 (3) providing services.

22 (f) A qualified business may not be primarily engaged in:

23 (1) retail sales;

24 (2) real estate development;

25 (3) the business of insurance, banking, or lending; or

26 (4) the provision of professional services provided by  
27 accountants, attorneys, or physicians. (V.T.I.C. Art. 4.51,

1 Subdiv. (9).)

2 Sec. 228.202. RELOCATION OF PRINCIPAL BUSINESS OPERATIONS.

3 If, before the 90th day after the date a certified capital company  
4 makes an investment in a qualified business, the qualified business  
5 moves the business's principal business operations from this state,  
6 the investment may not be considered a qualified investment for  
7 purposes of the percentage requirements under this chapter.

8 (V.T.I.C. Art. 4.56, Sec. (g).)

9 Sec. 228.203. EVALUATION OF BUSINESS BY COMPTROLLER. (a) A  
10 certified capital company may, before making an investment in a  
11 business, request a written opinion from the comptroller as to  
12 whether the business in which the company proposes to invest is a  
13 qualified business, an early stage business, or a strategic  
14 investment business.

15 (b) Not later than the 15th business day after the date of  
16 the receipt of a request under Subsection (a), the comptroller  
17 shall:

18 (1) determine whether the business meets the  
19 definition of a qualified business, an early stage business, or a  
20 strategic investment business, as applicable, and notify the  
21 certified capital company of the determination and provide an  
22 explanation of the determination; or

23 (2) notify the company that an additional 15 days will  
24 be needed to review the request and make the determination.

25 (c) If the comptroller fails to notify the certified capital  
26 company with respect to the proposed investment within the period  
27 specified by Subsection (b), the business in which the company

1 proposes to invest is considered to be a qualified business, an  
2 early stage business, or a strategic investment business, as  
3 appropriate. (V.T.I.C. Art. 4.57.)

4 Sec. 228.204. CONTINUATION OF CLASSIFICATION AS QUALIFIED  
5 BUSINESS; FOLLOW-ON INVESTMENTS AUTHORIZED. (a) A business that  
6 is classified as a qualified business at the time of the first  
7 investment in the business by a certified capital company:

8 (1) remains classified as a qualified business; and

9 (2) may receive follow-on investments from any  
10 certified capital company.

11 (b) Except as provided by Subsection (c), a follow-on  
12 investment made under Subsection (a) is a qualified investment even  
13 though the business may not meet the definition of a qualified  
14 business at the time of the follow-on investment.

15 (c) A follow-on investment does not qualify as a qualified  
16 investment if, at the time of the follow-on investment, the  
17 qualified business no longer has the business's principal business  
18 operations in this state. (V.T.I.C. Art. 4.56, Sec. (e).)

19 [Sections 228.205-228.250 reserved for expansion]

20 SUBCHAPTER F. PREMIUM TAX CREDIT

21 Sec. 228.251. PREMIUM TAX CREDIT. (a) A certified investor  
22 who makes an investment of certified capital shall earn in the year  
23 of investment a vested credit against state premium tax liability  
24 equal to 100 percent of the certified investor's investment of  
25 certified capital, subject to the limits imposed by this chapter.

26 (b) Beginning with the tax report due March 1, 2009, for the  
27 2008 tax year, a certified investor may take up to 25 percent of the

1 vested premium tax credit in any taxable year of the certified  
2 investor. The credit may not be applied to estimated payments due  
3 in 2008. (V.T.I.C. Art. 4.65, Sec. (a).)

4 Sec. 228.252. LIMIT ON PREMIUM TAX CREDIT. (a) The credit  
5 to be applied against state premium tax liability of a certified  
6 investor in any one year may not exceed the state premium tax  
7 liability of the investor for the taxable year.

8 (b) A certified investor may carry forward any unused credit  
9 against state premium tax liability indefinitely until the premium  
10 tax credits are used. (V.T.I.C. Art. 4.65, Sec. (b).)

11 Sec. 228.253. PREMIUM TAX CREDIT ALLOCATION CLAIM REQUIRED.

12 (a) A certified investor must prepare and execute a premium tax  
13 credit allocation claim on a form provided by the comptroller.

14 (b) The certified capital company must have filed the claim  
15 with the comptroller on the date on which the comptroller accepted  
16 premium tax credit allocation claims on behalf of certified  
17 investors under the comptroller's rules.

18 (c) The premium tax credit allocation claim form must  
19 include an affidavit of the certified investor under which the  
20 certified investor becomes legally bound and irrevocably committed  
21 to make an investment of certified capital in a certified capital  
22 company in the amount allocated even if the amount allocated is less  
23 than the amount of the claim, subject only to the receipt of an  
24 allocation under Section 228.255.

25 (d) A certified investor may not claim a premium tax credit  
26 under Section 228.251 for an investment that has not been funded,  
27 without regard to whether the certified investor has committed to

1 fund the investment. (V.T.I.C. Art. 4.66.)

2 Sec. 228.254. TOTAL LIMIT ON PREMIUM TAX CREDITS. (a) The  
3 total amount of certified capital for which premium tax credits may  
4 be allowed under this chapter for all years in which premium tax  
5 credits are allowed is \$200 million.

6 (b) The total amount of certified capital for which premium  
7 tax credits may be allowed for all certified investors under this  
8 chapter may not exceed the amount that would entitle all certified  
9 investors in certified capital companies to take total credits of  
10 \$50 million in a year.

11 (c) A certified capital company and the company's  
12 affiliates may not file premium tax credit allocation claims in  
13 excess of the maximum amount of certified capital for which premium  
14 tax credits may be allowed as provided by this section. (V.T.I.C.  
15 Art. 4.67.)

16 Sec. 228.255. ALLOCATION OF PREMIUM TAX CREDIT. (a) If the  
17 total premium tax credits claimed by all certified investors  
18 exceeds the total limits on premium tax credits established by  
19 Section 228.254(a), the comptroller shall allocate the total amount  
20 of premium tax credits allowed under this chapter to certified  
21 investors in certified capital companies on a pro rata basis in  
22 accordance with this section.

23 (b) The pro rata allocation for each certified investor  
24 shall be the product of:

25 (1) a fraction, the numerator of which is the amount of  
26 the premium tax credit allocation claim filed on behalf of the  
27 investor and the denominator of which is the total amount of all

1 premium tax credit allocation claims filed on behalf of all  
2 certified investors; and

3 (2) the total amount of certified capital for which  
4 premium tax credits may be allowed under this chapter.

5 (c) The maximum amount of certified capital for which  
6 premium tax credit allocation may be allowed on behalf of a single  
7 certified investor and the investor's affiliates, whether by one or  
8 more certified capital companies, may not exceed the greater of:

9 (1) \$10 million; or

10 (2) 15 percent of the maximum aggregate amount  
11 available under Section 228.254(a). (V.T.I.C. Art. 4.68, Secs.  
12 (a), (b), (e).)

13 Sec. 228.256. TREATMENT OF CREDITS AND CAPITAL. In any case  
14 under this code or another insurance law of this state in which the  
15 assets of a certified investor are examined or considered, the  
16 certified capital may be treated as an admitted asset, subject to  
17 the applicable statutory valuation procedures. (V.T.I.C. Art.  
18 4.69.)

19 Sec. 228.257. TRANSFERABILITY OF CREDIT. (a) A certified  
20 investor may transfer or assign premium tax credits only in  
21 compliance with the rules adopted under Section 228.052.

22 (b) The transfer or assignment of a premium tax credit does  
23 not affect the schedule for taking the premium tax credit under this  
24 chapter. (V.T.I.C. Art. 4.71, Secs. (a) (part), (b).)

25 Sec. 228.258. IMPACT OF PREMIUM TAX CREDIT ON INSURANCE  
26 RATEMAKING. A certified investor is not required to reduce the  
27 amount of premium tax included by the investor in connection with



1 ratemaking for an insurance contract written in this state because  
2 of a reduction in the investor's Texas premium tax derived from  
3 premium tax credits granted under this chapter. (V.T.I.C. Art.  
4 4.70.)

5 Sec. 228.259. RETALIATORY TAX. A certified investor  
6 claiming a credit against state premium tax liability earned  
7 through an investment in a company is not required to pay any  
8 additional retaliatory tax levied under Chapter 281 as a result of  
9 claiming that credit. (V.T.I.C. Art. 4.65, Sec. (c) (part).)

10 [Sections 228.260-228.300 reserved for expansion]

11 SUBCHAPTER G. ENFORCEMENT

12 Sec. 228.301. ANNUAL REVIEW BY COMPTROLLER. (a) The  
13 comptroller shall conduct an annual review of each certified  
14 capital company to:

15 (1) ensure that the company:

16 (A) continues to satisfy the requirements of this  
17 chapter; and

18 (B) has not made any investment in violation of  
19 this chapter; and

20 (2) determine the eligibility status of the company's  
21 qualified investments.

22 (b) Each certified capital company shall pay the cost of the  
23 annual review according to a reasonable fee schedule adopted by the  
24 comptroller. (V.T.I.C. Art. 4.61, Secs. (a), (b).)

25 Sec. 228.302. DECERTIFICATION OF CERTIFIED CAPITAL  
26 COMPANY. (a) A material violation of Section 228.105, 228.106,  
27 228.107, 228.151, 228.152, 228.153, 228.154, 228.155, 228.156,

1 228.202, or 228.204 is grounds for decertification of a certified  
2 capital company.

3 (b) If the comptroller determines that a certified capital  
4 company is not in compliance with a law listed in Subsection (a),  
5 the comptroller shall notify the company's officers in writing that  
6 the company may be subject to decertification after the 120th day  
7 after the date the notice is mailed unless the company:

8 (1) corrects the deficiencies; and

9 (2) returns to compliance with the law.

10 (c) The comptroller may decertify a certified capital  
11 company, after opportunity for hearing, if the comptroller finds  
12 that the company is not in compliance with a law listed in  
13 Subsection (a) at the end of the period established by Subsection  
14 (b).

15 (d) Decertification under this section is effective on  
16 receipt of notice of decertification by the certified capital  
17 company.

18 (e) The comptroller shall notify any appropriate state  
19 agency of a decertification of a certified capital company.

20 (V.T.I.C. Art. 4.61, Secs. (c), (d).)

21 Sec. 228.303. ADMINISTRATIVE PENALTY. (a) The comptroller  
22 may impose an administrative penalty on a certified capital company  
23 that violates this chapter.

24 (b) The amount of the penalty may not exceed \$25,000. Each  
25 day a violation continues or occurs is a separate violation for the  
26 purpose of imposing the penalty. The amount of the penalty shall be  
27 based on:

1           (1) the seriousness of the violation, including the  
2 nature, circumstances, extent, and gravity of the violation;

3           (2) the economic harm caused by the violation;

4           (3) the history of previous violations;

5           (4) the amount necessary to deter a future violation;

6           (5) efforts to correct the violation; and

7           (6) any other matter that justice may require.

8           (c) A certified capital company assessed a penalty under  
9 this chapter may request a redetermination as provided by Chapter  
10 111, Tax Code.

11           (d) The attorney general may sue to collect the penalty.

12           (e) A proceeding to impose the penalty is a contested case  
13 under Chapter 2001, Government Code. (V.T.I.C. Art. 4.62.)

14           [Sections 228.304-228.350 reserved for expansion]

15           SUBCHAPTER H. RECAPTURE AND FORFEITURE OF PREMIUM TAX CREDITS

16           Sec. 228.351. RECAPTURE AND FORFEITURE OF PREMIUM TAX  
17 CREDIT FOLLOWING DECERTIFICATION. (a) Decertification of a  
18 certified capital company may, in accordance with this section,  
19 cause:

20           (1) the recapture of premium tax credits previously  
21 claimed by the company's certified investors; and

22           (2) the forfeiture of future premium tax credits to be  
23 claimed by the investors.

24           (b) Decertification of a certified capital company on or  
25 before the third anniversary of the company's allocation date  
26 causes the recapture of any premium tax credits previously claimed  
27 and the forfeiture of any future premium tax credits to be claimed

1 by a certified investor with respect to the company.

2 (c) For a certified capital company that meets the  
3 requirements for continued certification under Section 228.151(a)  
4 and subsequently fails to meet the requirements for continued  
5 certification under Subsection (b) of that section:

6 (1) any premium tax credit that has been or will be  
7 taken by a certified investor on or before the third anniversary of  
8 the allocation date is not subject to recapture or forfeiture; and

9 (2) any premium tax credit that has been or will be  
10 taken by a certified investor after the third anniversary of the  
11 company's allocation date is subject to recapture or forfeiture.

12 (d) For a certified capital company that has met the  
13 requirements for continued certification under Section 228.151 and  
14 is subsequently decertified:

15 (1) any premium tax credit that has been or will be  
16 taken by a certified investor on or before the fifth anniversary of  
17 the allocation date is not subject to recapture or forfeiture; and

18 (2) any premium tax credit to be taken after the fifth  
19 anniversary of the allocation date is subject to forfeiture only if  
20 the company is decertified on or before the fifth anniversary of the  
21 company's allocation date.

22 (e) For a certified capital company that has invested an  
23 amount cumulatively equal to 100 percent of the company's certified  
24 capital in qualified investments, any premium tax credit claimed or  
25 to be claimed by a certified investor is not subject to recapture or  
26 forfeiture under this section. (V.T.I.C. Art. 4.63, Sec. (a).)

27 Sec. 228.352. NOTICE OF RECAPTURE AND FORFEITURE OF PREMIUM

1 TAX CREDIT. The comptroller shall send written notice to the  
2 address of each certified investor whose premium tax credit is  
3 subject to recapture or forfeiture, using the address shown on the  
4 investor's last premium tax filing. (V.T.I.C. Art. 4.63, Sec.  
5 (b).)

6 Sec. 228.353. INDEMNITY AGREEMENTS AND INSURANCE  
7 AUTHORIZED. (a) A certified capital company may agree to  
8 indemnify, or purchase insurance for the benefit of, a certified  
9 investor for losses resulting from the recapture or forfeiture of  
10 premium tax credits under Section 228.351.

11 (b) Any guaranty, indemnity, bond, insurance policy, or  
12 other payment undertaking made under this section may not be  
13 provided by more than one certified investor of the certified  
14 capital company or affiliate of the certified investor. (V.T.I.C.  
15 Art. 4.64.)

16 PART C. ADDITIONS TO TITLE 4, INSURANCE CODE

17 SECTION 1C.001. ADDITION. Subtitle A, Title 4, Insurance  
18 Code, is amended by adding Chapter 406 to read as follows:

19 CHAPTER 406. SPECIAL DEPOSITS REQUIRED UNDER POTENTIALLY  
20 HAZARDOUS CONDITIONS

21 Sec. 406.001. DEFINITION. In this chapter, "insurer"  
22 includes:

- 23 (1) a capital stock insurance company;  
24 (2) a reciprocal or interinsurance exchange;  
25 (3) a Lloyd's plan;  
26 (4) a fraternal benefit society;  
27 (5) a mutual company, including a mutual assessment

1 company;

2 (6) a statewide mutual assessment company;

3 (7) a local mutual aid association;

4 (8) a burial association;

5 (9) a county mutual insurance company;

6 (10) a farm mutual insurance company;

7 (11) a fidelity, guaranty, or surety company;

8 (12) a title insurance company;

9 (13) a stipulated premium company;

10 (14) a group hospital service corporation;

11 (15) a health maintenance organization;

12 (16) a risk retention group; and

13 (17) any other organization or person engaged in the

14 business of insurance. (V.T.I.C. Art. 1.33, Sec. 1.)

15 Sec. 406.002. APPLICABILITY OF CHAPTER. This chapter  
16 applies to a person or organization engaged in the business of  
17 insurance without regard to whether the person or organization is  
18 listed in Section 406.001, unless another statute specifically  
19 cites this chapter and exempts the person or organization from this  
20 chapter. (V.T.I.C. Art. 1.33, Sec. 2.)

21 Sec. 406.003. REQUIRED DEPOSIT: STANDARDS AND CRITERIA.  
22 The commissioner, in the commissioner's sole discretion, may  
23 require an insurer to make a deposit under this chapter if the  
24 commissioner determines that one of the following conditions, if  
25 not rectified, may potentially be hazardous to the insurer's  
26 policyholders, enrollees, or creditors, or to the public:

27 (1) the insurer's financial or operating condition,

1 reviewed in conjunction with the kinds and nature of risks insured;

2 (2) the insurer's method of operation;

3 (3) the insurer's relationship with affiliates;

4 (4) the nature and amount of the insurer's  
5 investments;

6 (5) the insurer's contracts that may lead to a  
7 contingent liability; or

8 (6) the insurer's agreements with respect to guaranty  
9 and surety. (V.T.I.C. Art. 1.33, Sec. 3.)

10 Sec. 406.004. REQUIRED DEPOSIT: FORM OF SECURITY. A  
11 deposit required under Section 406.003 must be made with the  
12 comptroller and approved by the commissioner. The deposit must be  
13 made in:

14 (1) cash;

15 (2) securities authorized under this code to be a  
16 legal investment for the insurer that:

17 (A) are readily marketable over a national  
18 exchange with a maturity date of not more than one year, are listed  
19 by the Securities Valuation Office of the National Association of  
20 Insurance Commissioners, and qualify as admitted assets; or

21 (B) are clean, irrevocable, and unconditional  
22 letters of credit issued or confirmed by a financial institution  
23 organized and licensed under the laws of the United States or a  
24 state of the United States; or

25 (3) another form of security acceptable to the  
26 commissioner. (V.T.I.C. Art. 1.33, Sec. 4.)

27 Sec. 406.005. DURATION OF DEPOSIT. Subject to Section

1 406.006, the comptroller shall hold a deposit required under this  
2 chapter until the commissioner issues a written order finding that  
3 the condition for which the deposit was required no longer exists.

4 (V.T.I.C. Art. 1.33, Sec. 5.)

5 Sec. 406.006. SUBSTITUTION OR WITHDRAWAL OF DEPOSIT. (a)

6 An insurer may file a written application with the commissioner  
7 requesting:

8 (1) withdrawal of all or part of the deposit held by  
9 the comptroller under this chapter; or

10 (2) substitution of all or part of the deposited  
11 securities held by the comptroller under this chapter.

12 (b) The application must state the basis for the request to  
13 withdraw the deposit or to substitute the deposited security.

14 (c) An insurer's application for the substitution of a  
15 deposited security must provide specific information regarding the  
16 security to be deposited as a substitute for the security held by  
17 the comptroller.

18 (d) The commissioner shall issue an order approving or  
19 denying an application under this section not later than the 30th  
20 day after the date the department receives the application. If the  
21 commissioner does not approve or deny the application within that  
22 period, the application is denied.

23 (e) The commissioner may, in the commissioner's sole  
24 discretion, approve an application to withdraw a deposit or  
25 substitute a deposited security if the commissioner determines that  
26 the withdrawal or substitution will not be hazardous to the  
27 insurer's policyholders, enrollees, or creditors, or to the public.



1        (f) The comptroller may not release a deposit made under  
2 this chapter, or any part of the deposit, and may not accept a  
3 substitute for a deposited security unless the commissioner issues  
4 an order approving the withdrawal or substitution. (V.T.I.C. Art.  
5 1.33, Sec. 6.)

6        Sec. 406.007. APPEAL. An insurer may appeal an action of  
7 the commissioner under this chapter in accordance with Subchapter  
8 D, Chapter 36. (V.T.I.C. Art. 1.33, Sec. 7.)

9        Sec. 406.008. CUMULATIVE OF OTHER DEPOSITS. A deposit  
10 required to be made under this chapter is in addition to any other  
11 deposit that the insurer is required or authorized to make under  
12 this code. (V.T.I.C. Art. 1.33, Sec. 8.)

13                    PART D. ADDITIONS TO TITLE 5, INSURANCE CODE

14                 SECTION 1D.001. ADDITION. Chapter 542, Insurance Code, is  
15 amended by adding Subchapter C-1 to read as follows:

16                    SUBCHAPTER C-1. REQUEST FOR CLAIMS INFORMATION BY CERTAIN  
17     OFFICIALS

18                 Sec. 542.131. REQUEST BY CERTAIN OFFICIALS ENGAGED IN  
19 CRIMINAL INVESTIGATION. (a) This section applies only to a claim  
20 for a burglary or robbery loss or a death claim seeking life  
21 insurance proceeds that is filed with an insurance company on or  
22 after September 1, 2001.

23                 (b) In the course of a criminal investigation and subject to  
24 Subsection (c), the state fire marshal, the fire marshal of a  
25 political subdivision of this state, the chief of a fire department  
26 in this state, a chief of police of a municipality in this state, or  
27 a sheriff in this state may request in writing that an insurance

1 company investigating a claimed burglary or robbery loss or a death  
2 claim seeking life insurance proceeds release information in the  
3 company's possession that relates to that claimed loss. The  
4 company shall release the information to any official authorized to  
5 request the information under this subsection if the company has  
6 reason to believe that the insurance claim is false or fraudulent.

7 (c) An official who requests information under this section  
8 may not request anything other than:

9 (1) an insurance policy relevant to an insurance claim  
10 under investigation and the application for that policy;

11 (2) policy premium payment records;

12 (3) the history of the insured's previous claims; and

13 (4) material relating to the investigation of the  
14 insurance claim, including:

15 (A) statements of any person;

16 (B) proof of loss; or

17 (C) other relevant evidence.

18 (d) This section does not authorize a public official or  
19 agency to adopt or require any form of periodic report by an  
20 insurance company.

21 (e) In the absence of fraud or malice, an insurance company  
22 or a person who releases information on behalf of an insurance  
23 company is not liable for damages in a civil action or subject to  
24 criminal prosecution for an oral or written statement made, or any  
25 other action taken, that relates to the information required to be  
26 released under this section.

27 (f) An official or department employee receiving

1 information under this section shall maintain the confidentiality  
2 of the information until the information is required to be released  
3 during a criminal or civil proceeding.

4 (g) An insurance company or the company's representative  
5 may not intentionally refuse to release to an official described by  
6 Subsection (b) the information required to be released to that  
7 official under this section. (V.T.I.C. Art. 21.49C.)

8 SECTION 1D.002. ADDITION. Subtitle C, Title 5, Insurance  
9 Code, is amended by adding Chapter 560 to read as follows:

10 CHAPTER 560. PROHIBITED RATES

11 Sec. 560.001. DEFINITION OF INSURER. In this chapter,  
12 "insurer" means an insurance company, reciprocal or interinsurance  
13 exchange, mutual insurance company, farm mutual insurance company,  
14 capital stock insurance company, county mutual insurance company,  
15 Lloyd's plan, surplus lines insurer, or other legal entity engaged  
16 in the business of insurance in this state. The term includes:

17 (1) an affiliate described by Section 823.003(a);

18 (2) the Texas Windstorm Insurance Association  
19 established under Chapter 2210;

20 (3) the FAIR Plan Association established under  
21 Chapter 2211; and

22 (4) the Texas Automobile Insurance Plan Association  
23 established under Chapter 2151. (V.T.I.C. Art. 1.02, Sec. (a).)

24 Sec. 560.002. USE OF CERTAIN RATES PROHIBITED; RATE  
25 REQUIREMENTS. (a) An insurer may not use a rate that violates this  
26 chapter.

27 (b) A rate used under this code:

1           (1) must be just, fair, reasonable, and adequate; and

2           (2) may not be:

3                 (A) confiscatory;

4                 (B) excessive for the risks to which the rate  
5 applies; or

6                 (C) unfairly discriminatory.

7           (c) For purposes of this section, a rate is:

8                 (1) inadequate if the rate is insufficient to sustain  
9 projected losses and expenses to which the rate applies, and  
10 continued use of the rate:

11                     (A) endangers the solvency of an insurer using  
12 the rate; or

13                     (B) has the effect of substantially lessening  
14 competition or creating a monopoly in any market;

15                 (2) excessive if the rate is likely to produce a  
16 long-term profit that is unreasonably high in relation to the  
17 insurance coverage provided; or

18                 (3) unfairly discriminatory if the rate:

19                     (A) is not based on sound actuarial principles;

20                     (B) does not bear a reasonable relationship to  
21 the expected loss and expense experience among risks; or

22                     (C) is based wholly or partly on the race, creed,  
23 color, ethnicity, or national origin of the policyholder or an  
24 insured. (V.T.I.C. Art. 1.02, Secs. (b), (c).)

25           PART E. ADDITIONS TO TITLE 6, INSURANCE CODE

26           SECTION 1E.001. ADDITION. Subtitle H, Title 6, Insurance  
27 Code, is amended by adding Chapter 963 to read as follows:

1                   CHAPTER 963. AUTOMOBILE CLUBS

2           Sec. 963.001. DEFINITION. In this chapter, "automobile  
3 club" has the meaning assigned by Section 722.002, Transportation  
4 Code. (V.T.I.C. Art. 21.80, Sec. (a) (part).)

5           Sec. 963.002. PROVISION OF CERTAIN INSURANCE SERVICES BY  
6 AUTOMOBILE CLUB. (a) An automobile club may provide insurance  
7 services only as provided by this chapter.

8           (b) An automobile club may provide accidental injury and  
9 death benefit insurance coverage to a member through purchase of a  
10 group policy of insurance issued to the automobile club for the  
11 benefit of its members. The coverage must be purchased from an  
12 insurance company authorized to engage in the business of that type  
13 of coverage in this state. (V.T.I.C. Art. 21.80, Secs. (a) (part),  
14 (b) (part).)

15           Sec. 963.003. CERTIFICATE OF PARTICIPATION. (a) The  
16 automobile club shall provide each member covered by insurance  
17 described by Section 963.002 a certificate of participation.

18           (b) The certificate of participation must state on its face  
19 in at least 14-point black boldfaced type that the certificate is  
20 only a certificate of participation in a group accidental injury  
21 and death policy and is not automobile liability insurance  
22 coverage. (V.T.I.C. Art. 21.80, Sec. (b) (part).)

23           Sec. 963.004. CERTAIN ACTIVITIES PROHIBITED. An automobile  
24 club may endorse insurance products and refer members to agents or  
25 insurers authorized to provide the insurance products in this  
26 state. The automobile club or an agent of the automobile club may  
27 not receive consideration for the referral. (V.T.I.C. Art. 21.80,

1 Sec. (c).)

2 Sec. 963.005. CERTAIN TRANSPORTATION-RELATED SERVICES. In  
3 addition to reimbursement services described by Section  
4 722.002(2), Transportation Code, an automobile club may contract  
5 with a member to:

6 (1) reimburse the member for expenses the member  
7 incurs for towing, emergency road service, and lockout or lost key  
8 services; and

9 (2) provide immediate destination assistance and trip  
10 interruption service. (V.T.I.C. Art. 21.80, Sec. (f) (part).)

11 Sec. 963.006. APPLICABILITY OF INSURANCE LAWS. (a) Except  
12 as provided by Subsection (b), an automobile club performing  
13 services permitted by this chapter is not subject to regulation  
14 under the insurance laws of this state because of the performance of  
15 those services.

16 (b) An automobile club may sell insurance products to a  
17 member for a consideration separate from the amount that the member  
18 pays for membership in the automobile club if the automobile club is  
19 properly licensed as an agent under the applicable provisions of  
20 this code.

21 (c) The insurance laws of this state do not apply to  
22 reimbursement provided under Section 963.005. (V.T.I.C. Art.  
23 21.80, Secs. (d), (e), (f) (part).)

24 PART F. ADDITIONS TO TITLE 7, INSURANCE CODE

25 SECTION 1F.001. ADDITION. Subtitle A, Title 7, Insurance  
26 Code, is amended by adding Chapters 1112 and 1113 to read as  
27 follows:

1       CHAPTER 1112. CERTAIN GUARANTEES IN LIFE INSURANCE POLICIES

2       Sec. 1112.001. CERTAIN GUARANTEES NOT PROHIBITED. Section  
3 841.253 does not prohibit the issuance of a life insurance policy  
4 that guarantees, by coupons or otherwise, definite payments or  
5 reductions in premiums. (V.T.I.C. Art. 3.11 (part).)

6       Sec. 1112.002. CERTAIN GUARANTEES CONSTITUTE DEFINITE  
7 CONTRACT BENEFIT; VALUATION OF BENEFIT. (a) Except as provided by  
8 Subsection (e), a guarantee described by Section 1112.001 that is  
9 in a policy or coupon issued after September 5, 1955, shall be  
10 treated as a definite contract benefit and valued according to this  
11 section and the reserve requirements of Chapter 425.

12       (b) Except as provided by Subsection (c), for a policy or  
13 coupon issued before the date determined under Section 1105.002(a)  
14 or (b), as applicable to the company, a contract benefit described  
15 by Subsection (a) shall be valued using the reserve valuation net  
16 premium for the benefits that is a uniform percentage of the gross  
17 premiums.

18       (c) A policy described by Subsection (b) that contains a  
19 contract benefit described by Subsection (a) may be valued on a  
20 basis that provides for not more than one year preliminary term  
21 insurance.

22       (d) For a policy or coupon issued on or after the date  
23 determined under Section 1105.002(a) or (b), as applicable to the  
24 company, a contract benefit described by Subsection (a) shall be  
25 valued using the commissioners reserve valuation method described  
26 by Section 425.064.

27       (e) A provision of this section relating to reserves does

1 not apply to a policy issued before September 7, 1955. (V.T.I.C.  
2 Art. 3.11 (part).)

3 CHAPTER 1113. MANAGEMENT, CONTROL, AND DISPOSITION OF CERTAIN LIFE  
4 INSURANCE AND ANNUITY CONTRACTS

5 Sec. 1113.001. LIFE INSURANCE AND ANNUITY CONTRACTS OF  
6 SPOUSE. A spouse, without the joinder or consent of the other  
7 spouse, has management, control, and disposition of any contract of  
8 life insurance or annuity issued in the spouse's name or to the  
9 extent provided by the contract or any assignment of the contract,  
10 regardless of whether the contract was issued before, on, or after  
11 January 1, 1968. (V.T.I.C. Art. 3.49-3.)

12 PART G. ADDITIONS TO TITLE 8, INSURANCE CODE

13 SECTION 1G.001. ADDITION. Subtitle A, Title 8, Insurance  
14 Code, is amended by adding Chapter 1214 to read as follows:

15 CHAPTER 1214. ADVERTISING FOR CERTAIN HEALTH BENEFITS

16 Sec. 1214.001. APPLICABILITY OF CHAPTER. This chapter  
17 applies only to a health benefit plan that provides benefits for  
18 medical or surgical expenses incurred as a result of a health  
19 condition, accident, or sickness, including an individual, group,  
20 blanket, or franchise insurance policy or agreement, a group  
21 hospital service contract, or an individual or group evidence of  
22 coverage issued by:

23 (1) an insurance company;

24 (2) a group hospital service corporation operating  
25 under Chapter 842;

26 (3) a health maintenance organization operating under  
27 Section 1367.053, Subchapter A, Chapter 1452, Subchapter B, Chapter



1 1507, Chapter 222, 251, or 258, as applicable to a health  
2 maintenance organization, Chapter 843, Chapter 1271, and Chapter  
3 1272; or

4 (4) an approved nonprofit health corporation holding a  
5 certificate of authority under Chapter 844. (V.T.I.C.  
6 Art. 21.20-2, Sec. 1(a).)

7 Sec. 1214.002. EXCEPTION. This chapter does not apply to:

8 (1) a health benefit plan that provides coverage:

9 (A) only for a specified disease;

10 (B) only for accidental death or dismemberment;

11 or

12 (C) for wages or payments in lieu of wages for a  
13 period during which an employee is absent from work because of  
14 sickness or injury; or

15 (2) a long-term care insurance policy, including a  
16 nursing home fixed indemnity policy, unless the commissioner  
17 determines that the policy provides benefits so comprehensive that  
18 the policy is a health benefit plan as described by Section  
19 1214.001. (V.T.I.C. Art. 21.20-2, Sec. 1(b).)

20 Sec. 1214.003. RATE INFORMATION DISCLAIMERS. (a) Subject  
21 to Chapter 541 and Section 543.001, an advertisement for a health  
22 benefit plan may include rate information without including  
23 information about each benefit exclusion or limitation if the  
24 advertisement includes prominent disclaimers clearly indicating  
25 that:

26 (1) the rates are illustrative;

27 (2) a person should not send money to the health

1 benefit plan issuer in response to the advertisement;

2 (3) a person cannot obtain coverage under the plan  
3 until the person completes an application for coverage; and

4 (4) benefit exclusions or limitations may apply to the  
5 plan.

6 (b) An advertisement that states a rate must also indicate  
7 the age, gender, and geographic location on which the rate is based.

8 (V.T.I.C. Art. 21.20-2, Sec. 2.)

9 SECTION 1G.002. ADDITION. Subtitle H, Title 8, Insurance  
10 Code, is amended by adding Chapter 1550 to read as follows:

11 CHAPTER 1550. CERTAIN REQUIREMENTS FOR INSURERS CONTRACTING WITH  
12 GOVERNMENTAL ENTITIES

13 SUBCHAPTER A. REPORTING REQUIREMENTS

14 Sec. 1550.001. DEFINITIONS. In this subchapter:

15 (1) "Governmental entity" means:

16 (A) a state agency; or

17 (B) a county, municipality, school district,  
18 special purpose district, or other subdivision of state government  
19 that has jurisdiction limited to a geographic portion of the state.

20 (2) "Insurer" means:

21 (A) an insurance company;

22 (B) a health maintenance organization operating  
23 under Section 1367.053, Subchapter A, Chapter 1452, Subchapter B,  
24 Chapter 1507, Chapter 222, 251, or 258, as applicable to a health  
25 maintenance organization, Chapter 843, Chapter 1271, and Chapter  
26 1272; or

27 (C) an approved nonprofit health corporation

1 that holds a certificate of authority issued under Chapter 844.  
2 (V.T.I.C. Art. 21.49-15, Sec. 1.)

3 Sec. 1550.002. REPORT REQUIRED. (a) This section applies  
4 to a contract subject to competitive bidding under which an insurer  
5 delivers, issues for delivery, or renews a health insurance policy  
6 or contract or an evidence of coverage.

7 (b) An insurer that enters into a contract described by  
8 Subsection (a) with a governmental entity shall provide to the  
9 governmental entity a detailed report that includes:

10 (1) the claims experience of the governmental entity  
11 during the preceding calendar year; and

12 (2) the dollar amount of each large claim, as defined  
13 by the governmental entity, paid by the insurer under the contract  
14 during the preceding calendar year. (V.T.I.C. Art. 21.49-15, Sec.  
15 2(a).)

16 Sec. 1550.003. CLAIM INFORMATION. (a) An insurer  
17 providing claim information to a governmental entity in the report  
18 under Section 1550.002 shall provide the information in the  
19 aggregate, without information through which a specific individual  
20 covered by the health insurance or evidence of coverage may be  
21 identified.

22 (b) Claim information provided by an insurer to a  
23 governmental entity in the report under Section 1550.002:

24 (1) may be viewed or used only for contract bidding  
25 purposes; and

26 (2) is confidential for purposes of Chapter 552,  
27 Government Code. (V.T.I.C. Art. 21.49-15, Sec. 2(b).)

1 [Sections 1550.004-1550.050 reserved for expansion]

2 SUBCHAPTER B. CERTAIN CONTRACTS

3 WITH MUNICIPALITIES

4 Sec. 1550.051. DEFINITION OF INSURER. In this subchapter,  
5 "insurer" means:

6 (1) an insurance company, including a company  
7 providing stop-loss or excess loss insurance;

8 (2) a health maintenance organization operating under  
9 Section 1367.053, Subchapter A, Chapter 1452, Subchapter B, Chapter  
10 1507, Chapter 222, 251, or 258, as applicable to a health  
11 maintenance organization, Chapter 843, Chapter 1271, and Chapter  
12 1272;

13 (3) an approved nonprofit health corporation that  
14 holds a certificate of authority issued under Chapter 844; or

15 (4) a third-party administrator that holds a  
16 certificate of authority under Chapter 4151. (V.T.I.C. Art.  
17 21.49-16, Sec. 1(1).)

18 Sec. 1550.052. BID REQUIREMENTS. (a) Except as provided by  
19 Section 1550.054, an insurer that bids on a contract subject to the  
20 competitive bidding and competitive proposal requirements adopted  
21 under Section 252.021, Local Government Code, may not submit a bid  
22 for a contract to provide stop-loss or other insurance coverage  
23 that is subject to any qualification imposed by the insurer that  
24 permits the insurer to modify or limit the terms of insurance  
25 coverage to be provided after the contract has been made.

26 (b) An insurer's bid submitted under Section 252.021, Local  
27 Government Code, must contain the insurer's entire offer.

1 (V.T.I.C. Art. 21.49-16, Sec. 2(a).)

2 Sec. 1550.053. CERTAIN EXCLUSIONS AND INCREASED  
3 DEDUCTIBLES PROHIBITED. Except as provided by Section 1550.054, an  
4 insurer that provides stop-loss or other insurance coverage for  
5 health benefits under a contract subject to this subchapter may  
6 not, based on an individual's prior medical history:

7 (1) exclude from coverage an individual who is  
8 otherwise eligible for the health benefits coverage; or

9 (2) assign a higher deductible to the individual.

10 (V.T.I.C. Art. 21.49-16, Sec. 2(b).)

11 Sec. 1550.054. EXCEPTION FOR WRITTEN WAIVER. By executing  
12 a written waiver in favor of the insurer, a municipality as defined  
13 by Section 1.005, Local Government Code, may waive a requirement of  
14 Section 1550.052 or 1550.053(2). (V.T.I.C. Art. 21.49-16, Secs.  
15 1(2), 2(c).)

16 SECTION 1G.003. ADDITION. Subchapter C, Chapter 1579,  
17 Insurance Code, is amended by adding Sections 1579.106, 1579.107,  
18 and 1579.108 to read as follows:

19 Sec. 1579.106. PRIOR AUTHORIZATION FOR CERTAIN DRUGS. (a)  
20 In this section, "drug formulary" means a list of drugs preferred  
21 for use and eligible for coverage by a health coverage plan.

22 (b) A health coverage plan provided under this chapter that  
23 uses a drug formulary in providing a prescription drug benefit must  
24 require prior authorization for coverage of the following  
25 categories of prescribed drugs if the specific drug prescribed is  
26 not included in the formulary:

27 (1) a gastrointestinal drug;

1           (2) a cholesterol-lowering drug;

2           (3) an anti-inflammatory drug;

3           (4) an antihistamine drug; and

4           (5) an antidepressant drug.

5           (c) Every six months the trustee shall submit to the  
6 comptroller and the Legislative Budget Board a report regarding any  
7 cost savings achieved in the program through implementation of the  
8 prior authorization requirement of this section. The report must  
9 cover the previous six-month period. (V.T.I.C. Art. 3.50-7A, as  
10 added Acts 78th Leg., R.S., Ch. 213.)

11           Sec. 1579.107. DISEASE MANAGEMENT SERVICES. (a) In this  
12 section, "disease management services" means services to assist an  
13 individual manage a disease or other chronic health condition, such  
14 as heart disease, diabetes, respiratory illness, end-stage renal  
15 disease, HIV infection, or AIDS, and with respect to which the  
16 trustee identifies populations requiring disease management.

17           (b) A health coverage plan provided under this chapter must  
18 provide disease management services or coverage for disease  
19 management services in the manner required by the trustee,  
20 including:

21           (1) patient self-management education;

22           (2) provider education;

23           (3) evidence-based models and minimum standards of  
24 care;

25           (4) standardized protocols and participation  
26 criteria; and

27           (5) physician-directed or physician-supervised care.

1 (V.T.I.C. Art. 3.50-7B.)

2 Sec. 1579.108. LIMITATIONS. The trustee may not contract  
3 for or provide a health coverage plan that excludes from  
4 participation in the network a general hospital that:

5 (1) is located in the geographical service area or  
6 areas of the health coverage plan that includes a county that:

7 (A) has a population of at least 100,000 and not  
8 more than 175,000; and

9 (B) is located in the Texas-Louisiana border  
10 region, as that term is defined in Section 2056.002(e), Government  
11 Code; and

12 (2) agrees to provide medical and health care services  
13 under the plan subject to the same terms as other hospital providers  
14 under the plan. (V.T.I.C. Art. 3.50-7A, Sec. (b), as added Acts  
15 78th Leg., R.S., Ch. 201.)

16 PART H. ADDITIONS TO TITLE 10, INSURANCE CODE

17 SECTION 1H.001. ADDITION. Subtitle C, Title 10, Insurance  
18 Code, is amended by adding Chapter 1953 to read as follows:

19 CHAPTER 1953. RATE REGULATION AND RATEMAKING FOR AUTOMOBILE

20 INSURANCE

21 SUBCHAPTER A. RATE REGULATION

22 Sec. 1953.001. EXCLUSION OF CERTAIN TYPES OR CLASSES OF  
23 INSURANCE FROM CERTAIN REGULATIONS. (a) This section applies only  
24 to insurance against liability for damages arising out of the  
25 ownership, operation, maintenance, or use of a motor vehicle  
26 described by Article 5.01 or against loss of or damage to a motor  
27 vehicle described by Article 5.01 that, in the judgment of the

1 commissioner, is a type or class of insurance that is also the  
2 subject of or is more properly regulated under other insurance  
3 rating laws that cover that type or class of insurance.

4 (b) A type or class of insurance to which this section  
5 applies is excluded from regulation under this chapter and:

6 (1) Articles 5.01, 5.01B, 5.03, 5.04, 5.04-1, 5.06,  
7 5.10, and 5.11;

8 (2) Chapters 251 and 254;

9 (3) Subchapters A and B, Chapter 1806; and

10 (4) Chapters 1951 and 1952.

11 (c) If the commissioner finds that a type or class of  
12 insurance to which this section applies is also the subject of or is  
13 more properly regulated under other insurance rating laws that  
14 cover that type or class of insurance, the commissioner shall issue  
15 an order declaring which other insurance rating laws apply to:

16 (1) the type or class of insurance; and

17 (2) any motor vehicle equipment described by Article  
18 5.01. (V.T.I.C. Art. 5.02.)

19 [Sections 1953.002-1953.050 reserved for expansion]

20 SUBCHAPTER B. RATEMAKING

21 Sec. 1953.051. CERTAIN RATING PLANS PROHIBITED. A rating  
22 plan regarding the writing of automobile insurance, other than  
23 insurance written under Chapter 2151, may not:

24 (1) assign a rate consequence to a charge or  
25 conviction for a violation of Subtitle C, Title 7, Transportation  
26 Code; or

27 (2) otherwise cause premiums for automobile insurance



1 to be increased because of a charge or conviction described by  
2 Subdivision (1). (V.T.I.C. Art. 5.01-1.)

3 Sec. 1953.052. PREMIUM SURCHARGE REQUIRED. (a) An insurer  
4 described by Section 1952.001 shall assess a premium surcharge in  
5 an amount prescribed by the department against an insured for no  
6 more than three years immediately following the date the insured is  
7 convicted of:

8 (1) an offense relating to the operating of a motor  
9 vehicle while intoxicated in violation of Section 49.04 or 49.07,  
10 Penal Code; or

11 (2) an offense under Section 49.08, Penal Code.

12 (b) An insurer may apply the premium surcharge described by  
13 Subsection (a) only to a private passenger automobile policy, as  
14 defined by the department.

15 (c) If an insured assessed a premium surcharge under  
16 Subsection (a) is convicted of an offense under one of the statutes  
17 listed in Subsection (a)(1) or (2) during the period the insured is  
18 assessed the premium surcharge, the period for which the premium  
19 surcharge is assessed is increased by three additional consecutive  
20 years for each conviction. (V.T.I.C. Art. 5.03-1.)

21 [Sections 1953.053-1953.100 reserved for expansion]

22 SUBCHAPTER C. LOSS AND EXPENSE EXPERIENCE

23 Sec. 1953.101. RECORDING AND REPORTING OF LOSS AND EXPENSE  
24 EXPERIENCE AND OTHER DATA. (a) The commissioner shall adopt  
25 reasonable rules and statistical plans for the recording and  
26 reporting of loss experience and other required data by insurers.  
27 The rules and plans must ensure that each insurer's total loss and

1 expense experience is made available at least as frequently as  
2 annually in the form and with the detail necessary to aid in  
3 determining whether rates and rating systems in use under the  
4 following provisions comply with the standards adopted under those  
5 provisions:

- 6           (1) this chapter;  
7           (2) Articles 5.01, 5.03, and 5.04, if applicable;  
8           (3) Subchapters A and B, Chapter 1806; and  
9           (4) Chapters 1951 and 1952.

10           (b) In adopting the rules, the commissioner shall adopt  
11 rules that are as uniform as is practicable to the rules and forms  
12 of statistical plans used in other states.

13           (c) Each insurer shall use the statistical plans adopted  
14 under this section to record and report loss experience and other  
15 required data in accordance with the rules adopted by the  
16 commissioner.

17           (d) The commissioner may modify statistical plans adopted  
18 under this section. (V.T.I.C. Art. 5.05, Sec. (a).)

19           Sec. 1953.102. RULES ALLOWING INTERCHANGE OF LOSS  
20 EXPERIENCE INFORMATION. The commissioner may adopt reasonable  
21 rules to allow the interchange of loss experience information as  
22 necessary for the application of rating plans. (V.T.I.C. Art.  
23 5.05, Sec. (b).)

24           Sec. 1953.103. EXCHANGE OF INFORMATION AND EXPERIENCE DATA  
25 WITH OTHER STATES. To further the uniform administration of rating  
26 laws, the department or an insurer may:

- 27           (1) exchange information and experience data with

1 insurance supervisory officials, insurers, and rating  
2 organizations in other states; and

3 (2) consult and cooperate with the individuals or  
4 entities described by Subdivision (1) with respect to ratemaking  
5 and the application of rating systems. (V.T.I.C. Art. 5.05, Sec.  
6 (c).)

7 Sec. 1953.104. SWORN STATEMENTS. (a) The department may  
8 require a sworn statement from an insurer affected by this  
9 subchapter that shows:

10 (1) the insurer's experience on any classification or  
11 classifications of risks; and

12 (2) other information that is necessary or helpful in  
13 performing duties or exercising authority imposed by law.

14 (b) The department shall prescribe the necessary forms for  
15 statements and reports required under Subsection (a) with due  
16 regard for the rules, methods, and forms in use in other states for  
17 similar purposes so that uniformity of statistics is not disturbed.  
18 (V.T.I.C. Art. 5.05, Sec. (d).)

19 SECTION 1H.002. ADDITION. Subtitle D, Title 10, Insurance  
20 Code, is amended by adding Chapter 2008 to read as follows:

21 CHAPTER 2008. COVERAGE FOR CERTAIN DAMAGE

22 TO PROPERTY BUILT WHOLLY OR PARTIALLY OVER WATER

23 Sec. 2008.001. APPLICABILITY OF CHAPTER. This chapter  
24 applies only to an insurer described by Section 2251.003(a).  
25 (V.T.I.C. Art. 5.14, Sec. (a).)

26 Sec. 2008.002. COVERAGE; LIMITS AND DEDUCTIBLES. (a) An  
27 insurance policy written by an insurer against loss or damage by

1 windstorm, hurricane, or hail may include coverage for:

2 (1) a building or other structure that is built wholly  
3 or partially over water; and

4 (2) the corporeal movable property contained in a  
5 building or structure described by Subdivision (1).

6 (b) An insurer that writes coverage described by Subsection  
7 (a) may impose appropriate limits of coverage and deductibles for  
8 the coverage. (V.T.I.C. Art. 5.14, Secs. (b), (c).)

9 PART I. ADDITIONS TO TITLE 13, INSURANCE CODE

10 SECTION 11.001. ADDITION. Subtitle A, Title 13, Insurance  
11 Code, is amended by adding Chapter 4007 to read as follows:

12 CHAPTER 4007. NOTICE TO DEPARTMENT BY CERTAIN PROPERTY AND  
13 CASUALTY INSURANCE COMPANIES REGARDING AGENTS

14 Sec. 4007.001. APPLICABILITY OF CHAPTER. This chapter  
15 applies only to an insurance company authorized to engage in the  
16 business of insurance in this state under:

17 (1) a provision of:

18 (A) Chapter 5, 1805, or 2171; or

19 (B) Subtitle B, C, D, E, F, H, or I, Title 10; or

20 (2) Chapter 861, 862, 883, 911, 912, 941, 942, 984, or  
21 3503. (V.T.I.C. Art. 21.70, Sec. (a) (part).)

22 Sec. 4007.002. NOTICE TO DEPARTMENT REQUIRED. (a) On forms  
23 prescribed by the commissioner, an insurance company shall notify  
24 the department not later than the 30th day after the date on which:

25 (1) balances due from an insurance agent for more than  
26 90 days exceed \$1 million or 10 percent of the company's  
27 policyholder surplus computed on December 31 of the preceding year

1 or the most recent quarter if a report is specifically required by  
2 the department;

3 (2) an agent's authority to settle claims for the  
4 company is withdrawn; or

5 (3) the contract with an agent is canceled or  
6 terminated.

7 (b) An insurance company may comply with the notification  
8 requirement of Subsection (a)(1) by submitting a single annual  
9 report if:

10 (1) the company routinely operates above the limit  
11 established by Subsection (a)(1); and

12 (2) the commissioner verifies that fact under a  
13 procedure adopted by the commissioner. (V.T.I.C. Art. 21.70, Secs.  
14 (a) (part), (b).)

15 PART J. ADDITION OF TITLE 20, INSURANCE CODE

16 SECTION 1J.001. TITLE 20. The Insurance Code is amended by  
17 adding Title 20 to read as follows:

18 TITLE 20. REGULATION OF OTHER OCCUPATIONS

19 CHAPTER 6001. FIRE EXTINGUISHER SERVICE AND INSTALLATION

20 SUBCHAPTER A. GENERAL PROVISIONS

21 Sec. 6001.001. PURPOSE

22 Sec. 6001.002. DEFINITIONS

23 [Sections 6001.003-6001.050 reserved for expansion]

24 SUBCHAPTER B. POWERS AND DUTIES OF COMMISSIONER,

25 DEPARTMENT, AND STATE FIRE MARSHAL

26 Sec. 6001.051. ADMINISTRATION OF CHAPTER

27 Sec. 6001.052. ADOPTION OF RULES

- 1 Sec. 6001.053. RULES RESTRICTING ADVERTISING OR  
2 COMPETITIVE BIDDING
- 3 Sec. 6001.054. GENERAL POWERS AND DUTIES OF DEPARTMENT
- 4 Sec. 6001.055. FEES
- 5 Sec. 6001.056. DEPOSIT IN OPERATING ACCOUNT
- 6 [Sections 6001.057-6001.100 reserved for expansion]
- 7 SUBCHAPTER C. FIRE EXTINGUISHER ADVISORY COUNCIL
- 8 Sec. 6001.101. ADVISORY COUNCIL; APPOINTMENT
- 9 Sec. 6001.102. ADVISORY COUNCIL DUTIES
- 10 [Sections 6001.103-6001.150 reserved for expansion]
- 11 SUBCHAPTER D. REGISTRATION, LICENSE, AND PERMIT REQUIREMENTS
- 12 Sec. 6001.151. FIRM REGISTRATION CERTIFICATE REQUIRED
- 13 Sec. 6001.152. BRANCH OFFICE REGISTRATION CERTIFICATE  
14 REQUIRED
- 15 Sec. 6001.153. HYDROSTATIC TESTING; REGISTRATION  
16 CERTIFICATE REQUIRED
- 17 Sec. 6001.154. REQUIRED INSURANCE COVERAGE FOR  
18 REGISTRATION CERTIFICATE
- 19 Sec. 6001.155. EMPLOYEE LICENSE REQUIRED
- 20 Sec. 6001.156. ACTIVITIES NOT REGULATED BY CHAPTER
- 21 Sec. 6001.157. LICENSE EXAMINATION
- 22 Sec. 6001.158. EXAMINATION RESULTS
- 23 Sec. 6001.159. CONTINUING EDUCATION REQUIREMENTS
- 24 Sec. 6001.160. RECIPROCAL LICENSE
- 25 Sec. 6001.161. APPRENTICE PERMIT REQUIRED
- 26 Sec. 6001.162. NOT TRANSFERABLE
- 27 [Sections 6001.163-6001.200 reserved for expansion]

1 SUBCHAPTER E. RENEWAL OF REGISTRATION, LICENSE, OR PERMIT

2 Sec. 6001.201. RENEWAL REQUIRED; FEE

3 Sec. 6001.202. NOTICE OF EXPIRATION

4 Sec. 6001.203. RENEWAL PROCEDURES

5 [Sections 6001.204-6001.250 reserved for expansion]

6 SUBCHAPTER F. PROHIBITED PRACTICES

7 AND DISCIPLINARY PROCEDURES

8 Sec. 6001.251. PROHIBITED PRACTICES

9 Sec. 6001.252. DISCIPLINARY ACTIONS

10 Sec. 6001.253. DISCIPLINARY HEARING

11 Sec. 6001.254. REAPPLICATION REQUIREMENTS

12 Sec. 6001.255. REEXAMINATION AFTER REVOCATION

13 [Sections 6001.256-6001.300 reserved for expansion]

14 SUBCHAPTER G. CRIMINAL PENALTY

15 Sec. 6001.301. CRIMINAL PENALTY

16 CHAPTER 6001. FIRE EXTINGUISHER SERVICE AND INSTALLATION

17 SUBCHAPTER A. GENERAL PROVISIONS

18 Sec. 6001.001. PURPOSE. The purpose of this chapter is to  
19 safeguard lives and property by:

20 (1) regulating:

21 (A) the leasing, selling, installing, and  
22 servicing of portable fire extinguishers; and

23 (B) the planning, certifying, installing, and  
24 servicing of fixed fire extinguisher systems; and

25 (2) prohibiting portable fire extinguishers, fixed  
26 fire extinguisher systems, or extinguisher equipment that is not  
27 labeled or listed by a testing laboratory approved by the

1 department. (V.T.I.C. Art. 5.43-1, Sec. 1.)

2 Sec. 6001.002. DEFINITIONS. In this chapter:

3 (1) "Firm" means an individual, partnership,  
4 corporation, or association.

5 (2) "Fixed fire extinguisher system" means an assembly  
6 of piping, conduits, or containers that convey liquid, powder, or  
7 gases to dispersal openings or devices protecting one or more  
8 hazards by suppressing or extinguishing fires.

9 (3) "Hydrostatic testing" means pressure testing by  
10 hydrostatic methods.

11 (4) "Insurance agent" means:

12 (A) an individual, firm, or corporation licensed  
13 under:

14 (i) Subchapter E, Chapter 981; or

15 (ii) Subchapter A, B, C, D, E, or G, Chapter  
16 4051; or

17 (B) an individual authorized to represent an  
18 insurance fund or pool created by a municipality, county, or other  
19 political subdivision of this state under Chapter 791, Government  
20 Code.

21 (5) "Portable fire extinguisher" means any device that  
22 contains liquid, powder, or gases for suppressing or extinguishing  
23 fires.

24 (6) "Registered firm" means a firm that holds a  
25 registration certificate.

26 (7) "Service" and "servicing" mean servicing a  
27 portable fire extinguisher or a fixed fire extinguisher system by



1 inspecting, charging, filling, maintaining, recharging, refilling,  
2 repairing, or testing. (V.T.I.C. Art. 5.43-1, Sec. 3.)

3 [Sections 6001.003-6001.050 reserved for expansion]

4 SUBCHAPTER B. POWERS AND DUTIES OF COMMISSIONER,  
5 DEPARTMENT, AND STATE FIRE MARSHAL

6 Sec. 6001.051. ADMINISTRATION OF CHAPTER. (a) The  
7 department shall administer this chapter.

8 (b) The commissioner may issue rules the commissioner  
9 considers necessary to administer this chapter through the state  
10 fire marshal. (V.T.I.C. Art. 5.43-1, Sec. 2 (part).)

11 Sec. 6001.052. ADOPTION OF RULES. (a) In adopting  
12 necessary rules, the commissioner may use recognized standards,  
13 including standards:

14 (1) published by the National Fire Protection  
15 Association;

16 (2) recognized by federal law or regulation;

17 (3) published by any nationally recognized  
18 standards-making organization; or

19 (4) contained in the manufacturer's installation  
20 manuals.

21 (b) The commissioner shall adopt and administer rules  
22 determined essentially necessary for the protection and  
23 preservation of life and property regarding:

24 (1) registration of firms engaged in the business of:

25 (A) installing or servicing portable fire  
26 extinguishers or planning, certifying, installing, or servicing  
27 fixed fire extinguisher systems; or

1 (B) hydrostatic testing of fire extinguisher  
2 cylinders;

3 (2) the examination and licensing of individuals to:

4 (A) install or service portable fire  
5 extinguishers; and

6 (B) plan, certify, install, or service fixed fire  
7 extinguisher systems; and

8 (3) requirements for:

9 (A) installing or servicing portable fire  
10 extinguishers; and

11 (B) planning, certifying, installing, or  
12 servicing fixed fire extinguisher systems.

13 (c) The commissioner by rule shall prescribe requirements  
14 for applications and qualifications for licenses, permits, and  
15 certificates issued under this chapter. (V.T.I.C. Art. 5.43-1,  
16 Secs. 2 (part), 7(a), 8 (part).)

17 Sec. 6001.053. RULES RESTRICTING ADVERTISING OR  
18 COMPETITIVE BIDDING. (a) The commissioner may not adopt rules  
19 restricting advertising or competitive bidding by the holder of a  
20 license, permit, certificate, or approval issued under this chapter  
21 except to prohibit false, misleading, or deceptive practices.

22 (b) In the commissioner's rules to prohibit false,  
23 misleading, or deceptive practices, the commissioner may not  
24 include a rule that:

25 (1) restricts the use of any medium for advertising;

26 (2) restricts the use of a license, permit,  
27 certificate, or approval holder's personal appearance or voice in

1 an advertisement;

2 (3) relates to the size or duration of an  
3 advertisement by the license, permit, certificate, or approval  
4 holder; or

5 (4) restricts the license, permit, certificate, or  
6 approval holder's advertisement under a trade name. (V.T.I.C. Art.  
7 5.43-1, Sec. 8A.)

8 Sec. 6001.054. GENERAL POWERS AND DUTIES OF DEPARTMENT.

9 (a) The department shall evaluate the qualifications of a firm:

10 (1) applying for a registration certificate to engage  
11 in the business of installing or servicing portable fire  
12 extinguishers or planning, certifying, installing, or servicing  
13 fixed fire extinguisher systems; or

14 (2) seeking approval as a testing laboratory.

15 (b) The department shall issue:

16 (1) registration certificates for firms that qualify  
17 under commissioner rules to engage in the business of installing or  
18 servicing portable fire extinguishers or planning, certifying,  
19 installing, or servicing fixed fire extinguisher systems; and

20 (2) licenses, apprentice permits, and authorizations  
21 to perform hydrostatic testing to firms or individuals that  
22 qualify. (V.T.I.C. Art. 5.43-1, Sec. 8 (part).)

23 Sec. 6001.055. FEES. (a) The commissioner shall set the  
24 fee for:

25 (1) an initial firm registration certificate in an  
26 amount not to exceed \$450;

27 (2) the renewal of a firm registration certificate in

1 an amount not to exceed \$300 annually;

2 (3) an initial branch office registration certificate  
3 in an amount not to exceed \$100;

4 (4) the renewal of a branch office registration  
5 certificate in an amount not to exceed \$100 annually;

6 (5) an initial registration certificate to perform  
7 hydrostatic testing of fire extinguishers manufactured in  
8 accordance with the specifications and procedures of the United  
9 States Department of Transportation in an amount not to exceed  
10 \$250;

11 (6) the renewal of a registration certificate to  
12 perform hydrostatic testing of fire extinguishers manufactured in  
13 accordance with the specifications and procedures of the United  
14 States Department of Transportation in an amount not to exceed \$150  
15 annually;

16 (7) an initial employee license fee in an amount not to  
17 exceed \$70;

18 (8) the annual renewal of an employee license in an  
19 amount not to exceed \$50; and

20 (9) an apprentice permit in an amount not to exceed  
21 \$30.

22 (b) Unless the examination or reexamination for an employee  
23 license is administered by a testing service, the commissioner  
24 shall set a nonrefundable fee for:

25 (1) the initial examination in an amount not to exceed  
26 \$30; and

27 (2) each reexamination in an amount not to exceed \$20.

1 (c) The commissioner shall set a fee in an amount not to  
2 exceed \$20 for:

3 (1) a duplicate registration certificate, license, or  
4 apprentice permit issued under this chapter; or

5 (2) any request requiring changes to a registration  
6 certificate, license, or permit.

7 (d) On a change of ownership of a registered firm, the  
8 department shall issue a new registration certificate with a new  
9 number for a fee set by the commissioner in an amount not to exceed  
10 \$450. On a change of ownership of a branch office, the commissioner  
11 shall charge a fee in an amount not to exceed \$100. (V.T.I.C. Art.  
12 5.43-1, Secs. 4(a) (part), (b), (c-1), (d) (part), (e) (part),  
13 (f).)

14 Sec. 6001.056. DEPOSIT IN OPERATING ACCOUNT. All money  
15 collected under this chapter, other than penalties and monetary  
16 forfeitures, shall be paid to the department and deposited in the  
17 state treasury to the credit of the Texas Department of Insurance  
18 operating account for use in administering this chapter. (V.T.I.C.  
19 Art. 5.43-1, Sec. 11.)

20 [Sections 6001.057-6001.100 reserved for expansion]

21 SUBCHAPTER C. FIRE EXTINGUISHER ADVISORY COUNCIL

22 Sec. 6001.101. ADVISORY COUNCIL; APPOINTMENT. (a) The  
23 commissioner may delegate the exercise of all or part of the  
24 commissioner's functions, powers, and duties under this chapter,  
25 other than the issuance of licenses, certificates, and permits, to  
26 a fire extinguisher advisory council.

27 (b) The commissioner shall appoint the members of the

1 advisory council. The members of the council must:

2 (1) be experienced and knowledgeable in one or more of  
3 the following:

4 (A) fire services;

5 (B) fire extinguisher manufacturing;

6 (C) fire insurance inspection or underwriting;

7 or

8 (D) fire extinguisher servicing; or

9 (2) be members of a fire protection association or  
10 industrial safety association. (V.T.I.C. Art. 5.43-1, Secs. 9(a)  
11 (part), (b).)

12 Sec. 6001.102. ADVISORY COUNCIL DUTIES. (a) The fire  
13 extinguisher advisory council shall assist in the formulation and  
14 review of rules adopted under this chapter.

15 (b) The advisory council shall periodically:

16 (1) review rules implementing this chapter; and

17 (2) recommend rule changes to the commissioner.

18 (V.T.I.C. Art. 5.43-1, Sec. 9(a) (part).)

19 [Sections 6001.103-6001.150 reserved for expansion]

20 SUBCHAPTER D. REGISTRATION, LICENSE, AND PERMIT REQUIREMENTS

21 Sec. 6001.151. FIRM REGISTRATION CERTIFICATE REQUIRED.

22 Unless the firm holds a registration certificate issued by the  
23 department, a firm may not engage in the business of:

24 (1) installing or servicing portable fire  
25 extinguishers; or

26 (2) planning, certifying, installing, or servicing  
27 fixed fire extinguisher systems. (V.T.I.C. Art. 5.43-1, Sec. 4(a))

1 (part).)

2 Sec. 6001.152. BRANCH OFFICE REGISTRATION CERTIFICATE  
3 REQUIRED. (a) Each separate office location of a firm holding a  
4 registration certificate, other than the location identified on the  
5 firm's certificate, must have a branch office registration  
6 certificate issued by the department.

7 (b) Before issuing a branch office registration  
8 certificate, the department must determine that the branch office  
9 location is part of a registered firm. (V.T.I.C. Art. 5.43-1, Sec.  
10 4(a) (part).)

11 Sec. 6001.153. HYDROSTATIC TESTING; REGISTRATION  
12 CERTIFICATE REQUIRED. (a) A firm may not perform hydrostatic  
13 testing of fire extinguishers manufactured in accordance with the  
14 specifications and procedures of the United States Department of  
15 Transportation unless the firm:

16 (1) complies with the procedures specified by that  
17 department for compressed gas cylinders; and

18 (2) holds a registration certificate issued by the  
19 state fire marshal authorizing hydrostatic testing.

20 (b) The license of an individual qualified to do work  
21 described by Subsection (a) must indicate the authority of the  
22 individual to perform that work.

23 (c) Hydrostatic testing of fire extinguishers that is not  
24 performed under the specifications of the United States Department  
25 of Transportation must be performed in the manner recommended by  
26 the National Fire Protection Association. (V.T.I.C. Art. 5.43-1,  
27 Sec. 4(e) (part).)

1           Sec. 6001.154.   REQUIRED           INSURANCE           COVERAGE           FOR  
2   REGISTRATION CERTIFICATE.   (a)   The department may not issue a  
3   registration certificate under this chapter unless the applicant  
4   files with the department evidence of a general liability insurance  
5   policy that includes products and completed operations coverage.  
6   The policy must be conditioned to pay on behalf of the insured those  
7   amounts that the insured becomes legally obligated to pay as  
8   damages because of bodily injury and property damage caused by an  
9   occurrence involving the insured or the insured's officer, agent,  
10   or employee in the conduct of any activity that requires a  
11   registration certificate or license under this chapter.

12           (b)   Unless   the   commissioner,   after   notice   and   an  
13   opportunity for a hearing, increases or decreases the limits, the  
14   limits of insurance coverage required by Subsection (a) must be at  
15   least:

16                   (1)   \$100,000 combined single limits for bodily injury  
17   and property damage for each occurrence; and

18                   (2)   \$300,000 aggregate for all occurrences for each  
19   policy year.

20           (c)   The evidence of insurance required by this section must  
21   be in the form of a certificate of insurance executed by an insurer  
22   authorized to engage in the business of insurance in this state and  
23   countersigned by an insurance agent licensed in this state. A  
24   certificate of insurance for surplus lines coverage procured in  
25   compliance with Chapter 981 through a surplus lines agent that is  
26   licensed under Subchapter E, Chapter 981, and resident in this  
27   state may be filed with the department as evidence of the coverage



1 required by this section.

2 (d) An insurance certificate executed and filed with the  
3 department under this section remains in force until the insurer  
4 has terminated future liability by the notice required by the  
5 department.

6 (e) Failure to maintain the liability insurance required by  
7 this section constitutes grounds for the denial, suspension, or  
8 revocation, after notice and opportunity for hearing, of a  
9 registration certificate issued under this chapter. (V.T.I.C. Art.  
10 5.43-1, Secs. 4A, 8 (part).)

11 Sec. 6001.155. EMPLOYEE LICENSE REQUIRED. (a) Except as  
12 provided by Section 6001.156, an individual, other than an  
13 apprentice, must hold a license issued by the department before:

14 (1) installing or servicing portable fire  
15 extinguishers;

16 (2) installing, servicing, or certifying  
17 preengineered fixed fire extinguisher systems; or

18 (3) planning, supervising, servicing, or certifying  
19 the installation of fixed fire extinguisher systems other than  
20 preengineered systems.

21 (b) An individual who holds a license to install or service  
22 portable fire extinguishers or install and service fixed fire  
23 extinguisher systems must be an employee or agent of a registered  
24 firm. (V.T.I.C. Art. 5.43-1, Secs. 4(c), 5(c).)

25 Sec. 6001.156. ACTIVITIES NOT REGULATED BY CHAPTER. (a)  
26 The licensing provisions of this chapter do not apply to:

27 (1) the filling or charging of a portable fire

1 extinguisher by the manufacturer before initial sale of the fire  
2 extinguisher;

3 (2) the servicing by a firm of the firm's portable fire  
4 extinguishers or fixed systems by the firm's personnel who are  
5 specially trained for that servicing;

6 (3) the installation of portable fire extinguishers in  
7 a building by the building owner, the owner's managing agent, or an  
8 employee of the building owner or the owner's managing agent;

9 (4) the installation or servicing of water sprinkler  
10 systems installed in compliance with the National Fire Protection  
11 Association's Standards for the Installation of Sprinkler Systems;

12 (5) a firm that is engaged in the retail or wholesale  
13 sale of portable fire extinguishers that carry an approval label or  
14 listing of a testing laboratory approved by the department, but  
15 that is not engaged in the installation or servicing of those  
16 extinguishers;

17 (6) a fire department that services portable fire  
18 extinguishers as a public service without charge, if the members of  
19 the fire department are trained in the proper servicing of the fire  
20 extinguishers;

21 (7) a firm that is a party to a contract under which:

22 (A) the installation of portable fire  
23 extinguishers or a fixed fire extinguisher system is performed  
24 under the direct supervision of and certified by a firm  
25 appropriately registered to install and certify portable  
26 extinguishers or fixed systems; and

27 (B) the registered firm assumes full

1 responsibility for the installation; or

2 (8) an engineer licensed under Chapter 1001,  
3 Occupations Code, while acting solely in the engineer's  
4 professional capacity.

5 (b) Except as provided by Subsection (a), only the holder of  
6 a license or an apprentice permit issued under this chapter may:

7 (1) install or service portable fire extinguishers; or

8 (2) install and maintain fixed fire extinguisher  
9 systems. (V.T.I.C. Art. 5.43-1, Secs. 5(b), 6.)

10 Sec. 6001.157. LICENSE EXAMINATION. (a) The state fire  
11 marshal shall:

12 (1) establish the scope and type of an examination  
13 required by this chapter; and

14 (2) examine each applicant for a license under this  
15 chapter.

16 (b) The state fire marshal may administer the examination or  
17 may enter into an agreement with a testing service.

18 (c) If a testing service is used, the state fire marshal may  
19 contract with the testing service regarding requirements for the  
20 examination, including:

21 (1) examination development;

22 (2) scheduling;

23 (3) site arrangements;

24 (4) grading;

25 (5) reporting;

26 (6) analysis; or

27 (7) other administrative duties.

1           (d) The state fire marshal may require the testing service  
2 to:

3                 (1) correspond directly with a license applicant  
4 regarding the administration of the examination;

5                 (2) collect a reasonable fee from an applicant for  
6 administering the examination; or

7                 (3) administer the examination at a specific location  
8 or time.

9           (e) The state fire marshal shall adopt rules as necessary to  
10 implement examination requirements under this chapter. (V.T.I.C.  
11 Art. 5.43-1, Secs. 7(e), (f), (j), 8 (part).)

12           Sec. 6001.158. EXAMINATION RESULTS. (a) Not later than  
13 the 30th day after the date on which a licensing examination is  
14 administered under this chapter, the state fire marshal shall send  
15 notice to each examinee of the results of the examination.

16           (b) If an examination is conducted, graded, or reviewed by a  
17 testing service, the state fire marshal shall send notice to the  
18 examinees of the results of the examination not later than the 14th  
19 day after the date on which the state fire marshal receives the  
20 results from the testing service.

21           (c) If the notice of the examination results will be delayed  
22 for more than 90 days after the examination date, the state fire  
23 marshal, before the 90th day, shall send notice to the examinee of  
24 the reason for the delay.

25           (d) The state fire marshal may require a testing service to  
26 notify an examinee of the results of the examinee's examination  
27 under Subsections (a) and (b).

1 (e) If requested in writing by an individual who fails the  
2 licensing examination administered under this chapter, the state  
3 fire marshal shall send to the individual an analysis of the  
4 individual's performance on the examination. (V.T.I.C. Art.  
5 5.43-1, Secs. 7(g), (g-1).)

6 Sec. 6001.159. CONTINUING EDUCATION REQUIREMENTS. (a) The  
7 commissioner may adopt procedures for certifying and may certify  
8 continuing education programs for individuals licensed under this  
9 chapter.

10 (b) Participation in the continuing education programs is  
11 voluntary. (V.T.I.C. Art. 5.43-1, Sec. 7(h).)

12 Sec. 6001.160. RECIPROCAL LICENSE. The department may waive  
13 any license requirement for an applicant who holds a license issued  
14 by another state that has license requirements substantially  
15 equivalent to the license requirements of this state. (V.T.I.C.  
16 Art. 5.43-1, Sec. 7(i).)

17 Sec. 6001.161. APPRENTICE PERMIT REQUIRED. (a) An  
18 individual may not install or service portable fire extinguishers  
19 or fixed fire extinguisher systems as an apprentice unless the  
20 individual holds an apprentice permit issued by the department.

21 (b) An apprentice may perform a service described by  
22 Subsection (a) only under the direct supervision of an individual  
23 who holds a license issued under this chapter and who works for the  
24 same firm as the apprentice. (V.T.I.C. Art. 5.43-1, Secs. 4(d)  
25 (part), 5(b) (part).)

26 Sec. 6001.162. NOT TRANSFERABLE. A registration  
27 certificate, license, or permit issued under this chapter is not

1 transferable. (V.T.I.C. Art. 5.43-1, Sec. 5(d).)

2 [Sections 6001.163-6001.200 reserved for expansion]

3 SUBCHAPTER E. RENEWAL OF REGISTRATION, LICENSE, OR PERMIT

4 Sec. 6001.201. RENEWAL REQUIRED; FEE. (a) A renewal of a  
5 registration certificate or license issued under this chapter is  
6 valid for a period of two years. The license or registration fee  
7 for each year of the two-year period is payable on renewal.

8 (b) An apprentice permit expires on the first anniversary of  
9 the date of issuance.

10 (c) The commissioner by rule may adopt a system under which  
11 registration certificates, licenses, and permits expire on various  
12 dates during the year. For the year in which an expiration date of a  
13 registration certificate, license, or permit is less than one year  
14 from its issuance or anniversary date, the fee shall be prorated on  
15 a monthly basis so that each holder of a registration certificate,  
16 license, or permit pays only that portion of the renewal fee that is  
17 allocable to the number of months during which the registration  
18 certificate, license, or permit is valid. On each subsequent  
19 renewal, the total renewal fee is payable. (V.T.I.C. Art. 5.43-1,  
20 Secs. 4(d) (part), 7A(a), (c).)

21 Sec. 6001.202. NOTICE OF EXPIRATION. At least 30 days  
22 before the expiration date of a registration certificate or  
23 license, the state fire marshal shall send written notice of the  
24 impending expiration to the holder of the registration certificate  
25 or license at the holder's last known address. (V.T.I.C. Art.  
26 5.43-1, Sec. 7A(b) (part).)

27 Sec. 6001.203. RENEWAL PROCEDURES. (a) The holder of an

1 unexpired registration certificate or license may renew the  
2 certificate or license by paying the required renewal fee to the  
3 department before the expiration date of the certificate or  
4 license.

5 (b) A firm or individual whose registration certificate or  
6 license has been expired for 90 days or less may renew the  
7 certificate or license by paying to the department:

8 (1) the required renewal fee; and

9 (2) a fee equal to one-half of the initial fee for the  
10 certificate or license.

11 (c) A firm or individual whose registration certificate or  
12 license has been expired for more than 90 days but less than two  
13 years may renew the certificate or license by paying to the  
14 department:

15 (1) all unpaid renewal fees; and

16 (2) a fee that is equal to the initial fee for the  
17 certificate or license.

18 (d) A firm or individual whose registration certificate or  
19 license has been expired for two years or longer may not renew the  
20 certificate or license. The firm or individual may obtain a new  
21 registration certificate or license by complying with the  
22 requirements and procedures for obtaining an initial registration  
23 certificate or license.

24 (e) This section may not be construed to prevent the  
25 department from denying or refusing to renew a license under  
26 applicable law or commissioner rules. (V.T.I.C. Art. 5.43-1, Sec.  
27 7A(b) (part).)

1 [Sections 6001.204-6001.250 reserved for expansion]

2 SUBCHAPTER F. PROHIBITED PRACTICES

3 AND DISCIPLINARY PROCEDURES

4 Sec. 6001.251. PROHIBITED PRACTICES. (a) An individual or  
5 firm may not:

6 (1) engage in the business of installing or servicing  
7 portable fire extinguishers without holding a registration  
8 certificate;

9 (2) engage in the business of planning, certifying,  
10 installing, or servicing fixed fire extinguisher systems without  
11 holding a registration certificate;

12 (3) install, service, or certify the servicing of  
13 portable fire extinguishers or plan, certify, service, or install  
14 fixed fire extinguisher systems without holding a license;

15 (4) perform hydrostatic testing of fire extinguisher  
16 cylinders manufactured in accordance with the specifications and  
17 requirements of the United States Department of Transportation  
18 without holding a hydrostatic testing registration certificate;

19 (5) obtain or attempt to obtain a registration  
20 certificate or license by fraudulent representation;

21 (6) install or service portable fire extinguishers or  
22 plan, certify, service, or install fixed fire extinguisher systems  
23 in violation of this chapter or the rules adopted and administered  
24 under this chapter;

25 (7) except as provided by Subsection (b), install,  
26 service, or hydrostatically test a fire extinguisher that does not  
27 have the proper identifying labels;



1           (8) sell, install, service, or recharge a carbon  
2 tetrachloride fire extinguisher; or

3           (9) except as provided by Subsection (b), lease, sell,  
4 service, or install a portable fire extinguisher, a fixed fire  
5 extinguisher system, or extinguisher equipment unless it carries an  
6 approval label or listing label issued by a testing laboratory  
7 approved by the department.

8           (b) The commissioner by rule shall permit an individual or  
9 firm to service a portable fire extinguisher regardless of whether  
10 the extinguisher carries a label described by Subsection (a).  
11 (V.T.I.C. Art. 5.43-1, Secs. 5(a), (e), 10.)

12           Sec. 6001.252. DISCIPLINARY ACTIONS. (a) The state fire  
13 marshal may suspend, revoke, or refuse to issue or renew a  
14 registration certificate, license, or permit if, after notice and  
15 hearing, the state fire marshal finds that the applicant,  
16 registrant, license holder, or permit holder has engaged in acts  
17 that:

18                   (1) violatethis chapter;

19                   (2) violate rules or standards adopted under this  
20 chapter; or

21                   (3) constitute misrepresentation made in connection  
22 with:

23                           (A) the sale of products; or

24                           (B) services rendered.

25           (b) Subject to Section 6001.253, the commissioner may  
26 suspend, revoke, or refuse to issue or renew a certificate,  
27 license, permit, or approval. (V.T.I.C. Art. 5.43-1, Secs. 7(b),

1 12(a).)

2           Sec. 6001.253. DISCIPLINARY HEARING. (a) If the state fire  
3 marshal proposes to suspend, revoke, or refuse to renew a license,  
4 permit, certificate, or approval issued under this chapter, the  
5 holder of the license, permit, certificate, or approval is entitled  
6 to a hearing conducted by the State Office of Administrative  
7 Hearings.

8           (b) Proceedings for a disciplinary action are governed by  
9 Chapter 2001, Government Code.

10           (c) Rules of practice adopted by the commissioner  
11 applicable to the proceedings for a disciplinary action may not  
12 conflict with rules adopted by the State Office of Administrative  
13 Hearings. (V.T.I.C. Art. 5.43-1, Sec. 13.)

14           Sec. 6001.254. REAPPLICATION REQUIREMENTS. (a) An  
15 applicant or holder of a registration certificate, license, or  
16 permit whose certificate, license, or permit has been refused or  
17 revoked under this chapter, other than for failure to pass a  
18 required written examination, may not file another application for  
19 a registration certificate, license, or permit before the first  
20 anniversary of the effective date of the refusal or revocation.

21           (b) After the first anniversary of the effective date of the  
22 refusal or revocation, the applicant may:

23                   (1) reapply; and

24                   (2) in a public hearing, show good cause why the  
25 issuance of the registration certificate, license, or permit is not  
26 against the public safety and welfare. (V.T.I.C. Art. 5.43-1, Sec.

27 7(c).)

1           Sec. 6001.255. REEXAMINATION           AFTER           REVOCATION. An  
2 individual whose license to service portable fire extinguishers or  
3 to install or service fixed fire extinguisher systems has been  
4 revoked must retake and pass the required written examination  
5 before a new license may be issued. (V.T.I.C. Art. 5.43-1, Sec.  
6 7(d).)

7           [Sections 6001.256-6001.300 reserved for expansion]

8                           SUBCHAPTER G. CRIMINAL PENALTY

9           Sec. 6001.301. CRIMINAL PENALTY. (a) A person commits an  
10 offense if the person knowingly violates Section 6001.251(a).

11           (b) An offense under this section is a Class B misdemeanor.

12           (c) Venue for an offense under this section is in Travis  
13 County or the county in which the offense is committed. (V.T.I.C.  
14 Art. 5.43-1, Secs. 12(b), (c); New.)

15           CHAPTER 6002. FIRE DETECTION AND ALARM DEVICE INSTALLATION

16                           SUBCHAPTER A. GENERAL PROVISIONS

17           Sec. 6002.001. PURPOSE

18           Sec. 6002.002. DEFINITIONS

19           Sec. 6002.003. EFFECT ON LOCAL REGULATION

20           Sec. 6002.004. PROVISION OF CERTAIN SERVICES BY

21                           POLITICAL SUBDIVISION

22           [Sections 6002.005-6002.050 reserved for expansion]

23           SUBCHAPTER B. POWERS AND DUTIES OF COMMISSIONER, DEPARTMENT,  
24                           AND STATE FIRE MARSHAL

25           Sec. 6002.051. ADMINISTRATION OF CHAPTER; RULES

26           Sec. 6002.052. ADOPTION OF RULES; STANDARDS

- 1 Sec. 6002.053. RULES RESTRICTING ADVERTISING OR  
2 COMPETITIVE BIDDING
- 3 Sec. 6002.054. FEES
- 4 Sec. 6002.055. DEPOSIT IN OPERATING ACCOUNT
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- 23 Sec. 6002.158. TRAINING SCHOOLS AND INSTRUCTORS;  
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2 SUBCHAPTER E. RENEWAL OF REGISTRATION CERTIFICATE OR LICENSE

3 Sec. 6002.201. RENEWAL REQUIRED; FEE

4 Sec. 6002.202. NOTICE OF EXPIRATION

5 Sec. 6002.203. RENEWAL PROCEDURES

6 Sec. 6002.204. RENEWAL OF CERTAIN LICENSES

7 [Sections 6002.205-6002.250 reserved for expansion]

8 SUBCHAPTER F. SELLING OR LEASING OF FIRE ALARM

9 OR FIRE DETECTION DEVICES

10 Sec. 6002.251. REQUIRED LABEL; EXCEPTIONS

11 Sec. 6002.252. REQUIRED PURCHASE AND INSTALLATION

12 INFORMATION

13 Sec. 6002.253. TRAINING AND SUPERVISION OF CERTAIN

14 EXEMPT EMPLOYEES

15 [Sections 6002.254-6002.300 reserved for expansion]

16 SUBCHAPTER G. PROHIBITED PRACTICES AND DISCIPLINARY PROCEDURES

17 Sec. 6002.301. PROHIBITED PRACTICES

18 Sec. 6002.302. DISCIPLINARY ACTIONS

19 Sec. 6002.303. DISCIPLINARY HEARING

20 Sec. 6002.304. REAPPLICATION REQUIREMENTS

21 [Sections 6002.305-6002.350 reserved for expansion]

22 SUBCHAPTER H. CRIMINAL PENALTY

23 Sec. 6002.351. CRIMINAL PENALTY

24 CHAPTER 6002. FIRE DETECTION AND ALARM DEVICE INSTALLATION

25 SUBCHAPTER A. GENERAL PROVISIONS

26 Sec. 6002.001. PURPOSE. The purpose of this chapter is to  
27 safeguard lives and property by:

1 (1) regulating the planning, certifying, leasing,  
2 selling, servicing, installing, monitoring, and maintaining of  
3 fire detection and fire alarm devices and systems; and

4 (2) except as provided by rules adopted under Section  
5 6002.051 or 6002.052, prohibiting fire detection and fire alarm  
6 devices, equipment, and systems not labeled or listed by a  
7 nationally recognized testing laboratory. (V.T.I.C. Art. 5.43-2,  
8 Sec. 1.)

9 Sec. 6002.002. DEFINITIONS. Except as otherwise provided  
10 by this chapter, in this chapter:

11 (1) "Fire alarm device" means any device capable,  
12 through audible or visible means, of warning that fire or  
13 combustion has occurred or is occurring.

14 (2) "Fire alarm planning superintendent" means a  
15 licensed individual designated by a registered firm to:

16 (A) plan a fire alarm or detection system that  
17 conforms to applicable adopted National Fire Protection  
18 Association standards or other adopted standards; and

19 (B) certify that each fire alarm or detection  
20 system as planned meets the standards as provided by law.

21 (3) "Fire alarm technician" means a licensed  
22 individual designated by a registered firm to:

23 (A) inspect and certify that each fire alarm or  
24 detection system as installed meets the standards provided by law;  
25 or

26 (B) perform or directly supervise the servicing  
27 or maintaining of a previously installed fire alarm device or

1 system and certify that service or maintenance.

2 (4) "Fire detection device" means any arrangement of  
3 materials, the sole function of which is to indicate the existence  
4 of fire, smoke, or combustion in its incipient stages.

5 (5) "Individual" means a natural person, including an  
6 owner, manager, officer, employee, occupant, or other individual.

7 (6) "Installation" means:

8 (A) the initial placement of equipment; or

9 (B) the extension, modification, or alteration  
10 of equipment already in place.

11 (7) "Insurance agent" means:

12 (A) an individual, firm, or corporation licensed  
13 under:

14 (i) Subchapter E, Chapter 981; or

15 (ii) Subchapter A, B, C, D, E, or G, Chapter  
16 4051; or

17 (B) an individual authorized to represent an  
18 insurance fund or pool created by a municipality, county, or other  
19 political subdivision of this state under Chapter 791, Government  
20 Code.

21 (8) "Maintenance" means the maintenance of a fire  
22 alarm device or a fire detection device in a condition of repair  
23 that provides performance as originally designed or intended.

24 (9) "Monitoring" means the receipt of fire alarm and  
25 supervisory signals and the retransmission or communication of  
26 those signals to a fire service communications center in this state  
27 or serving property in this state.

1           (10) "Organization" means a corporation, a government  
2 or a governmental subdivision or agency, a business trust, an  
3 estate, a trust, a partnership, a firm or association, two or more  
4 individuals with a joint or common interest, or any other legal or  
5 commercial entity.

6           (11) "Registered firm" means an individual or  
7 organization that holds a registration certificate.

8           (12) "Residential fire alarm superintendent" means a  
9 licensed individual designated by a registered firm to:

10           (A) plan a residential single-family or  
11 two-family fire alarm or detection system that conforms to  
12 applicable adopted National Fire Protection Association standards  
13 or other adopted standards; and

14           (B) certify that each fire alarm or detection  
15 system as planned meets the standards as provided by law.

16           (13) "Sale" means the sale or offer for sale, lease, or  
17 rent of any merchandise, equipment, or service at wholesale or  
18 retail, to the public or any individual, for an agreed sum of money  
19 or other consideration.

20           (14) "Service" or "servicing" means inspection,  
21 maintenance, repair, or testing of a fire alarm device or a fire  
22 detection device. (V.T.I.C. Art. 5.43-2, Secs. 2(1), (2), (5),  
23 (6), (7), (8), (9), (10), (11), (12) (part), (13) (part), (14),  
24 (15), (16) (part).)

25           Sec. 6002.003. EFFECT ON LOCAL REGULATION. (a) This  
26 chapter and the rules adopted under this chapter have uniform force  
27 and effect throughout this state. A municipality or county may not



1 enact an ordinance or rule inconsistent with this chapter or rules  
2 adopted under this chapter. An inconsistent ordinance or rule is  
3 void and has no effect.

4 (b) Notwithstanding Subsection (a), a municipality or  
5 county may:

6 (1) mandate that a fire alarm or detection system be  
7 installed in certain facilities, if the installation conforms to  
8 applicable state law;

9 (2) require a better type of alarm or detection system  
10 or otherwise safer condition than the minimum required by state  
11 law; and

12 (3) require regular inspections by local officials of  
13 smoke detectors in dwelling units, as that term is defined by  
14 Section 92.251, Property Code, and require the smoke detectors to  
15 be operational at the time of inspection.

16 (c) A municipality, county, or other political subdivision  
17 of this state may not require, as a condition of engaging in  
18 business or performing any activity authorized under this chapter,  
19 that a registered firm, a license holder, or an employee of a  
20 license holder:

21 (1) obtain a registration, franchise, or license from  
22 the political subdivision;

23 (2) pay any fee or franchise tax to the political  
24 subdivision; or

25 (3) post a bond.

26 (d) Notwithstanding any other provision of this section or  
27 Section 6002.155, a municipality or county may require a registered

1 firm to obtain a permit and pay a permit fee for the installation of  
2 a fire alarm or fire detection device or system and require that the  
3 installation of such a system be in conformance with the building  
4 code or other construction requirements of the municipality or  
5 county and state law.

6 (e) Notwithstanding Subsection (d), a municipality or  
7 county may not impose qualification or financial responsibility  
8 requirements other than proof of a registration certificate.  
9 (V.T.I.C. Art. 5.43-2, Secs. 3(a), (c).)

10 Sec. 6002.004. PROVISION OF CERTAIN SERVICES BY POLITICAL  
11 SUBDIVISION. (a) In this section, "monitoring" means the receipt  
12 of fire alarm or supervisory signals or retransmission or  
13 communication of those signals to a fire service communications  
14 center that is located in this state or serves property in this  
15 state.

16 (b) Except as provided by Subsection (c), a political  
17 subdivision may not offer residential alarm system sales, service,  
18 installation, or monitoring unless the political subdivision has  
19 been providing monitoring services to residences within the  
20 boundaries of the political subdivision as of September 1, 1999.  
21 Any fee charged by the political subdivision under this subsection  
22 may not exceed the cost of the monitoring.

23 (c) A political subdivision may:

24 (1) offer service, installation, or monitoring for  
25 property owned by the political subdivision or another political  
26 subdivision;

27 (2) allow for the response to an alarm or detection

1 device by:

2 (A) a law enforcement agency or fire department;

3 or

4 (B) a law enforcement officer or firefighter  
5 acting in an official capacity; or

6 (3) offer monitoring to a financial institution, as  
7 defined by Section 59.301, Finance Code, that requests, in writing,  
8 that the political subdivision provide monitoring service to the  
9 financial institution.

10 (d) Subsection (b) does not apply to a political  
11 subdivision:

12 (1) in a county with a population of less than 80,000;

13 or

14 (2) in which monitoring is not otherwise provided or  
15 available.

16 (e) This section is not intended to require a political  
17 subdivision to hold a license under this chapter. (V.T.I.C. Art.  
18 5.43-2, Secs. 7(b), (c), (d), (e).)

19 [Sections 6002.005-6002.050 reserved for expansion]

20 SUBCHAPTER B. POWERS AND DUTIES OF COMMISSIONER, DEPARTMENT,  
21 AND STATE FIRE MARSHAL

22 Sec. 6002.051. ADMINISTRATION OF CHAPTER; RULES. (a) The  
23 department shall administer this chapter.

24 (b) The commissioner may adopt rules as necessary to  
25 administer this chapter, including rules the commissioner  
26 considers necessary to administer this chapter through the state  
27 fire marshal. (V.T.I.C. Art. 5.43-2, Secs. 4 (part), 6(a) (part).)

1           Sec. 6002.052. ADOPTION OF RULES; STANDARDS.   (a)   In  
2   adopting necessary rules, the commissioner may use:

3           (1)   recognized standards, such as, but not limited to:

4                   (A)   standards of the National Fire Protection  
5   Association;

6                   (B)   standards recognized by federal law or  
7   regulation; or

8                   (C)   standards published by a nationally  
9   recognized standards-making organization;

10          (2)   the National Electrical Code; or

11          (3)   information provided by individual manufacturers.

12          (b)   Under rules adopted under Section 6002.051, the  
13   department may create specialized licenses or registration  
14   certificates for an organization or individual engaged in the  
15   business of planning, certifying, leasing, selling, servicing,  
16   installing, monitoring, or maintaining fire alarm or fire detection  
17   devices or systems. The rules must establish appropriate training  
18   and qualification standards for each kind of license and  
19   certificate.

20          (c)   The commissioner shall also adopt standards applicable  
21   to fire alarm devices, equipment, or systems regulated under this  
22   chapter. In adopting standards under this subsection, the  
23   commissioner may allow the operation of a fire alarm monitoring  
24   station that relies on fire alarm devices or equipment approved or  
25   listed by a nationally recognized testing laboratory without regard  
26   to whether the monitoring station is approved or listed by a  
27   nationally recognized testing laboratory if the operator of the

1 station demonstrates that the station operating standards are  
2 substantially equivalent to those required to be approved or  
3 listed. (V.T.I.C. Art. 5.43-2, Secs. 4 (part), 6(a) (part), (b).)

4 Sec. 6002.053. RULES RESTRICTING ADVERTISING OR  
5 COMPETITIVE BIDDING. (a) The commissioner may not adopt rules  
6 restricting advertising or competitive bidding by the holder of a  
7 license or registration certificate issued under this chapter  
8 except to prohibit false, misleading, or deceptive practices.

9 (b) In the commissioner's rules to prohibit false,  
10 misleading, or deceptive practices, the commissioner may not  
11 include a rule that:

12 (1) restricts the use of any medium for advertising;

13 (2) restricts the use of a license or registration  
14 certificate holder's personal appearance or voice in an  
15 advertisement;

16 (3) relates to the size or duration of an  
17 advertisement by the license or registration certificate holder; or

18 (4) restricts the license or registration certificate  
19 holder's advertisement under a trade name. (V.T.I.C. Art. 5.43-2,  
20 Sec. 6A.)

21 Sec. 6002.054. FEES. (a) The commissioner shall set the  
22 fee for:

23 (1) an initial registration certificate in an amount  
24 not to exceed \$500;

25 (2) the renewal of a registration certificate for each  
26 year in an amount not to exceed \$500;

27 (3) the renewal of a registration certificate for an

1 individual or organization engaged in the business of planning,  
2 certifying, leasing, selling, servicing, installing, monitoring,  
3 or maintaining exclusively single station devices in an amount not  
4 to exceed \$250 annually;

5 (4) an initial branch office registration certificate  
6 in an amount not to exceed \$150;

7 (5) the renewal of a branch office registration  
8 certificate for each year in an amount not to exceed \$150;

9 (6) an initial or renewal training school approval in  
10 an amount not to exceed \$500 annually;

11 (7) an initial or renewal of a training school  
12 instructor approval in an amount not to exceed \$50 annually;

13 (8) an initial license in an amount not to exceed \$120;  
14 and

15 (9) the renewal of a license for each year in an amount  
16 not to exceed \$100.

17 (b) Unless the examination or reexamination for a license is  
18 administered by a testing service, the commissioner shall set a  
19 nonrefundable fee for:

20 (1) the initial examination in an amount not to exceed  
21 \$30; and

22 (2) each reexamination in an amount not to exceed \$20.

23 (c) The commissioner shall set a fee in an amount not to  
24 exceed \$20 for:

25 (1) a duplicate registration certificate or license  
26 issued under this chapter; and

27 (2) any request requiring changes to a registration

1 certificate or license. (V.T.I.C. Art. 5.43-2, Secs. 5(a) (part),  
2 (b) (part), (c) (part), (d), (i), 5D(b) (part), (c) (part).)

3 Sec. 6002.055. DEPOSIT IN OPERATING ACCOUNT. The fees  
4 collected under this chapter shall be deposited in the state  
5 treasury to the credit of the Texas Department of Insurance  
6 operating account. (V.T.I.C. Art. 5.43-2, Sec. 8.)

7 [Sections 6002.056-6002.100 reserved for expansion]

8 SUBCHAPTER C. FIRE DETECTION AND ALARM DEVICES ADVISORY COUNCIL

9 Sec. 6002.101. ADVISORY COUNCIL; APPOINTMENT. The  
10 commissioner shall appoint an advisory council consisting of seven  
11 individuals as follows:

12 (1) three individuals who are employed by a registered  
13 firm in the fire protection industry and who have at least three  
14 years' experience in the sale, installation, maintenance, or  
15 manufacture of fire alarm or fire detection devices;

16 (2) two individuals who:

17 (A) are experienced in the engineering of fire  
18 prevention services; or

19 (B) are members of a fire protection association;

20 (3) one individual who is an experienced fire  
21 prevention officer employed by a municipality or county; and

22 (4) one individual who:

23 (A) is employed by a registered firm; and

24 (B) has at least three years' experience in the  
25 operation of a central fire alarm monitoring station. (V.T.I.C.  
26 Art. 5.43-2, Sec. 6(d).)

27 Sec. 6002.102. ADVISORY COUNCIL DUTIES. The advisory

1 council shall periodically:

2 (1) review rules implementing this chapter; and

3 (2) recommend rule changes to the commissioner.

4 (V.T.I.C. Art. 5.43-2, Sec. 6(c).)

5 [Sections 6002.103-6002.150 reserved for expansion]

6 SUBCHAPTER D. REGISTRATION, LICENSE, AND APPROVAL REQUIREMENTS

7 Sec. 6002.151. FIRM REGISTRATION CERTIFICATE REQUIRED;

8 LIMITED CERTIFICATE. (a) An individual or organization may not  
9 engage in the business of planning, certifying, leasing, selling,  
10 installing, servicing, monitoring, or maintaining fire alarm or  
11 fire detection devices or systems unless the individual or  
12 organization holds a registration certificate issued by the  
13 department.

14 (b) The department may issue a limited registration  
15 certificate to an individual or organization whose business is  
16 restricted to monitoring.

17 (c) Applications for registration certificates and  
18 qualifications for those certificates are subject to rules adopted  
19 by the commissioner. (V.T.I.C. Art. 5.43-2, Secs. 5(a) (part),  
20 7(a) (part), 10(a) (part).)

21 Sec. 6002.152. BRANCH OFFICE REGISTRATION CERTIFICATE  
22 REQUIRED. (a) Except as provided by Subsection (c), each separate  
23 office location of a registered firm, other than the location  
24 identified on the firm's registration certificate, must have a  
25 branch office registration certificate issued by the department.

26 (b) Before issuing a branch office registration  
27 certificate, the department must determine that the branch office



1 location is part of a registered firm.

2 (c) A registered firm that is engaged in the business of  
3 planning, certifying, leasing, selling, servicing, installing,  
4 monitoring, or maintaining exclusively single station devices is  
5 not required to apply for or obtain a branch office registration  
6 certificate for a separate office or location of the firm.  
7 (V.T.I.C. Art. 5.43-2, Sec. 5(b) (part).)

8 Sec. 6002.153. REQUIRED INSURANCE COVERAGE FOR  
9 REGISTRATION CERTIFICATE. (a) The department may not issue a  
10 registration certificate under this chapter unless the applicant  
11 files with the department evidence of a general liability insurance  
12 policy that includes products and completed operations coverage.  
13 The policy must be conditioned to pay on behalf of the insured those  
14 amounts that the insured becomes legally obligated to pay as  
15 damages because of bodily injury and property damage caused by an  
16 occurrence involving the insured or the insured's officer, agent,  
17 or employee in the conduct of any business that requires a  
18 registration certificate or license under this chapter.

19 (b) Unless the commissioner increases or decreases the  
20 limits under rules adopted under Section 6002.051(b), the limits of  
21 insurance coverage required by Subsection (a) must be at least:

22 (1) \$100,000 combined single limits for bodily injury  
23 and property damage for each occurrence; and

24 (2) \$300,000 aggregate for all occurrences for each  
25 policy year.

26 (c) The evidence of insurance required by this section must  
27 be in the form of a certificate of insurance executed by an insurer

1 authorized to engage in the business of insurance in this state and  
2 countersigned by an insurance agent licensed in this state. A  
3 certificate of insurance for surplus lines coverage procured in  
4 compliance with Chapter 981 through a surplus lines agent that is  
5 licensed under Subchapter E, Chapter 981, and resident in this  
6 state may be filed with the department as evidence of the coverage  
7 required by this section.

8 (d) An insurance certificate executed and filed with the  
9 department under this section remains in force until the insurer  
10 has terminated future liability by the notice required by the  
11 department.

12 (e) Failure to maintain the liability insurance required by  
13 this section constitutes grounds for the denial, suspension, or  
14 revocation, after notice and opportunity for hearing, of a  
15 registration certificate issued under this chapter.

16 (f) For an individual or organization licensed to install or  
17 service burglar alarms under Chapter 1702, Occupations Code,  
18 compliance with the insurance requirements of that chapter  
19 constitutes compliance with the insurance requirements of this  
20 section if the insurance held by the individual or organization  
21 complies with the requirements of this section in amounts and types  
22 of coverage.

23 (g) This section does not affect the rights of the insured  
24 to negotiate or contract for limitations of liability with a third  
25 party, including a customer of the insured. (V.T.I.C. Art. 5.43-2,  
26 Secs. 5B(a), (b), (c), (d), (e), (g).)

27 Sec. 6002.154. FIRE ALARM TECHNICIAN, RESIDENTIAL FIRE

1 ALARM SUPERINTENDENT, AND FIRE ALARM PLANNING SUPERINTENDENT. (a)  
2 Each registered firm, including a firm engaged in the business of  
3 planning, certifying, leasing, selling, servicing, installing,  
4 monitoring, or maintaining exclusively single station devices,  
5 must employ at least one employee who is a fire alarm technician,  
6 residential fire alarm superintendent, or fire alarm planning  
7 superintendent.

8 (b) A fire alarm technician, residential fire alarm  
9 superintendent, or fire alarm planning superintendent must hold a  
10 license issued by the department, conditioned on the successful  
11 completion of a written license examination.

12 (c) To engage in the activity for which the license is  
13 granted, an individual licensed under this chapter must be an  
14 employee or agent of an individual or entity that holds a  
15 registration certificate.

16 (d) A fire alarm technician may perform or supervise  
17 monitoring. A fire alarm planning superintendent may act as a fire  
18 alarm technician or a residential fire alarm superintendent. A  
19 residential fire alarm superintendent may act as a fire alarm  
20 technician.

21 (e) Applications for licenses and qualifications for those  
22 licenses are subject to rules adopted by the commissioner.  
23 (V.T.I.C. Art. 5.43-2, Secs. 2(12) (part), (13) (part), (16)  
24 (part), 5(a) (part), (c) (part), (f), 5D(a) (part), 10(a) (part).)

25 Sec. 6002.155. ACTIVITIES NOT REGULATED BY CHAPTER. The  
26 licensing provisions of this chapter do not apply to:

27 (1) an individual or organization in the business of

1 building construction that installs electrical wiring and devices  
2 that may include, in part, the installation of a fire alarm or  
3 detection system if:

4 (A) the individual or organization is a party to  
5 a contract that provides that:

6 (i) the installation will be performed  
7 under the direct supervision of and certified by a licensed  
8 employee or agent of a firm registered to install and certify such  
9 an alarm or detection device; and

10 (ii) the registered firm assumes full  
11 responsibility for the installation of the alarm or detection  
12 device; and

13 (B) the individual or organization does not plan,  
14 certify, lease, sell, service, or maintain fire alarms or detection  
15 devices or systems;

16 (2) an individual or organization that:

17 (A) owns and installs a fire detection or fire  
18 alarm device on the individual's or organization's own property; or

19 (B) if the individual or organization does not  
20 charge for the device or its installation, installs the device for  
21 the protection of the individual's or organization's personal  
22 property located on another's property and does not install the  
23 device as a normal business practice on the property of another;

24 (3) an individual who holds a license or other  
25 authority issued by a municipality to practice as an electrician  
26 and who installs fire or smoke detection and alarm devices only in a  
27 single family or multifamily residence if:

1 (A) the devices installed are:

2 (i) single station detectors; or

3 (ii) multiple station detectors capable of  
4 being connected in a manner that actuation of one detector causes  
5 all integral or separate alarms to operate if the detectors are not  
6 connected to a control panel or to an outside alarm, do not transmit  
7 a signal off the premises, and do not use more than 120 volts; and

8 (B) all installations comply with the adopted  
9 edition of Household Fire Warning Equipment, National Fire  
10 Protection Association Standard No. 74;

11 (4) an individual or organization that:

12 (A) sells fire detection or fire alarm devices  
13 exclusively over-the-counter or by mail order; and

14 (B) does not plan, certify, install, service, or  
15 maintain the devices;

16 (5) a law enforcement agency or fire department or a  
17 law enforcement officer or firefighter acting in an official  
18 capacity that responds to a fire alarm or detection device;

19 (6) an engineer licensed under Chapter 1001,  
20 Occupations Code, acting solely in the engineer's professional  
21 capacity;

22 (7) an individual or organization that provides and  
23 installs at no charge to the property owners or residents a  
24 battery-powered smoke detector in a single-family or two-family  
25 residence if:

26 (A) the smoke detector bears a label of listing  
27 or approval by a testing laboratory approved by the department;

1 (B) the installation complies with the adopted  
2 edition of National Fire Protection Association Standard No. 74;

3 (C) the installers are knowledgeable in fire  
4 protection and the proper use of smoke detectors; and

5 (D) the detector is a single station installation  
6 and not a part of or connected to any other detection device or  
7 system;

8 (8) a regular employee of a registered firm who is  
9 under the direct supervision of a license holder;

10 (9) a building owner, the owner's managing agent, or an  
11 employee of the owner or agent who installs battery-operated single  
12 station smoke detectors or monitor fire alarm or fire detection  
13 devices or systems in the owner's building, and in which the  
14 monitoring:

15 (A) is performed at the owner's property at no  
16 charge to the occupants of the building;

17 (B) complies with applicable standards of the  
18 National Fire Protection Association as may be adopted by rule  
19 under this chapter; and

20 (C) uses equipment approved by a testing  
21 laboratory approved by the department for fire alarm monitoring;

22 (10) an individual employed by a registered firm that  
23 sells and installs a smoke or heat detector in a single-family or  
24 two-family residence if:

25 (A) the detector bears a label of listing or  
26 approval by a testing laboratory approved by the department;

27 (B) the installation complies with the adopted

1 edition of National Fire Protection Association Standard No. 74;

2 (C) the installers are knowledgeable in fire  
3 protection and the proper use and placement of detectors; and

4 (D) the detector is a single station installation  
5 and not a part of or connected to any other detection device or  
6 system; or

7 (11) an individual or organization licensed to install  
8 or service burglar alarms under Chapter 1702, Occupations Code,  
9 that provides and installs in a single-family or two-family  
10 residence a combination keypad that includes a panic button to  
11 initiate a fire alarm signal if the fire alarm signal:

12 (A) is monitored by a fire alarm firm registered  
13 under this chapter; and

14 (B) is not initiated by a fire or smoke detection  
15 device. (V.T.I.C. Art. 5.43-2, Sec. 3(b).)

16 Sec. 6002.156. LICENSE EXAMINATION. (a) The state fire  
17 marshal shall establish the scope and type of an examination  
18 required by this chapter. The examination must cover this chapter  
19 and commissioner rules and include specific testing of all license  
20 categories.

21 (b) The state fire marshal may administer the examination or  
22 may enter into an agreement with a testing service.

23 (c) If a testing service is used, the state fire marshal may  
24 contract with the testing service regarding requirements for the  
25 examination, including:

26 (1) examination development;

27 (2) scheduling;

- 1 (3) site arrangements;
- 2 (4) grading;
- 3 (5) reporting;
- 4 (6) analysis; or
- 5 (7) other administrative duties.

6 (d) The state fire marshal may require the testing service  
7 to:

8 (1) correspond directly with an applicant regarding  
9 the administration of the examination;

10 (2) collect a reasonable fee from an applicant for  
11 administering the examination; or

12 (3) administer the examination at a specific location  
13 or time.

14 (e) Approval for a testing service is valid for one year.

15 (f) The state fire marshal shall adopt rules as necessary to  
16 implement examination requirements under this chapter. (V.T.I.C.  
17 Art. 5.43-2, Secs. 5D(a) (part), (b) (part), (f), (g), (h).)

18 Sec. 6002.157. EXAMINATION RESULTS. (a) Not later than the  
19 30th day after the date on which an examination is administered  
20 under this chapter, the state fire marshal shall send notice to each  
21 examinee of the results of the examination.

22 (b) If an examination is conducted, graded, or reviewed by a  
23 testing service, the state fire marshal shall send notice to each  
24 examinee of the results of the examination within two weeks after  
25 the date on which the state fire marshal receives the results from  
26 the testing service.

27 (c) If the notice of the examination results will be delayed



1 for more than 90 days after the examination date, the state fire  
2 marshal shall send notice to the examinee of the reason for the  
3 delay before the 90th day.

4 (d) The state fire marshal may require a testing service to  
5 notify an examinee of the results of the examinee's examination  
6 under this section.

7 (e) If requested in writing by an individual who fails the  
8 examination administered under this chapter, the state fire marshal  
9 shall send to the individual an analysis of the individual's  
10 performance on the examination. (V.T.I.C. Art. 5.43-2, Secs. 5D(a)  
11 (part), (a-1).)

12 Sec. 6002.158. TRAINING SCHOOLS AND INSTRUCTORS; APPROVAL.

13 (a) An applicant for approval as a training school must submit an  
14 application to the state fire marshal, accompanied by the  
15 applicant's complete course or testing curriculum. A registered  
16 firm, or an affiliate of a registered firm, is not eligible for  
17 approval as a training school.

18 (b) The state fire marshal shall review the materials  
19 submitted for course approval and shall approve or deny approval in  
20 a letter provided not later than the 60th day after the date of  
21 receipt of the application. A denial of approval must disclose  
22 specific reasons for the denial. An applicant whose approval is  
23 denied may reapply at any time.

24 (c) Training school instructors must be approved by the  
25 state fire marshal. To be eligible for approval, an instructor must  
26 hold a fire alarm planning superintendent license and have at least  
27 three years of experience in fire alarm installation, service, or

1 monitoring.

2 (d) Approval for a training school or instructor is valid  
3 for one year.

4 (e) The curriculum for a fire alarm technician course or a  
5 residential fire alarm superintendent course must consist of 16  
6 hours of classroom instruction for each license category.

7 (f) After approval, each training school must annually  
8 conduct, within 125 miles of each county with a population greater  
9 than 500,000, at least two classes that are open to the public.  
10 (V.T.I.C. Art. 5.43-2, Secs. 5D(b) (part), (c) (part), (d), (e);  
11 New.)

12 Sec. 6002.159. CONTINUING EDUCATION PROGRAMS. (a) The  
13 commissioner may adopt procedures for certifying and may certify  
14 continuing education programs.

15 (b) Participation in the continuing education programs is  
16 voluntary. (V.T.I.C. Art. 5.43-2, Sec. 5E.)

17 Sec. 6002.160. RECIPROCAL LICENSE. The department may  
18 waive any license requirement for an applicant who holds a license  
19 issued by another state that has license requirements substantially  
20 equivalent to the license requirements of this state. (V.T.I.C.  
21 Art. 5.43-2, Sec. 5F.)

22 Sec. 6002.161. NOT TRANSFERABLE. A registration  
23 certificate or license issued under this chapter is not  
24 transferable. (V.T.I.C. Art. 5.43-2, Sec. 5(h).)

25 [Sections 6002.162-6002.200 reserved for expansion]

26 SUBCHAPTER E. RENEWAL OF REGISTRATION CERTIFICATE OR LICENSE

27 Sec. 6002.201. RENEWAL REQUIRED; FEE. (a) A renewal of a

1 registration certificate or license issued under this chapter is  
2 valid for a period of two years. The license or registration  
3 renewal fee for each year of the two-year period is payable on  
4 renewal.

5 (b) The commissioner by rule may adopt a system under which  
6 registration certificates and licenses expire on various dates  
7 during the year. For the year in which an expiration date of a  
8 registration certificate or license is less than one year from its  
9 issuance or anniversary date, the fee shall be prorated on a monthly  
10 basis so that each holder of a registration certificate or license  
11 pays only that portion of the renewal fee that is allocable to the  
12 number of months during which the registration certificate or  
13 license is valid. The total renewal fee is payable on renewal on  
14 the new expiration date. (V.T.I.C. Art. 5.43-2, Secs. 5A, 5C(b).)

15 Sec. 6002.202. NOTICE OF EXPIRATION. At least 30 days  
16 before the expiration date of a registration certificate or  
17 license, the state fire marshal shall send written notice of the  
18 impending expiration to the holder of the registration certificate  
19 or license at the holder's last known address. (V.T.I.C. Art.  
20 5.43-2, Sec. 5C(a) (part).)

21 Sec. 6002.203. RENEWAL PROCEDURES. (a) The holder of an  
22 unexpired registration certificate or license may renew the  
23 certificate or license by paying the required renewal fee to the  
24 department before the expiration date of the certificate or  
25 license.

26 (b) An individual or organization whose registration  
27 certificate or license has been expired for 90 days or less may

1 renew the certificate or license by paying to the department:

2 (1) the required renewal fee; and

3 (2) a fee that does not exceed one-fourth of the  
4 initial fee for the certificate or license.

5 (c) An individual or organization whose registration  
6 certificate or license has been expired for more than 90 days but  
7 less than two years may renew the certificate or license by paying  
8 to the department:

9 (1) all unpaid renewal fees; and

10 (2) a fee that does not exceed the initial fee for the  
11 certificate or license.

12 (d) An individual or organization whose registration  
13 certificate or license has been expired for two years or longer may  
14 not renew the certificate or license. The individual or  
15 organization may obtain a new registration certificate or license  
16 by complying with the requirements and procedures for obtaining an  
17 initial registration certificate or license.

18 (e) This section may not be construed to prevent the  
19 department from denying or refusing to renew a license under  
20 applicable law or commissioner rules.

21 (f) A license or registration certificate issued under this  
22 chapter expires at midnight on the date printed on the license or  
23 certificate. A renewal application and fee for the license or  
24 registration certificate must be postmarked on or before the  
25 expiration date to be accepted as timely.

26 (g) If a renewal application is not complete but there has  
27 been no lapse in the required insurance, the applicant is entitled

1 to 30 days from the date that the applicant is notified by the  
2 department of the deficiencies in the renewal application to comply  
3 with any additional requirement. If an applicant fails to respond  
4 and correct all deficiencies in the renewal application within the  
5 30-day period, the department may charge a late fee. (V.T.I.C. Art.  
6 5.43-2, Secs. 5C(a) (part), (c).)

7       Sec. 6002.204. RENEWAL OF CERTAIN LICENSES. A license  
8 holder with an unexpired license who is not employed by a registered  
9 firm at the time of the license renewal may renew that license, but  
10 the license holder may not engage in any activity for which the  
11 license was granted until the license holder is employed by a  
12 registered firm. (V.T.I.C. Art. 5.43-2, Sec. 5C(a) (part).)

13       [Sections 6002.205-6002.250 reserved for expansion]

14               SUBCHAPTER F. SELLING OR LEASING OF FIRE ALARM  
15                               OR FIRE DETECTION DEVICES

16       Sec. 6002.251. REQUIRED LABEL; EXCEPTIONS. (a) Except as  
17 provided by Subsections (b) and (c), a detection or alarm device,  
18 alarm system, or item of monitoring equipment, a purpose of which is  
19 to detect or give alarm of fire, may not be sold, offered for sale,  
20 leased, installed, or used to monitor property in this state unless  
21 the device, system, or item of equipment carries a label of approval  
22 or listing of a testing laboratory approved by the department.

23       (b) Except as provided by Subsection (c), a detection or  
24 alarm device, alarm system, or item of monitoring equipment in a  
25 one-family or two-family residence, a purpose of which is to detect  
26 or give alarm of fire, may not be sold, offered for sale, leased,  
27 installed, or used to monitor property in this state after April 14,

1 1989, unless the device, system, or equipment carries a label of  
2 approval or listing of a testing laboratory approved by the  
3 department.

4 (c) Subsections (a) and (b) do not prohibit the continued  
5 use or monitoring of equipment in place if the equipment:

6 (1) complied with the law applicable on the date of the  
7 equipment's original placement; and

8 (2) has not been extended, modified, or altered.

9 (d) Fire alarm devices that are not required by this chapter  
10 or rules adopted under this chapter and that do not impair the  
11 operation of fire alarm or fire detection devices required by this  
12 chapter or the rules adopted under this chapter are exempt from the  
13 label and listing requirements described by Subsections (a) and (b)  
14 if the devices are approved by the local authority with  
15 jurisdiction. (V.T.I.C. Art. 5.43-2, Secs. 9(a), (b), (c).)

16 Sec. 6002.252. REQUIRED PURCHASE AND INSTALLATION  
17 INFORMATION. A fire detection or fire alarm device may not be sold  
18 or installed in this state unless the device is accompanied by  
19 printed information that:

20 (1) is supplied to the owner by the supplier or  
21 installing contractor; and

22 (2) concerns:

23 (A) instructions describing the installation,  
24 operation, testing, and proper maintenance of the device;

25 (B) information to aid in establishing an  
26 emergency evacuation plan for the protected premises; and

27 (C) the telephone number and location, including

1 notification procedures, of the nearest fire department. (V.T.I.C.  
2 Art. 5.43-2, Sec. 9(d).)

3 Sec. 6002.253. TRAINING AND SUPERVISION OF CERTAIN EXEMPT  
4 EMPLOYEES. Each registered firm that employs an individual who is  
5 exempt from the licensing requirements of this chapter under  
6 Section 6002.155(10) shall appropriately train and supervise the  
7 individual to ensure that:

8 (1) each installation complies with the adopted  
9 provisions of National Fire Protection Standard No. 74 or other  
10 adopted standards;

11 (2) each smoke or heat detector installed or sold  
12 carries a label or listing of approval by a testing laboratory  
13 approved by the department; and

14 (3) the individual is knowledgeable in fire protection  
15 and the proper use and placement of detectors. (V.T.I.C. Art.  
16 5.43-2, Sec. 9(e).)

17 [Sections 6002.254-6002.300 reserved for expansion]

18 SUBCHAPTER G. PROHIBITED PRACTICES AND DISCIPLINARY PROCEDURES

19 Sec. 6002.301. PROHIBITED PRACTICES. An individual or  
20 organization may not:

21 (1) plan, certify, lease, sell, service, install,  
22 monitor, or maintain a fire alarm or fire detection device or system  
23 without a license or registration certificate;

24 (2) obtain or attempt to obtain a registration  
25 certificate or license by fraudulent representation; or

26 (3) plan, certify, lease, sell, service, install,  
27 monitor, or maintain a fire alarm or fire detection device or system

1 in violation of this chapter or the rules adopted under this  
2 chapter. (V.T.I.C. Art. 5.43-2, Sec. 7(a).)

3 Sec. 6002.302. DISCIPLINARY ACTIONS. (a) The state fire  
4 marshal may suspend, revoke, or refuse to issue or renew a  
5 registration certificate or license if, after notice and hearing,  
6 the state fire marshal finds that the applicant, registrant, or  
7 license holder has engaged in acts that:

8 (1) violate this chapter;

9 (2) violate rules or standards adopted under this  
10 chapter; or

11 (3) constitute misrepresentation made in connection  
12 with the sale of products or services rendered.

13 (b) An original or renewal registration certificate,  
14 license, or testing laboratory approval may be denied, suspended,  
15 or revoked, if after notice and public hearing the commissioner,  
16 through the state fire marshal, determines from the evidence  
17 presented at the hearing that this chapter or a rule adopted under  
18 this chapter has been violated. (V.T.I.C. Art. 5.43-2, Secs.  
19 10(b), (c).)

20 Sec. 6002.303. DISCIPLINARY HEARING. (a) If the state fire  
21 marshal proposes to suspend, revoke, or refuse to renew a license or  
22 registration certificate issued under this chapter, the holder of  
23 the license or certificate is entitled to a hearing conducted by the  
24 State Office of Administrative Hearings.

25 (b) Proceedings for a disciplinary action are governed by  
26 Chapter 2001, Government Code.

27 (c) Rules of practice adopted by the commissioner



1 applicable to the proceedings for a disciplinary action may not  
2 conflict with rules adopted by the State Office of Administrative  
3 Hearings. (V.T.I.C. Art. 5.43-2, Sec. 10A.)

4         Sec. 6002.304. REAPPLICATION REQUIREMENTS. (a) A holder  
5 of a registration certificate, license, or testing laboratory  
6 approval that has been revoked under this chapter may not file  
7 another application for a registration certificate, license, or  
8 approval before the first anniversary of the effective date of the  
9 revocation.

10         (b) An individual or organization reapplying under this  
11 section must request a public hearing to show cause why the issuance  
12 of a new registration certificate, license, or approval should not  
13 be denied. (V.T.I.C. Art. 5.43-2, Sec. 10(d).)

14         [Sections 6002.305-6002.350 reserved for expansion]

15                     SUBCHAPTER H. CRIMINAL PENALTY

16         Sec. 6002.351. CRIMINAL PENALTY. (a) An individual or  
17 organization commits an offense if the individual or organization  
18 violates Section 6002.151, 6002.152, or 6002.154.

19         (b) An offense under this section is a Class B misdemeanor.

20         (c) Venue for an offense under this section is in Travis  
21 County or the county in which the offense is committed. (V.T.I.C.  
22 Art. 5.43-2, Sec. 11.)

23                     CHAPTER 6003. FIRE PROTECTION SPRINKLER SYSTEM SERVICE AND  
24                                     INSTALLATION

25                                     SUBCHAPTER A. GENERAL PROVISIONS

26         Sec. 6003.001. DEFINITIONS

27         Sec. 6003.002. APPLICABILITY OF CHAPTER

1 Sec. 6003.003. EFFECT ON LOCAL REGULATION  
2 [Sections 6003.004-6003.050 reserved for expansion]  
3 SUBCHAPTER B. POWERS AND DUTIES OF COMMISSIONER,  
4 DEPARTMENT, AND STATE FIRE MARSHAL  
5 Sec. 6003.051. ADMINISTRATION OF CHAPTER  
6 Sec. 6003.052. ADOPTION OF RULES  
7 Sec. 6003.053. RULES RESTRICTING ADVERTISING OR  
8 COMPETITIVE BIDDING  
9 Sec. 6003.054. GENERAL POWERS AND DUTIES OF  
10 COMMISSIONER, STATE FIRE MARSHAL, AND  
11 DEPARTMENT  
12 Sec. 6003.055. FEES  
13 Sec. 6003.056. DEPOSIT IN OPERATING ACCOUNT  
14 [Sections 6003.057-6003.100 reserved for expansion]  
15 SUBCHAPTER C. FIRE PROTECTION ADVISORY COUNCIL  
16 Sec. 6003.101. ADVISORY COUNCIL; APPOINTMENT  
17 Sec. 6003.102. ADVISORY COUNCIL DUTIES  
18 [Sections 6003.103-6003.150 reserved for expansion]  
19 SUBCHAPTER D. REGISTRATION AND LICENSE REQUIREMENTS  
20 Sec. 6003.151. FIRE PROTECTION SPRINKLER SYSTEM  
21 CONTRACTOR; REGISTRATION CERTIFICATE  
22 REQUIRED  
23 Sec. 6003.152. REQUIRED INSURANCE COVERAGE FOR  
24 REGISTRATION CERTIFICATE  
25 Sec. 6003.153. RESPONSIBLE MANAGING EMPLOYEE: LICENSE  
26 REQUIRED

- 1 Sec. 6003.154. POSTING OF LICENSE OR CERTIFICATE  
2 REQUIRED
- 3 Sec. 6003.155. DISPLAY OF REGISTRATION CERTIFICATE  
4 NUMBER ON CERTAIN DOCUMENTS REQUIRED
- 5 Sec. 6003.156. LICENSE EXAMINATION
- 6 Sec. 6003.157. EXAMINATION RESULTS
- 7 Sec. 6003.158. CONTINUING EDUCATION REQUIREMENTS
- 8 Sec. 6003.159. RECIPROCAL LICENSE
- 9 Sec. 6003.160. NOT TRANSFERABLE
- 10 [Sections 6003.161-6003.200 reserved for expansion]
- 11 SUBCHAPTER E. RENEWAL OF REGISTRATION CERTIFICATE OR LICENSE
- 12 Sec. 6003.201. RENEWAL REQUIRED; FEE
- 13 Sec. 6003.202. NOTICE OF EXPIRATION
- 14 Sec. 6003.203. RENEWAL PROCEDURES
- 15 [Sections 6003.204-6003.250 reserved for expansion]
- 16 SUBCHAPTER F. PROHIBITED PRACTICES  
17 AND DISCIPLINARY PROCEDURES
- 18 Sec. 6003.251. PROHIBITED PRACTICES
- 19 Sec. 6003.252. DISCIPLINARY ACTIONS
- 20 Sec. 6003.253. DISCIPLINARY HEARING
- 21 Sec. 6003.254. APPLICABILITY OF ADMINISTRATIVE  
22 PROCEDURE ACT
- 23 Sec. 6003.255. REAPPLICATION REQUIREMENTS
- 24 [Sections 6003.256-6003.300 reserved for expansion]
- 25 SUBCHAPTER G. CRIMINAL PENALTY
- 26 Sec. 6003.301. CRIMINAL PENALTY

1 CHAPTER 6003. FIRE PROTECTION SPRINKLER SYSTEM SERVICE AND

2 INSTALLATION

3 SUBCHAPTER A. GENERAL PROVISIONS

4 Sec. 6003.001. DEFINITIONS. In this chapter:

5 (1) "Fire protection sprinkler system" means an  
6 assembly of underground or overhead piping or conduits that conveys  
7 water with or without other agents to dispersal openings or devices  
8 to:

9 (A) extinguish, control, or contain fire; and

10 (B) provide protection from exposure to fire or  
11 the products of combustion.

12 (2) "Fire protection sprinkler system contractor"  
13 means an individual or organization that offers to undertake,  
14 represents itself as being able to undertake, or undertakes the  
15 plan, sale, installation, maintenance, or servicing of:

16 (A) a fire protection sprinkler system; or

17 (B) any part of a fire protection sprinkler  
18 system.

19 (3) "Individual" means a natural person, including an  
20 owner, manager, officer, employee, or occupant.

21 (4) "Installation" means:

22 (A) the initial placement of equipment; or

23 (B) the extension, modification, or alteration  
24 of equipment after initial placement.

25 (5) "Insurance agent" means:

26 (A) an individual, firm, or corporation licensed  
27 under:

- 1 (i) Subchapter E, Chapter 981; or  
2 (ii) Subchapter A, B, C, D, E, or G, Chapter  
3 4051; or

4 (B) an individual authorized to represent an  
5 insurance fund or pool created by a municipality, county, or other  
6 political subdivision of this state under Chapter 791, Government  
7 Code.

8 (6) "License" means the document issued to a  
9 responsible managing employee authorizing the employee to engage in  
10 the fire protection sprinkler system business in this state.

11 (7) "Maintenance" means the maintenance of a fire  
12 protection sprinkler system or any part of a fire protection  
13 sprinkler system in the condition of repair that provides  
14 performance as originally planned.

15 (8) "Organization" means a corporation, a partnership  
16 or other business association, a governmental entity, or any other  
17 legal or commercial entity.

18 (9) "Registration certificate" means the document  
19 issued to a fire protection sprinkler system contractor authorizing  
20 the contractor to engage in business in this state.

21 (10) "Responsible managing employee" means an  
22 individual designated by a company that plans, sells, installs,  
23 maintains, or services fire protection sprinkler systems to ensure  
24 that each fire protection sprinkler system, as installed,  
25 maintained, or serviced, meets the standards for the system as  
26 provided by law.

27 (11) "Service" means maintenance, repair, or testing.

1 (V.T.I.C. Art. 5.43-3, Secs. 1(1), (2), (5), (6), (7), (8), (9),  
2 (10), (11), (12), (13) as added Acts 71st Leg., R.S., Ch. 823.)

3 Sec. 6003.002. APPLICABILITY OF CHAPTER. (a) This chapter  
4 does not apply to:

5 (1) an employee of the United States, this state, or  
6 any political subdivision of this state who acts as a fire  
7 protection sprinkler system contractor for the employing  
8 governmental entity;

9 (2) the plan, sale, installation, maintenance, or  
10 servicing of a fire protection sprinkler system in any property  
11 owned by the United States or this state;

12 (3) an individual or organization acting under court  
13 order as authorization;

14 (4) an individual or organization that sells or  
15 supplies products or materials to a registered fire protection  
16 sprinkler system contractor;

17 (5) an installation, maintenance, or service project  
18 for which the total contract price for labor, materials, and all  
19 other services is less than \$100, if:

20 (A) the project is not a part of a complete or  
21 more costly project, whether the complete project is to be  
22 undertaken by one or more fire protection sprinkler system  
23 contractors; or

24 (B) the project is not divided into contracts of  
25 less than \$100 for the purpose of evading this chapter;

26 (6) an engineer licensed under Chapter 1001,  
27 Occupations Code, acting solely in the engineer's professional

1 capacity;

2 (7) a regular employee of a registered fire protection  
3 sprinkler system contractor; or

4 (8) an owner or lessee of property that:

5 (A) installs a fire protection sprinkler system  
6 on the owned or leased property for the owner's or lessee's own use  
7 or for family members' use; and

8 (B) does not offer the property for sale or lease  
9 before the first anniversary of the date of installation of the fire  
10 protection sprinkler system.

11 (b) This chapter does not authorize an individual or  
12 organization to practice professional engineering other than in  
13 compliance with Chapter 1001, Occupations Code. (V.T.I.C. Art.  
14 5.43-3, Secs. 2(b), 11.)

15 Sec. 6003.003. EFFECT ON LOCAL REGULATION. (a) This  
16 chapter and the rules adopted under this chapter have uniform force  
17 and effect throughout this state. A municipality or county may not  
18 enact an order, ordinance, or rule requiring a fire protection  
19 sprinkler system contractor to obtain a registration certificate  
20 from the municipality or county. A municipality or county may not  
21 impose on a fire protection sprinkler system contractor  
22 qualification or financial responsibility requirements other than  
23 proof of a registration certificate.

24 (b) Notwithstanding any other provision of this chapter, a  
25 municipality or county may require a fire protection sprinkler  
26 system contractor to obtain a permit and pay a permit fee for the  
27 installation of a fire protection sprinkler system and require the

1 installation of a fire protection sprinkler system to conform to  
2 the building code or other construction requirements of the  
3 municipality or county.

4 (c) A municipal or county order, ordinance, or rule in  
5 effect on September 1, 1983, is not invalidated because of any  
6 provision of this chapter. (V.T.I.C. Art. 5.43-3, Sec. 2(a).)

7 [Sections 6003.004-6003.050 reserved for expansion]

8 SUBCHAPTER B. POWERS AND DUTIES OF COMMISSIONER,  
9 DEPARTMENT, AND STATE FIRE MARSHAL

10 Sec. 6003.051. ADMINISTRATION OF CHAPTER. (a) The  
11 department shall administer this chapter.

12 (b) The commissioner may issue rules necessary to  
13 administer this chapter through the state fire marshal. (V.T.I.C.  
14 Art. 5.43-3, Sec. 3(a) (part).)

15 Sec. 6003.052. ADOPTION OF RULES. (a) In adopting  
16 necessary rules, the commissioner may use recognized standards,  
17 including standards:

18 (1) adopted by federal law or regulation;

19 (2) published by a nationally recognized  
20 standards-making organization; or

21 (3) developed by individual manufacturers.

22 (b) Under rules adopted under Section 6003.051(b), the  
23 department may create a specialized licensing or registration  
24 program for fire protection sprinkler system contractors.  
25 (V.T.I.C. Art. 5.43-3, Secs. 3(a) (part), (b).)

26 Sec. 6003.053. RULES RESTRICTING ADVERTISING OR  
27 COMPETITIVE BIDDING. (a) The commissioner may not adopt rules



1 restricting advertising or competitive bidding by the holder of a  
2 license or registration certificate issued under this chapter  
3 except to prohibit false, misleading, or deceptive practices.

4 (b) In the commissioner's rules to prohibit false,  
5 misleading, or deceptive practices, the commissioner may not  
6 include a rule that:

7 (1) restricts the use of any medium for advertising;

8 (2) restricts the use of a license or registration  
9 certificate holder's personal appearance or voice in an  
10 advertisement;

11 (3) relates to the size or duration of an  
12 advertisement by the license or registration certificate holder; or

13 (4) restricts the license or registration certificate  
14 holder's advertisement under a trade name. (V.T.I.C. Art. 5.43-3,  
15 Sec. 7A.)

16 Sec. 6003.054. GENERAL POWERS AND DUTIES OF COMMISSIONER,  
17 STATE FIRE MARSHAL, AND DEPARTMENT. (a) The commissioner may  
18 delegate authority to exercise all or part of the commissioner's  
19 functions, powers, and duties under this chapter, including the  
20 issuance of licenses and registration certificates, to the state  
21 fire marshal. The state fire marshal shall implement the rules  
22 adopted by the commissioner for the protection and preservation of  
23 life and property in controlling:

24 (1) the registration of an individual or an  
25 organization engaged in the business of planning, selling,  
26 installing, maintaining, or servicing fire protection sprinkler  
27 systems; and

1           (2) the requirements for the plan, sale, installation,  
2 maintenance, or servicing of fire protection sprinkler systems by:

3           (A) determining the criteria and qualifications  
4 for registration certificate and license holders;

5           (B) evaluating the qualifications of an  
6 applicant for a registration certificate to engage in the business  
7 of planning, selling, installing, maintaining, or servicing fire  
8 protection sprinkler systems;

9           (C) conducting examinations and evaluating the  
10 qualifications of a license applicant; and

11           (D) issuing registration certificates and  
12 licenses to qualified applicants.

13           (b) The commissioner shall establish a procedure for  
14 reporting and processing complaints relating to the business of  
15 planning, selling, installing, maintaining, or servicing fire  
16 protection sprinkler systems in this state. (V.T.I.C. Art. 5.43-3,  
17 Secs. 7(a), (b).)

18           Sec. 6003.055. FEES. (a) The commissioner shall set the  
19 fee for:

20           (1) a registration certificate application in an  
21 amount not to exceed \$100;

22           (2) an initial or renewal registration certificate in  
23 an amount not to exceed \$1,200 annually; and

24           (3) an initial or renewal responsible managing  
25 employee license fee in an amount not to exceed \$200 annually.

26           (b) Unless the examination for a responsible managing  
27 employee license is administered by a testing service, the

1 commissioner shall set a nonrefundable fee for each examination in  
2 an amount not to exceed \$100.

3 (c) The commissioner shall set a fee in an amount not to  
4 exceed \$70 for:

5 (1) a duplicate registration certificate or license  
6 issued under this chapter; or

7 (2) any request requiring changes to a registration  
8 certificate or license. (V.T.I.C. Art. 5.43-3, Secs. 4(a) (part),  
9 (c) (part), (d) (part), (e), (i) (part), 5A(a) (part).)

10 Sec. 6003.056. DEPOSIT IN OPERATING ACCOUNT. All fees  
11 collected under this chapter shall be deposited in the state  
12 treasury to the credit of the Texas Department of Insurance  
13 operating account for use in administering this chapter. (V.T.I.C.  
14 Art. 5.43-3, Sec. 4(i) (part).)

15 [Sections 6003.057-6003.100 reserved for expansion]

16 SUBCHAPTER C. FIRE PROTECTION ADVISORY COUNCIL

17 Sec. 6003.101. ADVISORY COUNCIL; APPOINTMENT. (a) The  
18 commissioner shall appoint the members of the fire protection  
19 advisory council, who serve at the pleasure of the commissioner.

20 (b) The advisory council is composed of seven members as  
21 follows:

22 (1) three members who have been actively engaged in  
23 the management of a fire protection sprinkler system business for  
24 not less than five years preceding appointment;

25 (2) one member who represents the engineering section  
26 of the department's property and casualty program;

27 (3) one member who is a volunteer firefighter; and

1           (4) two members who each represent a different  
2 municipal fire department in this state.

3           (c) The State Firemen's and Fire Marshals' Association of  
4 Texas, on the commissioner's request, may recommend a volunteer  
5 firefighter for appointment to the advisory council. (V.T.I.C.  
6 Art. 5.43-3, Secs. 6(a) (part), (c), (e).)

7           Sec. 6003.102. ADVISORY COUNCIL DUTIES. (a) In addition to  
8 other duties delegated by the commissioner, the fire protection  
9 advisory council shall:

10           (1) advise the state fire marshal regarding practices  
11 in the fire protection sprinkler system industry and the rules  
12 necessary to implement and administer this chapter; and

13           (2) make recommendations to the state fire marshal  
14 regarding forms and procedures for registration certificates and  
15 licenses.

16           (b) The advisory council shall periodically:

17           (1) review rules implementing this chapter; and

18           (2) recommend rule changes to the commissioner.

19 (V.T.I.C. Art. 5.43-3, Secs. 6(b), (d).)

20           [Sections 6003.103-6003.150 reserved for expansion]

21           SUBCHAPTER D. REGISTRATION AND LICENSE REQUIREMENTS

22           Sec. 6003.151. FIRE PROTECTION SPRINKLER SYSTEM  
23 CONTRACTOR; REGISTRATION CERTIFICATE REQUIRED. (a) Unless the  
24 individual or organization holds a registration certificate issued  
25 by the department, an individual or organization may not plan,  
26 sell, install, maintain, or service a fire protection sprinkler  
27 system.

1 (b) An applicant for a registration certificate must apply  
2 to the department on a form prescribed by the commissioner.

3 (c) An organization that is a partnership or joint venture  
4 is not required to register under the name of the organization if  
5 each partner or joint venturer holds a registration certificate.  
6 (V.T.I.C. Art. 5.43-3, Secs. 4(a) (part), 8 (part).)

7 Sec. 6003.152. REQUIRED INSURANCE COVERAGE FOR  
8 REGISTRATION CERTIFICATE. (a) The department may not issue a  
9 registration certificate under this chapter unless the applicant  
10 files with the department evidence of a general liability insurance  
11 policy that includes products and completed operations coverage.  
12 The policy must be conditioned to pay on behalf of the insured those  
13 amounts that the insured becomes legally obligated to pay as  
14 damages because of bodily injury and property damage caused by an  
15 occurrence involving the insured or the insured's officer, agent,  
16 or employee in the conduct of any activity that requires a  
17 registration certificate or license under this chapter.

18 (b) Unless the commissioner, after notice and an  
19 opportunity for a hearing, increases or decreases the limits, the  
20 limits of insurance coverage required by Subsection (a) must be at  
21 least:

22 (1) \$100,000 combined single limits for bodily injury  
23 and property damage for each occurrence; and

24 (2) \$300,000 aggregate for all occurrences for each  
25 policy year.

26 (c) The evidence of insurance required by this section must  
27 be in the form of a certificate of insurance executed by an insurer

1 authorized to engage in the business of insurance in this state and  
2 countersigned by an insurance agent licensed in this state. A  
3 certificate of insurance for surplus lines coverage procured in  
4 compliance with Chapter 981 through a surplus lines agent that is  
5 licensed under Subchapter E, Chapter 981, and resident in this  
6 state may be filed with the department as evidence of the coverage  
7 required by this section.

8 (d) An insurance certificate executed and filed with the  
9 department under this section remains in force until the insurer  
10 has terminated future liability by the notice required by the  
11 department.

12 (e) Failure to maintain the liability insurance required by  
13 this section constitutes grounds for the denial, suspension, or  
14 revocation, after notice and opportunity for hearing, of a  
15 registration certificate issued under this chapter. (V.T.I.C. Art.  
16 5.43-3, Secs. 5, 7(c).)

17 Sec. 6003.153. RESPONSIBLE MANAGING EMPLOYEE: LICENSE  
18 REQUIRED. (a) Each fire protection sprinkler system contractor  
19 must employ at least one licensed responsible managing employee on  
20 a full-time basis.

21 (b) A person may not act as a responsible managing employee  
22 unless the person holds a license issued by the department,  
23 conditioned on the successful completion of the license examination  
24 and compliance with the requirements of the rules adopted under  
25 this chapter.

26 (c) Notwithstanding Subsection (a), an individual or  
27 organization with a current registration certificate may act as a

1 fire protection sprinkler system contractor for 30 days after the  
2 death or dissociation of its licensed responsible managing employee  
3 or for a longer period approved by the commissioner under the rules  
4 adopted under this chapter. (V.T.I.C. Art. 5.43-3, Secs. 4(b), (c)  
5 (part), 8 (part).)

6 Sec. 6003.154. POSTING OF LICENSE OR CERTIFICATE REQUIRED.  
7 Each registration certificate and license issued under this chapter  
8 must be posted in a conspicuous place in the fire protection  
9 sprinkler system contractor's place of business. (V.T.I.C. Art.  
10 5.43-3, Sec. 4(f).)

11 Sec. 6003.155. DISPLAY OF REGISTRATION CERTIFICATE NUMBER  
12 ON CERTAIN DOCUMENTS REQUIRED. Each bid, proposal, offer, and  
13 installation drawing for a fire protection sprinkler system must  
14 prominently display the registration certificate number of the fire  
15 protection sprinkler system contractor. (V.T.I.C. Art. 5.43-3,  
16 Sec. 4(g).)

17 Sec. 6003.156. LICENSE EXAMINATION. (a) The state fire  
18 marshal shall establish the scope and type of an examination  
19 required by this chapter.

20 (b) The state fire marshal may administer the examination or  
21 may enter into an agreement with a testing service.

22 (c) If a testing service is used, the state fire marshal may  
23 contract with the testing service regarding requirements for the  
24 examination, including:

- 25 (1) examination development;  
26 (2) scheduling;  
27 (3) site arrangements;

- 1 (4) grading;
- 2 (5) reporting;
- 3 (6) analysis; or
- 4 (7) other administrative duties.

5 (d) The state fire marshal may require the testing service  
6 to:

7 (1) correspond directly with an applicant regarding  
8 the administration of the examination;

9 (2) collect a reasonable fee from an applicant for  
10 administering the examination; or

11 (3) administer the examination at a specific location  
12 or time.

13 (e) The state fire marshal shall adopt rules as necessary to  
14 implement examination requirements under this chapter. (V.T.I.C.  
15 Art. 5.43-3, Secs. 5B(a), (b), (e).)

16 Sec. 6003.157. EXAMINATION RESULTS. (a) Not later than the  
17 30th day after the date on which an examination is administered  
18 under this chapter, the state fire marshal shall send notice to each  
19 examinee of the results of the examination.

20 (b) If an examination is graded or reviewed by a testing  
21 service, the state fire marshal shall send notice to each examinee  
22 of the results of the examination not later than the 14th day after  
23 the date on which the state fire marshal receives the results from  
24 the testing service.

25 (c) If the notice of the examination results will be delayed  
26 for more than 90 days after the examination date, the state fire  
27 marshal, before the 90th day, shall send notice to the examinee of



1 the reason for the delay.

2 (d) The state fire marshal may require a testing service to  
3 notify an examinee of the results of the examinee's examination.

4 (e) If requested in writing by an individual who fails the  
5 examination administered under this chapter, the state fire marshal  
6 shall send to the individual an analysis of the individual's  
7 performance on the examination. (V.T.I.C. Art. 5.43-3, Secs.  
8 5B(c), (d).)

9 Sec. 6003.158. CONTINUING EDUCATION REQUIREMENTS. (a) The  
10 commissioner may adopt procedures for certifying and may certify  
11 continuing education programs.

12 (b) Participation in the continuing education programs is  
13 voluntary. (V.T.I.C. Art. 5.43-3, Sec. 5C.)

14 Sec. 6003.159. RECIPROCAL LICENSE. The department may waive  
15 any license requirement for an applicant who holds a license issued  
16 by another state that has license requirements substantially  
17 equivalent to the license requirements of this state. (V.T.I.C.  
18 Art. 5.43-3, Sec. 5D.)

19 Sec. 6003.160. NOT TRANSFERABLE. A registration  
20 certificate or license issued under this chapter is not  
21 transferable. (V.T.I.C. Art. 5.43-3, Sec. 4(h).)

22 [Sections 6003.161-6003.200 reserved for expansion]

23 SUBCHAPTER E. RENEWAL OF REGISTRATION CERTIFICATE OR LICENSE

24 Sec. 6003.201. RENEWAL REQUIRED; FEE. (a) Except as  
25 otherwise provided by this subsection, an initial registration  
26 certificate or license is valid for a period of one year from the  
27 date of issue and is renewable on payment of the renewal fee. An

1 initial registration certificate or license issued on or after  
2 September 1, 1983, may be issued for a period of less than one year  
3 and the renewal fee shall be prorated proportionally.

4 (b) A renewal of a registration certificate or license  
5 issued under this chapter is valid for a period of two years. The  
6 license or registration fee for each year of the two-year period is  
7 payable on renewal.

8 (c) The commissioner by rule may adopt a system under which  
9 registration certificates and licenses expire on various dates  
10 during the year. For the year in which an expiration date of a  
11 registration certificate or license is less than one year from its  
12 issuance or anniversary date, the fee shall be prorated on a monthly  
13 basis so that each holder of a registration certificate or license  
14 pays only that portion of the renewal fee that is allocable to the  
15 number of months during which the registration certificate or  
16 license is valid. On renewal on the new expiration date, the total  
17 renewal fee is payable. (V.T.I.C. Art. 5.43-3, Secs. 4(d) (part),  
18 5A(a), (c).)

19 Sec. 6003.202. NOTICE OF EXPIRATION. At least 30 days  
20 before the expiration date of a registration certificate or  
21 license, the department shall send written notice of the impending  
22 expiration to the holder of the registration certificate or  
23 license at the holder's last known address. (V.T.I.C. Art. 5.43-3,  
24 Sec. 5A(b) (part).)

25 Sec. 6003.203. RENEWAL PROCEDURES. (a) The holder of an  
26 unexpired registration certificate or license may renew the  
27 certificate or license by paying the required renewal fee to the

1 department before the expiration date of the certificate or  
2 license.

3 (b) An individual or organization whose registration  
4 certificate or license has been expired for 90 days or less may  
5 renew the certificate or license by paying to the department:

6 (1) the required renewal fee; and

7 (2) a fee equal to one-half of the initial fee for the  
8 certificate or license.

9 (c) An individual or organization whose registration  
10 certificate or license has been expired for more than 90 days but  
11 less than two years may renew the certificate or license by paying  
12 to the department:

13 (1) all unpaid renewal fees; and

14 (2) a fee that is equal to the initial fee for the  
15 certificate or license.

16 (d) An individual or organization whose registration  
17 certificate or license has been expired for two years or longer may  
18 not renew the certificate or license. The individual or  
19 organization may obtain a new registration certificate or license  
20 by complying with the requirements and procedures for obtaining an  
21 initial registration certificate or license.

22 (e) This section may not be construed to prevent the  
23 department from denying or refusing to renew a license under  
24 applicable law or commissioner rules. (V.T.I.C. Art. 5.43-3, Sec.  
25 5A(b) (part).)

26 [Sections 6003.204-6003.250 reserved for expansion]

1                   SUBCHAPTER F. PROHIBITED PRACTICES

2                                   AND DISCIPLINARY PROCEDURES

3           Sec. 6003.251. PROHIBITED PRACTICES.    An individual or  
4 organization may not:

5                   (1) obtain or attempt to obtain a registration  
6 certificate or license by fraudulent representation; or

7                   (2) plan, sell, install, maintain, or service a fire  
8 protection sprinkler system in violation of this chapter or the  
9 rules adopted under this chapter. (V.T.I.C. Art. 5.43-3, Sec. 8  
10 (part).)

11          Sec. 6003.252. DISCIPLINARY ACTIONS.    The state fire  
12 marshal may suspend, revoke, or refuse to issue or renew a  
13 registration certificate or license if, after notice and hearing,  
14 the state fire marshal finds that the applicant, registrant, or  
15 license holder has engaged in acts that:

16                   (1) violate this chapter;

17                   (2) violate rules or standards adopted under this  
18 chapter; or

19                   (3) constitute misrepresentation made in connection  
20 with:

21                                   (A) the sale of products; or

22                                   (B) services rendered. (V.T.I.C. Art. 5.43-3,  
23 Sec. 9(a).)

24          Sec. 6003.253. DISCIPLINARY HEARING. (a) If the state fire  
25 marshal proposes to suspend, revoke, or refuse to renew a license or  
26 registration certificate issued under this chapter, the holder of  
27 the license or certificate is entitled to a hearing conducted by the

1 State Office of Administrative Hearings.

2 (b) Rules of practice adopted by the commissioner  
3 applicable to the proceedings for a disciplinary action may not  
4 conflict with rules adopted by the State Office of Administrative  
5 Hearings. (V.T.I.C. Art. 5.43-3, Sec. 9A (part).)

6 Sec. 6003.254. APPLICABILITY OF ADMINISTRATIVE PROCEDURE  
7 ACT. Proceedings for the denial, suspension, or revocation of a  
8 registration certificate or license, appeals from those  
9 proceedings, and any other proceedings for a disciplinary action  
10 are governed by Chapter 2001, Government Code. (V.T.I.C. Art.  
11 5.43-3, Secs. 9(b), 9A (part).)

12 Sec. 6003.255. REAPPLICATION REQUIREMENTS. (a) An  
13 applicant or holder of a registration certificate or license whose  
14 certificate or license has been denied, refused, or revoked under  
15 this chapter, other than for failure to pass a required written  
16 examination, may not file another application for a registration  
17 certificate or license before:

18 (1) the first anniversary of the effective date of the  
19 denial, refusal, or revocation; or

20 (2) if judicial review of the denial, refusal, or  
21 revocation is sought, before the first anniversary of the date of  
22 the final court order or decree affirming the action.

23 (b) The commissioner may deny an application described by  
24 Subsection (a) unless the applicant shows good cause why the  
25 denial, refusal, or revocation of the registration certificate or  
26 license should not be considered a bar to the issuance of a new  
27 registration certificate or license. (V.T.I.C. Art. 5.43-3, Sec.

1 9(c).)

2 [Sections 6003.256-6003.300 reserved for expansion]

3 SUBCHAPTER G. CRIMINAL PENALTY

4 Sec. 6003.301. CRIMINAL PENALTY. (a) A person commits an  
5 offense if the person knowingly violates Section 6003.151(a),  
6 6003.153, or 6003.251.

7 (b) An offense under this section is a Class B misdemeanor.

8 (c) Venue for an offense under this section is in Travis  
9 County or the county in which the offense is committed. (V.T.I.C.  
10 Art. 5.43-3, Sec. 10; New.)

11 PART K. ADDITIONS TO GOVERNMENT CODE AND LOCAL GOVERNMENT CODE

12 SECTION 1K.001. ADDITION. Subchapter A, Chapter 533,  
13 Government Code, is amended by adding Section 533.019 to read as  
14 follows:

15 Sec. 533.019. MANAGED CARE ORGANIZATIONS: FISCAL SOLVENCY  
16 AND COMPLAINT SYSTEM GUIDELINES. (a) The Texas Department of  
17 Insurance, in conjunction with the commission, shall establish  
18 fiscal solvency standards and complaint system guidelines for  
19 managed care organizations that serve Medicaid recipients.

20 (b) The guidelines must require that information regarding  
21 a managed care organization's complaint process be made available  
22 to a recipient in an appropriate communication format when the  
23 recipient enrolls in the Medicaid managed care program. (V.T.I.C.  
24 Art. 1.61.)

25 SECTION 1K.002. ADDITION. Subtitle C, Title 5, Local  
26 Government Code, is amended by adding Chapter 177 to read as  
27 follows:

1 CHAPTER 177. LIFE, HEALTH, AND ACCIDENT INSURANCE FOR OFFICIALS,  
2 EMPLOYEES, AND RETIREES OF POLITICAL SUBDIVISIONS

3 SUBCHAPTER A. GENERAL PROVISIONS

4 Sec. 177.001. CERTAIN COVERAGE AUTHORIZED. (a) A county or  
5 other political subdivision of this state may procure contracts  
6 insuring the political subdivision's officials, employees, and  
7 retirees or any class of the political subdivision's officials,  
8 employees, and retirees under a policy of group life, group health,  
9 accident, accidental death and dismemberment, or hospital,  
10 surgical, or medical expense insurance.

11 (b) The dependents of those officials, employees, and  
12 retirees may be insured under a group policy that provides:

13 (1) health insurance; or

14 (2) hospital, surgical, or medical expense insurance.

15 (V.T.I.C. Art. 3.51-2, Sec. (a) (part).)

16 Sec. 177.002. PAYMENT OF PREMIUMS. (a) A county or other  
17 political subdivision of this state that is authorized to procure a  
18 contract insuring the political subdivision's officials,  
19 employees, and retirees or any class of the political subdivision's  
20 officials, employees, and retirees under a policy of group  
21 insurance that covers one or more risks may pay from the local funds  
22 of the political subdivision all or any portion of the premiums for  
23 the policy. The political subdivision may also pay all or any  
24 portion of the premiums on group health, hospital, surgical, or  
25 medical expense insurance for dependents of the political  
26 subdivision's officials, employees, and retirees.

27 (b) If authorized by the official, employee, or retiree in

1 writing to make the deduction, the county or other political  
2 subdivision may deduct from the person's salary an amount equal to  
3 any required contribution by the person to the premiums for the  
4 insurance issued under Section 177.001 to the political  
5 subdivision as the policyholder. (V.T.I.C. Art. 3.51-2, Secs. (a)  
6 (part), (b), (c) (part).)

7 Sec. 177.003. USE OF STATE FUNDS. State funds may not be  
8 used to procure a contract under this subchapter or pay premiums  
9 under that contract. (V.T.I.C. Art. 3.51-2, Sec. (a) (part).)

10 [Sections 177.004-177.050 reserved for expansion]

11 SUBCHAPTER B. HEALTH AND INSURANCE FUND

12 Sec. 177.051. FUND AUTHORIZED. (a) A county or other  
13 political subdivision of this state may establish a fund to provide  
14 insurance authorized by Subchapter A.

15 (b) A fund established under Subsection (a) shall be known  
16 as the "health and insurance fund--employees and dependents."  
17 (V.T.I.C. Art. 3.51-2, Sec. (c) (part).)

18 Sec. 177.052. PAYMENT OF MONEY INTO FUND. There shall be  
19 credited to a fund established under this subchapter:

20 (1) any salary deduction to which an official,  
21 employee, or retiree agrees in writing; and

22 (2) contributions from the county or other political  
23 subdivision. (V.T.I.C. Art. 3.51-2, Sec. (c) (part).)

24 Sec. 177.053. USE OF MONEY IN FUND. Payment from a fund  
25 established under this subchapter:

26 (1) is authorized only for the payment of premiums on  
27 life, group health, accident, accidental death and dismemberment,



1 or hospital, surgical, or medical expense insurance for officials,  
2 employees, retirees, and their dependents; and

3 (2) must be made in accordance with rules adopted by  
4 the county or other political subdivision establishing the fund.  
5 (V.T.I.C. Art. 3.51-2, Sec. (c) (part).)

6 Sec. 177.054. PAYMENT OF CLAIMS FROM FUND. A claim against  
7 a fund established under this subchapter shall be payable in the  
8 same manner as other claims of the county or other political  
9 subdivision. (V.T.I.C. Art. 3.51-2, Sec. (c) (part).)

10 PART L. REPEALER

11 SECTION 1L.001. REPEALER. (a) The following Acts and  
12 articles as compiled in Vernon's Texas Insurance Code are repealed:

13 (1) 1.01, 1.02, 1.10, 1.12, 1.13, 1.33, and 1.61;

14 (2) 3.11, 3.38, 3.49-3, 3.50-7B, and 3.51-2;

15 (3) 3.50-7A, as added by Chapter 201, Acts of the 78th  
16 Legislature, Regular Session, 2003;

17 (4) 3.50-7A, as added by Chapter 213, Acts of the 78th  
18 Legislature, Regular Session, 2003;

19 (5) 5.01-1, 5.02, 5.03-1, 5.05, 5.14, 5.43-1, 5.43-2,  
20 5.43-3, and 5.66; and

21 (6) 21.20-2, 21.49-15, 21.49-16, 21.49C, 21.70, and  
22 21.80.

23 (b) Subsection (b), Article 1.09-1, Insurance Code, is  
24 repealed.

25 (c) Subchapter B, Chapter 4, Insurance Code, is repealed.

26 PART M. LEGISLATIVE INTENT

27 SECTION 1M.001. LEGISLATIVE INTENT. This article is

1 enacted under Section 43, Article III, Texas Constitution. This  
2 article is intended as a recodification only, and no substantive  
3 change in law is intended by this article.

4 PART N. EFFECTIVE DATE

5 SECTION 1N.001. EFFECTIVE DATE. This article takes effect  
6 April 1, 2009.

7 ARTICLE 2. UPDATES OF CROSS-REFERENCES IN TITLES 2, 3, 5, 6, 7, 8,  
8 10, 11, AND 13, INSURANCE CODE

9 PART A. GENERAL PROVISIONS

10 SECTION 2A.001. This article is enacted as part of the  
11 state's continuing statutory revision program under Chapter 323,  
12 Government Code. This article is a revision for purposes of Section  
13 43, Article III, Texas Constitution, and has the purpose of making  
14 necessary corrections to enacted codifications of the Insurance  
15 Code.

16 SECTION 2A.002. If any provision of this article conflicts  
17 with a statute enacted by the 80th Legislature, Regular Session,  
18 2007, the statute controls.

19 PART B. CROSS-REFERENCE UPDATES: TITLE 2, INSURANCE CODE

20 SECTION 2B.001. Section 34.004(a), Insurance Code, is  
21 amended to correct a cross-reference to read as follows:

22 (a) A person is not liable in a civil action, including an  
23 action for libel or slander, for collecting, reviewing, analyzing,  
24 disseminating, or reporting information collected from annual  
25 statements filed under Chapter 802 [~~Article 1.11~~] if the person is:

26 (1) the department, the commissioner, or an employee  
27 of the department;

1           (2) a member or employee of or delegate to the National  
2 Association of Insurance Commissioners or an authorized committee,  
3 subcommittee, or task force of that association; or

4           (3) another person who is responsible for collecting,  
5 reviewing, analyzing, and disseminating information from filed  
6 annual statement convention blanks.

7           SECTION 2B.002. Section 36.002, Insurance Code, is amended  
8 to correct cross-references to read as follows:

9           Sec. 36.002. ADDITIONAL RULEMAKING AUTHORITY. The  
10 commissioner may adopt reasonable rules that are:

11           (1) necessary to effect the purposes of a provision  
12 of:

13                   (A) Subchapter B, Chapter 5;

14                   (B) Subchapter C, Chapter 1806;

15                   (C) Subchapter A, Chapter 2301;

16                   (D) Chapter 251, as that chapter relates to  
17 casualty insurance and fidelity, guaranty, and surety bond  
18 insurance;

19                   (E) Chapter 253;

20                   (F) Chapter 2008, 2251, or 2252; or

21                   (G) Subtitle B, Title 10; or

22           (2) appropriate to accomplish the purposes of a  
23 provision of:

24                   (A) Section 37.051(a), 403.002, 492.051(b) or  
25 (c), 501.159, 941.003(b)(1) [~~941.003(b)(3)~~] or (c), or  
26 942.003(b)(1) [~~942.003(b)(3)~~] or (c);

27                   (B) Subchapter H, Chapter 544;

1 (C) Chapter 251, as that chapter relates to:

2 (i) automobile insurance;

3 (ii) casualty insurance and fidelity,  
4 guaranty, and surety bond insurance;

5 (iii) fire insurance and allied lines;

6 (iv) workers' compensation insurance; or

7 (v) aircraft insurance;

8 (D) Chapter 5, 252, 253, 254, 255, 256, 426, 493,  
9 494, 1804, 1805, 1806, ~~[or]~~ 2171, 6001, 6002, or 6003;

10 (E) Subtitle B, C, D, E, F, H, or I, Title 10;

11 (F) Section 417.008, Government Code; or

12 (G) [~~Chapter 406A, Labor Code; or~~

13 [~~H~~] Chapter 2154, Occupations Code.

14 SECTION 2B.003. Section 36.106, Insurance Code, is amended  
15 to correct cross-references to read as follows:

16 Sec. 36.106. WAIVER OF CERTAIN NOTICE REQUIREMENTS. The  
17 commissioner may, on written agreement or stipulation of each party  
18 and any intervenor, waive or modify the notice publication  
19 requirement of Section 822.059 [~~Article 2.01~~], 822.157 [~~2.03~~],  
20 841.060 [~~3.04~~], or 884.058 [~~22.03~~].

21 SECTION 2B.004. Section 38.002(a)(1), Insurance Code, is  
22 amended to correct a cross-reference to read as follows:

23 (1) "Insurer" means an insurance company, reciprocal  
24 or interinsurance exchange, mutual insurance company, capital  
25 stock company, county mutual insurance company, Lloyd's plan, or  
26 other legal entity engaged in the business of personal automobile  
27 insurance or residential property insurance in this state. The

1 term includes:

2 (A) an affiliate as described by [~~Section 2,~~  
3 ~~Article 21.49-1, or~~] Section 823.003(a) if that affiliate is  
4 authorized to write and is writing personal automobile insurance or  
5 residential property insurance in this state;

6 (B) the Texas Windstorm Insurance Association  
7 created and operated under Chapter 2210 [~~Article 21.49~~];

8 (C) the FAIR Plan Association under Chapter 2211  
9 [~~Article 21.49A~~]; and

10 (D) the Texas Automobile Insurance Plan  
11 Association under Chapter 2151 [~~Article 21.81~~].

12 SECTION 2B.005. Section 38.003(b), Insurance Code, is  
13 amended to correct a cross-reference to read as follows:

14 (b) For purposes of this section, "insurer" means a  
15 reciprocal or interinsurance exchange, mutual insurance company,  
16 capital stock company, county mutual insurance company, Lloyd's  
17 plan, life, accident, or health or casualty insurance company,  
18 health maintenance organization, mutual life insurance company,  
19 mutual insurance company other than life, mutual, or natural  
20 premium life insurance company, general casualty company,  
21 fraternal benefit society, group hospital service company, or other  
22 legal entity engaged in the business of insurance in this state.  
23 The term includes an affiliate as described by [~~Section 2, Article~~  
24 ~~21.49-1, or~~] Section 823.003(a) if that affiliate is authorized to  
25 write and is writing insurance in this state.

26 SECTION 2B.006. Section 38.051, Insurance Code, is amended  
27 to correct cross-references to read as follows:

1           Sec. 38.051. DEFINITION. In this subchapter, "health  
2 benefit plan provider" means an insurance company, group hospital  
3 service corporation, or health maintenance organization that  
4 issues:

5           (1) an individual, group, blanket, or franchise  
6 insurance policy, an insurance agreement, a group hospital service  
7 contract, or an evidence of coverage, that provides benefits for  
8 medical or surgical expenses incurred as a result of an accident or  
9 sickness; or

10           (2) a long-term care benefit plan [~~insurance policy~~],  
11 as defined by Section 1651.003 [~~2, Article 3.70-12~~].

12           SECTION 2B.007. Section 38.101(2), Insurance Code, is  
13 amended to correct cross-references to read as follows:

14           (2) "Health benefit plan coverage" means a group  
15 policy, contract, or certificate of health insurance or benefits  
16 delivered, issued for delivery, or renewed in this state by:

17           (A) an insurance company subject to a law  
18 described by Section 841.002 [~~Chapter 3~~];

19           (B) a group hospital service corporation under  
20 Chapter 842 [~~20~~];

21           (C) a health maintenance organization under  
22 Section 1367.053, Subchapter A, Chapter 1452, Subchapter B, Chapter  
23 1507, Chapters 222, 251, and 258, as applicable to a health  
24 maintenance organization, and Chapters 843, 1271, and 1272 [~~the~~  
25 ~~Texas Health Maintenance Organization Act (Chapter 20A, Vernon's~~  
26 ~~Texas Insurance Code)~~]; or

27           (D) a self-insurance trust or mechanism

1 providing health care benefits.

2 SECTION 2B.008. Section 38.152, Insurance Code, is amended  
3 to correct a cross-reference to read as follows:

4 Sec. 38.152. EXEMPTION. This subchapter does not apply to  
5 a farm mutual insurance company or to a county mutual fire insurance  
6 company writing exclusively industrial fire insurance as described  
7 by Section 912.310 [~~Article 17.02~~].

8 SECTION 2B.009. Section 38.252(c), Insurance Code, is  
9 amended to correct a cross-reference to read as follows:

10 (c) The commissioner shall not require reporting of data:

11 (1) that could reasonably be used to identify a  
12 specific enrollee in a health benefit plan;

13 (2) in any way that violates confidentiality  
14 requirements of state or federal law applicable to an enrollee in a  
15 health benefit plan; or

16 (3) in which the health maintenance organization  
17 operating under [~~the Texas Health Maintenance Organization Act~~ (  
18 Section 1367.053, Subchapter A, Chapter 1452, Subchapter B, Chapter  
19 1507, Chapter 222, 251, or 258, as applicable to a health  
20 maintenance organization, Chapter 843, Chapter 1271, and Chapter  
21 1272 [~~20A, Vernon's Texas Insurance Code~~)] does not directly  
22 process the claim or does not receive complete and accurate  
23 encounter data.

24 SECTION 2B.010. Section 82.002(a), Insurance Code, is  
25 amended to correct cross-references to read as follows:

26 (a) This chapter applies to each company regulated by the  
27 commissioner, including:

1           (1) a domestic or foreign, stock or mutual, life,  
2 health, or accident insurance company;

3           (2) a domestic or foreign, stock or mutual, fire or  
4 casualty insurance company;

5           (3) a Mexican casualty company;

6           (4) a domestic or foreign Lloyd's plan insurer;

7           (5) a domestic or foreign reciprocal or interinsurance  
8 exchange;

9           (6) a domestic or foreign fraternal benefit society;

10          (7) a domestic or foreign title insurance company;

11          (8) an attorney's title insurance company;

12          (9) a stipulated premium insurance company;

13          (10) a nonprofit legal service corporation;

14          (11) a health maintenance organization;

15          (12) a statewide mutual assessment company;

16          (13) a local mutual aid association;

17          (14) a local mutual burial association;

18          (15) an association exempt under Section 887.102  
19 ~~[Article 14.17]~~;

20          (16) a nonprofit hospital, medical, or dental service  
21 corporation, including a company subject to Chapter 842 ~~[20]~~;

22          (17) a county mutual insurance company; and

23          (18) a farm mutual insurance company.

24          SECTION 2B.011. Section 83.001(4), Insurance Code, is  
25 amended to correct cross-references to read as follows:

26           (4) "Unfair act" means an unfair method of  
27 competition, an unfair or deceptive act or practice, or an unfair



1 claim settlement practice as defined under Chapter 541 [~~Article~~  
2 ~~21.21~~] or 542 [~~21.21-2~~] or a rule adopted under either chapter  
3 [~~article~~].

4 SECTION 2B.012. Section 83.002(a), Insurance Code, is  
5 amended to correct cross-references to read as follows:

6 (a) This chapter applies to each company regulated by the  
7 commissioner, including:

8 (1) a domestic or foreign, stock or mutual, life,  
9 health, or accident insurance company;

10 (2) a domestic or foreign, stock or mutual, fire or  
11 casualty insurance company;

12 (3) a Mexican casualty company;

13 (4) a domestic or foreign Lloyd's plan insurer;

14 (5) a domestic or foreign reciprocal or interinsurance  
15 exchange;

16 (6) a domestic or foreign fraternal benefit society;

17 (7) a domestic or foreign title insurance company;

18 (8) an attorney's title insurance company;

19 (9) a stipulated premium insurance company;

20 (10) a nonprofit legal service corporation;

21 (11) a statewide mutual assessment company;

22 (12) a local mutual aid association;

23 (13) a local mutual burial association;

24 (14) an association exempt under Section 887.102  
25 [~~Article 14.17~~];

26 (15) a nonprofit hospital, medical, or dental service  
27 corporation, including a company subject to Chapter 842 [~~20~~];

1 (16) a county mutual insurance company; and

2 (17) a farm mutual insurance company.

3 SECTION 2B.013. Section 83.051(a), Insurance Code, is  
4 amended to correct cross-references to read as follows:

5 (a) The commissioner ex parte may issue an emergency cease  
6 and desist order if:

7 (1) the commissioner believes that:

8 (A) an authorized person engaging in the business  
9 of insurance is:

10 (i) committing an unfair act; or

11 (ii) in a hazardous condition or a  
12 hazardous financial condition under Section 843.406 [~~19, Texas~~  
13 ~~Health Maintenance Organization Act (Article 20A.19, Vernon's~~  
14 ~~Texas Insurance Code),~~] or Subchapter A, Chapter 404 [~~Article~~  
15 ~~1.32~~], as determined by the commissioner; or

16 (B) an unauthorized person:

17 (i) is engaging in the business of  
18 insurance in violation of Chapter 101 or in violation of a rule  
19 adopted under that chapter; or

20 (ii) is engaging in the business of  
21 insurance in violation of Chapter 101 and is committing an unfair  
22 act; and

23 (2) it appears to the commissioner that the alleged  
24 conduct:

25 (A) is fraudulent;

26 (B) is hazardous or creates an immediate danger  
27 to the public safety; or

1 (C) is causing or can be reasonably expected to  
2 cause public injury that:

- 3 (i) is likely to occur at any moment;  
4 (ii) is incapable of being repaired or  
5 rectified; and  
6 (iii) has or is likely to have influence or  
7 effect.

8 SECTION 2B.014. Section 101.001(a), Insurance Code, is  
9 amended to correct a cross-reference to read as follows:

10 (a) It is a state concern that many residents of this state  
11 hold insurance policies issued by persons or insurers who are not  
12 authorized to do insurance business in this state and who are not  
13 qualified as eligible surplus lines insurers under Chapter 981  
14 [~~Article 1.14-2~~]. These residents face often insurmountable  
15 obstacles in asserting legal rights under the policies in foreign  
16 forums under unfamiliar laws and rules of practice.

17 SECTION 2B.015. Section 101.002(2), Insurance Code, is  
18 amended to correct a cross-reference to read as follows:

19 (2) "Unfair act" means an unfair method of competition  
20 or an unfair or deceptive act or practice as defined under Chapter  
21 541 [~~Article 21.21~~] or a rule adopted under that chapter [~~article~~].

22 SECTION 2B.016. Section 101.052, Insurance Code, is amended  
23 to correct cross-references to read as follows:

24 Sec. 101.052. ADVERTISING RELATING TO MEDICARE SUPPLEMENT  
25 BENEFIT PLANS [~~POLICIES~~]. With respect to a Medicare supplement  
26 benefit plan [~~policy~~] authorized under Chapter 1652 [~~Article 3.74~~],  
27 the business of insurance in this state includes using, creating,

1 publishing, mailing, or disseminating in this state an  
2 advertisement relating to an act that constitutes the business of  
3 insurance under Section 101.051 unless the advertisement is used,  
4 created, published, mailed, or disseminated on behalf of an insurer  
5 or person who:

6 (1) is authorized under this code to engage in the  
7 business of insurance in this state;

8 (2) has actual knowledge of the content of the  
9 advertisement;

10 (3) has authorized the advertisement to be used,  
11 created, published, mailed, or disseminated on that insurer's or  
12 person's behalf; and

13 (4) is clearly identified by name in the advertisement  
14 as the sponsor of the advertisement.

15 SECTION 2B.017. Section 101.101, Insurance Code, is amended  
16 to correct a cross-reference to read as follows:

17 Sec. 101.101. DEFINITION. In this subchapter, "person"  
18 means an individual or entity that is a person for purposes of  
19 Section 541.002 [~~2(a), Article 21.21~~].

20 SECTION 2B.018. Section 101.203(c), Insurance Code, is  
21 amended to correct cross-references to read as follows:

22 (c) This section does not apply to:

23 (1) a transaction in this state that:

24 (A) involves a policy that:

25 (i) is lawfully solicited, negotiated,  
26 written, and delivered outside this state; and

27 (ii) covers, at the time the policy is

1 issued, only subjects of insurance that are not resident, located,  
2 or expressly to be performed in this state; and

3 (B) takes place after the policy is issued; or

4 (2) surplus lines insurance procured through eligible  
5 surplus lines insurers [~~carriers~~] as defined by Section 981.002  
6 [~~Article 1.14-2~~].

7 SECTION 2B.019. Section 101.301(b), Insurance Code, is  
8 amended to correct cross-references to read as follows:

9 (b) This section does not apply to:

10 (1) a transaction described by Section 101.053(b)(4);  
11 or

12 (2) surplus lines insurance procured through eligible  
13 surplus lines insurers [~~carriers~~] as defined by Section 981.002  
14 [~~Article 1.14-2~~].

15 PART C. CROSS-REFERENCE UPDATES: TITLE 3, INSURANCE CODE

16 SECTION 2C.001. Section 252.002(b), Insurance Code, is  
17 amended to correct a cross-reference to read as follows:

18 (b) The commissioner shall annually adjust the rate of  
19 assessment of the maintenance tax so that the tax imposed that year,  
20 together with any unexpended funds produced by the tax, produces  
21 the amount the commissioner determines is necessary to pay the  
22 expenses during the succeeding year of regulating all classes of  
23 insurance specified under:

24 (1) Chapters 1807, 2001-2006, 2171, 6001, 6002, and  
25 6003;

26 (2) Subchapter C, Chapter 5;

27 (3) Subchapter H, Chapter 544;

- 1           (4) Subchapter D, Chapter 1806;
- 2           (5) Section 403.002;
- 3           (6) Sections 417.007, 417.008, and 417.009,
- 4 Government Code; and
- 5           (7) Chapter 2154, Occupations Code.

6           SECTION 2C.002. Section 252.003, Insurance Code, is amended  
7 to correct a cross-reference to read as follows:

8           Sec. 252.003. PREMIUMS SUBJECT TO TAXATION. An insurer  
9 shall pay maintenance taxes under this chapter on the correctly  
10 reported gross premiums collected from writing insurance in this  
11 state against loss or damage by:

- 12           (1) bombardment;
- 13           (2) civil war or commotion;
- 14           (3) cyclone;
- 15           (4) earthquake;
- 16           (5) excess or deficiency of moisture;
- 17           (6) explosion as defined by Section 2002.006(b)
- 18 ~~[Article 5.52];~~
- 19           (7) fire;
- 20           (8) flood;
- 21           (9) frost and freeze;
- 22           (10) hail;
- 23           (11) insurrection;
- 24           (12) invasion;
- 25           (13) lightning;
- 26           (14) military or usurped power;
- 27           (15) an order of a civil authority made to prevent the

1 spread of a conflagration, epidemic, or catastrophe;

2 (16) rain;

3 (17) riot;

4 (18) the rising of the waters of the ocean or its  
5 tributaries;

6 (19) smoke or smudge;

7 (20) strike or lockout;

8 (21) tornado;

9 (22) vandalism or malicious mischief;

10 (23) volcanic eruption;

11 (24) water or other fluid or substance resulting from  
12 the breakage or leakage of sprinklers, pumps, or other apparatus  
13 erected for extinguishing fires, water pipes, or other conduits or  
14 containers;

15 (25) weather or climatic conditions; or

16 (26) windstorm.

17 SECTION 2C.003. Section 253.002(b), Insurance Code, is  
18 amended to correct a cross-reference to read as follows:

19 (b) The commissioner shall annually adjust the rate of  
20 assessment of the maintenance tax so that the tax imposed that year,  
21 together with any unexpended funds produced by the tax, produces  
22 the amount the commissioner determines is necessary to pay the  
23 expenses during the succeeding year of regulating all classes of  
24 insurance specified under Section 253.003 [~~Subchapter B, Chapter~~  
25 ~~5~~].

26 SECTION 2C.004. Section 253.003, Insurance Code, is amended  
27 to correct a cross-reference to read as follows:

1           Sec. 253.003. PREMIUMS SUBJECT TO TAXATION. An insurer  
2 shall pay maintenance taxes under this chapter on the correctly  
3 reported gross premiums from writing a class of insurance specified  
4 under:

- 5           (1) Chapters 2008, 2251, and 2252;  
6           (2) Subchapter B, Chapter 5;  
7           (3) Subchapter C, Chapter 1806;  
8           (4) Subchapter A, Chapter 2301; and  
9           (5) Subtitle B, Title 10.

10          SECTION 2C.005. Section 255.003(a), Insurance Code, is  
11 amended to correct a cross-reference to read as follows:

12          (a) An insurer shall pay maintenance taxes under this  
13 chapter on the correctly reported gross workers' compensation  
14 insurance premiums from writing workers' compensation insurance in  
15 this state, including the modified annual premium of a policyholder  
16 that purchases an optional deductible plan under Subchapter E,  
17 Chapter 2053 [~~Article 5.55C~~].

18          SECTION 2C.006. Section 256.002(b), Insurance Code, is  
19 amended to correct a cross-reference to read as follows:

20          (b) The commissioner shall annually adjust the rate of  
21 assessment of the maintenance tax so that the tax imposed that year,  
22 together with any unexpended funds produced by the tax, produces  
23 the amount the commissioner determines is necessary to pay the  
24 expenses during the succeeding year of regulating all classes of  
25 insurance specified under Chapter 2101 [~~Subchapter K, Chapter 5~~].

26          SECTION 2C.007. Section 256.003, Insurance Code, is amended  
27 to correct a cross-reference to read as follows:



1           Sec. 256.003. PREMIUMS SUBJECT TO TAXATION. An insurer  
2 shall pay maintenance taxes under this chapter on the correctly  
3 reported gross premiums from writing a class of insurance specified  
4 under Chapter 2101 [~~Subchapter K, Chapter 5~~].

5           SECTION 2C.008. Section 261.003(b), Insurance Code, is  
6 amended to correct a cross-reference to read as follows:

7           (b) The commissioner shall annually adjust the rate of  
8 assessment of the maintenance tax so that the tax imposed that year,  
9 together with any unexpended funds produced by the tax, produces  
10 the amount the commissioner determines is necessary to pay the  
11 expenses during the succeeding year of regulating all classes of  
12 insurance specified under Chapter 2204 [~~Article 1.14-3~~].

13           SECTION 2C.009. Section 261.004, Insurance Code, is amended  
14 to correct a cross-reference to read as follows:

15           Sec. 261.004. PREMIUMS SUBJECT TO TAXATION. The exchange  
16 shall pay maintenance taxes under this chapter on the correctly  
17 reported gross premiums paid through the exchange on all classes of  
18 insurance specified under Chapter 2204 [~~Article 1.14-3~~].

19           PART D. CROSS-REFERENCE UPDATES: TITLE 5, INSURANCE CODE

20           SECTION 2D.001. Section 501.158, Insurance Code, is amended  
21 to correct cross-references to read as follows:

22           Sec. 501.158. CONFIDENTIALITY                           REQUIREMENTS.  
23 Confidentiality requirements applicable to examination reports  
24 under Sections 401.105 and 401.106 [~~Article 1.18~~] and to the  
25 commissioner under Section 441.201 [~~3A, Article 21.28-A~~] apply to  
26 the public counsel.

27           SECTION 2D.002. Section 501.204(a), Insurance Code, is

1 amended to correct a cross-reference and to conform more closely to  
2 the source law from which the section is derived to read as follows:

3 (a) This section applies to each insurer authorized to  
4 engage in business in this state under:

- 5 (1) [~~Chapter 25,~~  
6 [~~2~~] Chapter 841;
- 7 (2) [~~3~~] Chapter 842;
- 8 (3) Section 1367.053, Subchapter A, Chapter 1452,  
9 Subchapter B, Chapter 1507, Chapter 222, 251, or 258, as applicable  
10 to a health maintenance organization, [~~4~~] Chapter 843, Chapter  
11 1271, or Chapter 1272;
- 12 (4) [~~5~~] Chapter 882;
- 13 (5) [~~6~~] Chapter 884;
- 14 (6) [~~7~~] Chapter 885;
- 15 (7) [~~8~~] Chapter 887;
- 16 (8) [~~9~~] Chapter 888;
- 17 (9) [~~10~~] Chapter 961;
- 18 (10) Chapter 962;
- 19 (11) Chapter 982;
- 20 (12) Subchapter B, Chapter 1103;
- 21 (13) Subchapter A, Chapter 1104;
- 22 (14) Chapter 1201, or a provision listed in Section  
23 1201.005;
- 24 (15) Chapter 1551;
- 25 (16) Chapter 1578; or
- 26 (17) Chapter 1601.

27 SECTION 2D.003. Sections 523.051(a) and (c), Insurance

1 Code, are amended to correct a cross-reference to read as follows:

2 (a) The market assistance program is a voluntary program  
3 designed to assist applicants for insurance and insureds in this  
4 state in obtaining residential property insurance coverage in  
5 underserved areas. The commissioner by rule shall designate  
6 underserved areas using the standards described by Section 2004.002  
7 [~~1, Article 5.35-3~~].

8 (c) The market assistance program may not provide  
9 assistance regarding windstorm and hail insurance coverage for a  
10 risk eligible for that coverage under Chapter 2210 [~~Article 21.49~~].

11 SECTION 2D.004. Section 523.202(b), Insurance Code, is  
12 amended to correct a cross-reference to read as follows:

13 (b) After each review, the executive committee shall report  
14 to the commissioner regarding:

15 (1) the need to continue operating the voluntary  
16 market assistance program;

17 (2) the need to establish a mandatory market  
18 assistance program;

19 (3) the need to establish a FAIR (Fair Access to  
20 Insurance Requirements) Plan under Chapter 2211 [~~Article 21.49A~~];  
21 or

22 (4) other recommendations the executive committee  
23 considers appropriate.

24 SECTION 2D.005. Section 541.005(a), Insurance Code, is  
25 amended to correct cross-references to read as follows:

26 (a) A risk retention group or purchasing group described by  
27 Subchapter B, Chapter 2201, or [~~as those terms are defined by~~]

1 Section 2201.251 that is [~~2, Article 21.54,~~] not chartered in this  
2 state may not engage in a trade practice in this state that is  
3 defined as unlawful under this chapter.

4 SECTION 2D.006. Section 541.454(a), Insurance Code, is  
5 amended to correct cross-references to read as follows:

6 (a) Civil penalties, premium refunds, judgments,  
7 compensatory judgments, individual recoveries, orders, class  
8 action awards, costs, damages, or attorney's fees assessed or  
9 awarded under this chapter:

10 (1) may be paid only from the capital or surplus funds  
11 of the offending insurer; and

12 (2) may not take precedence over, be in priority to, or  
13 in any other manner apply to:

14 (A) Chapter 462 or 463 [~~Article 21.28-C or~~  
15 ~~21.28-D~~] or any other insurance guaranty act; or

16 (B) Chapter 422 [~~Article 21.39-A~~].

17 SECTION 2D.007. Section 542.052, Insurance Code, is amended  
18 to correct a cross-reference to read as follows:

19 Sec. 542.052. APPLICABILITY OF SUBCHAPTER. This subchapter  
20 applies to any insurer authorized to engage in business as an  
21 insurance company or to provide insurance in this state, including:

22 (1) a stock life, health, or accident insurance  
23 company;

24 (2) a mutual life, health, or accident insurance  
25 company;

26 (3) a stock fire or casualty insurance company;

27 (4) a mutual fire or casualty insurance company;

- 1 (5) a Mexican casualty insurance company;
- 2 (6) a Lloyd's plan;
- 3 (7) a reciprocal or interinsurance exchange;
- 4 (8) a fraternal benefit society;
- 5 (9) a stipulated premium company;
- 6 (10) a nonprofit legal services corporation;
- 7 (11) a statewide mutual assessment company;
- 8 (12) a local mutual aid association;
- 9 (13) a local mutual burial association;
- 10 (14) an association exempt under Section 887.102;
- 11 (15) a nonprofit hospital, medical, or dental service
- 12 corporation, including a corporation subject to Chapter 842;
- 13 (16) a county mutual insurance company;
- 14 (17) a farm mutual insurance company;
- 15 (18) a risk retention group;
- 16 (19) a purchasing group;
- 17 (20) an eligible surplus lines insurer; and
- 18 (21) except as provided by Section 542.053(b), a
- 19 guaranty association operating under Chapter 462 or 463 [~~Article~~
- 20 ~~21.28-C or 21.28-D~~].

21 SECTION 2D.008. Sections 542.053(a) and (b), Insurance  
22 Code, are amended to correct cross-references to read as follows:

- 23 (a) This subchapter does not apply to:
- 24 (1) workers' compensation insurance;
  - 25 (2) mortgage guaranty insurance;
  - 26 (3) title insurance;
  - 27 (4) fidelity, surety, or guaranty bonds;

1 (5) marine insurance as defined by Section 1807.001  
2 [~~Article 5.53~~]; or

3 (6) a guaranty association created and operating under  
4 Chapter 2602.

5 (b) A guaranty association operating under Chapter 462 or  
6 463 [~~Article 21.28-C or 21.28-D~~] is not subject to the damage  
7 provisions of Section 542.060.

8 SECTION 2D.009. Section 542.102(b), Insurance Code, is  
9 amended to correct a cross-reference to read as follows:

10 (b) This section does not apply to a workers' compensation  
11 insurance policy subject to Section 2051.151 [~~Article 5.65A~~].

12 SECTION 2D.010. Section 542.152, Insurance Code, is amended  
13 to correct a cross-reference to read as follows:

14 Sec. 542.152. EXCEPTION. This subchapter does not apply  
15 to:

16 (1) a casualty insurance policy that requires the  
17 insured's consent to settle a claim against the insured;

18 (2) fidelity, surety, or guaranty bonds; or

19 (3) marine insurance as defined by Section 1807.001  
20 [~~Article 5.53~~].

21 SECTION 2D.011. Section 544.301(1), Insurance Code, is  
22 amended to correct cross-references to read as follows:

23 (1) "Insurer" means an insurance company, reciprocal  
24 or interinsurance exchange, mutual insurance company, capital  
25 stock company, county mutual insurance company, farm mutual  
26 insurance company, Lloyd's plan, or other legal entity authorized  
27 to write residential property insurance in this state. The term

1 includes an affiliate, as described by Section 823.003(a), if that  
2 affiliate is authorized to write and is writing residential  
3 property insurance in this state. The term does not include:

4 (A) an eligible surplus lines insurer regulated  
5 under Chapter 981;

6 (B) the Texas Windstorm Insurance Association  
7 under Chapter 2210 [~~Article 21.49~~]; or

8 (C) the FAIR Plan Association under Chapter 2211  
9 [~~Article 21.49A~~].

10 SECTION 2D.012. Section 551.001, Insurance Code, is amended  
11 to correct cross-references by amending Subsection (a) and adding  
12 Subsection (a-1) to read as follows:

13 (a) The commissioner may, as necessary, adopt and enforce  
14 reasonable rules, including notice requirements, relating to the  
15 cancellation and nonrenewal of any insurance policy regulated by  
16 the department under:

17 (1) Chapter 5;

18 (2) Chapter 1804, 1805, 2171, or 2301; or

19 (3) Subtitle C, D, E, or F, Title 10 [~~, other than:~~

20 [~~(1) a policy subject to Subchapter B or C; or~~

21 [~~(2) a marine insurance policy other than inland~~  
22 ~~marine]].~~

23 (a-1) Notwithstanding Subsection (a), Subsection (a) does  
24 not apply to:

25 (1) an insurance policy subject to Subchapter B or C of  
26 this chapter; or

27 (2) a marine insurance policy other than inland

1 marine.

2 SECTION 2D.013. Sections 551.107(b) and (e), Insurance  
3 Code, are amended to correct cross-references to read as follows:

4 (b) A claim under this section does not include a claim:

5 (1) resulting from a loss caused by natural causes;

6 (2) that is filed but is not paid or payable under the  
7 policy; or

8 (3) that an insurer is prohibited from using under  
9 Section 544.353 [~~3, Article 5.35-4~~].

10 (e) An insurer may notify an insured who has filed two  
11 claims in a period of less than three years that the insurer may  
12 refuse to renew the policy if the insured files a third claim during  
13 the three-year period. If the insurer does not notify the insured  
14 in accordance with this subsection, the insurer may not refuse to  
15 renew the policy because of claims. The notice form must:

16 (1) list the policyholder's claims; and

17 (2) contain the sentence: "The filing by you of  
18 another claim, except for a claim resulting from a loss caused by  
19 natural causes, a claim filed but not paid or payable under the  
20 policy under which it was filed, or an appliance-related claim that  
21 we are prohibited from using under Section 544.353 [~~3, Article~~  
22 ~~5.35-4~~], Texas Insurance Code, could cause us to refuse to renew  
23 your policy."

24 SECTION 2D.014. Section 553.004(a), Insurance Code, is  
25 amended to correct a cross-reference to read as follows:

26 (a) If the commissioner considers it necessary, the  
27 commissioner may initiate an examination of an insurer under



1 Sections 401.051, 401.052, and 401.054-401.062 [Article 1.15].

2 SECTION 2D.015. Section 558.001, Insurance Code, is amended  
3 to correct a cross-reference to read as follows:

4 Sec. 558.001. DEFINITION. In this chapter, "insurer" means  
5 an insurance company or other entity authorized to engage in the  
6 business of insurance in this state. The term includes:

- 7 (1) a stock life, health, or accident insurance  
8 company;
- 9 (2) a mutual life, health, or accident insurance  
10 company;
- 11 (3) a stock fire or casualty insurance company;
- 12 (4) a mutual fire or casualty insurance company;
- 13 (5) a Mexican casualty insurance company;
- 14 (6) a farm mutual insurance company;
- 15 (7) a county mutual insurance company;
- 16 (8) a Lloyd's plan;
- 17 (9) a reciprocal or insurance exchange;
- 18 (10) a fraternal benefit society;
- 19 (11) a stipulated premium company;
- 20 (12) a nonprofit legal services corporation;
- 21 (13) a statewide mutual assessment company;
- 22 (14) a local mutual aid association;
- 23 (15) a local mutual burial association;
- 24 (16) an association exempt under Section 887.102;
- 25 (17) a nonprofit hospital, medical, or dental service  
26 corporation, including a corporation subject to Chapter 842;
- 27 (18) a risk retention group;

- 1           (19) a purchasing group;
- 2           (20) an eligible surplus lines insurer; and
- 3           (21) a guaranty association operating under Chapter
- 4 462 or 463 [~~Article 21.28-C or 21.28-D~~].

5           SECTION 2D.016. Section 558.002(c), Insurance Code, is

6 amended to correct cross-references to read as follows:

7           (c) A guaranty association shall promptly refund any

8 unearned premium as described by Subchapter E, Chapter 462 [~~Section~~

9 ~~5(8), Article 21.28-C~~], or Sections 463.003(9) [~~5(10)~~] and 463.259

10 [~~8(n), Article 21.28-D~~].

11           SECTION 2D.017. Section 706.001(a), Insurance Code, is

12 amended to correct a cross-reference to read as follows:

13           (a) The definitions adopted under Sections 2251.002 and

14 2301.002 and the terms described by Sections 2251.003 and 2301.003

15 [~~Article 5.13-2~~] apply to this chapter.

16           SECTION 2D.018. Section 706.004, Insurance Code, is amended

17 to correct a cross-reference to read as follows:

18           Sec. 706.004. RATES AND FORMS. Notwithstanding any other

19 law, rates and forms for insurance coverage issued under this

20 chapter are governed by:

- 21                 (1) Subchapters A-E, Chapter 2251;
- 22                 (2) Subchapter A, Chapter 2301; and
- 23                 (3) Article 5.13-2.

24           PART E. CROSS-REFERENCE UPDATES: TITLE 6, INSURANCE CODE

25           SECTION 2E.001. Section 802.056, Insurance Code, is amended

26 to correct cross-references to read as follows:

27           Sec. 802.056. STATUS OF REPORTS AND OTHER INFORMATION. A

1 report or any other information resulting from the collection,  
2 review, analysis, and distribution of information developed from  
3 the filing of annual statement convention blanks and provided to  
4 the department by the National Association of Insurance  
5 Commissioners is considered part of the process of examination of  
6 insurance companies under this code, including Chapters 86 and 401  
7 ~~[Articles 1.15-1.19]~~.

8 SECTION 2E.002. Section 803.009, Insurance Code, is amended  
9 to correct cross-references to read as follows:

10 Sec. 803.009. CONFLICTING PROVISIONS. This chapter  
11 prevails over a conflicting provision of any other law of this  
12 state, including:

- 13 (1) Chapters 221, 222, and 223;  
14 (2) Sections 401.151, 401.152, 401.155, and 401.156;  
15 and  
16 (3) Section 171.0525, Tax Code ~~[Articles 1.16, 4.10,~~  
17 ~~4.11, and 9.59]~~.

18 SECTION 2E.003. Section 804.104, Insurance Code, is amended  
19 to correct a cross-reference to read as follows:

20 Sec. 804.104. RISK RETENTION GROUP NOT CHARTERED IN THIS  
21 STATE. A risk retention group that is not chartered but that is  
22 registered in this state under Section 2201.152 ~~[4(b)(3), Article~~  
23 ~~21.54]~~, must designate the commissioner as its agent for service of  
24 process and receipt of legal documents.

25 SECTION 2E.004. Section 804.201(a), Insurance Code, is  
26 amended to correct a cross-reference to read as follows:

- 27 (a) Process served by serving the commissioner under this

1 chapter must be directed to the defendant and include:

2 (1) for an unauthorized person or insurer, the name  
3 and address of the person or insurer to be served;

4 (2) for a risk retention group, the name and address of  
5 the group to be served;

6 (3) for a surplus lines insurer, the name and address  
7 of the insurer to be served;

8 (4) for an unincorporated association, trust, or other  
9 organization formed under Chapter 1505 [~~Article 3.71~~], the name and  
10 address of the association, trust, or organization; or

11 (5) for an authorized company, the name and address of  
12 the company as it appears in the department records.

13 SECTION 2E.005. Section 822.056(e), Insurance Code, is  
14 amended to correct a cross-reference to read as follows:

15 (e) If all of the authorized shares of stock without par  
16 value are not subscribed and paid for when the charter is granted or  
17 the amendment is filed, respectively, the insurance company shall  
18 file with the department a certificate authenticated by a majority  
19 of the directors stating the number of shares without par value  
20 issued and the consideration received for those shares. An  
21 insurance company may issue and dispose of those remaining  
22 authorized shares for money or an instrument authorized for minimum  
23 capital under:

24 (1) a provision of Subchapter B, Chapter 424, other  
25 than Section 424.052, 424.072, or 424.073; and

26 (2) Section 822.204 [~~and Article 2.10~~].

27 SECTION 2E.006. Sections 822.061(a) and (b), Insurance

1 Code, are amended to correct a cross-reference to read as follows:

2 (a) On receipt of a charter fee in the amount determined  
3 under Chapter 202 [~~Article 4.07~~], the commissioner shall examine  
4 the articles of incorporation filed with the department under  
5 Section 822.060 and any certificate filed under Section  
6 822.057(a)(4).

7 (b) If the commissioner approves the articles of  
8 incorporation and, if applicable, the certificate filed under  
9 Section 822.057(a)(4), the commissioner shall certify and file the  
10 approved documents with the department records and, on receipt of a  
11 fee in the amount determined under Chapter 202 [~~Article 4.07~~], the  
12 commissioner shall issue a certified copy of the charter to the  
13 incorporators.

14 SECTION 2E.007. Section 822.155, Insurance Code, is amended  
15 to correct a cross-reference to read as follows:

16 Sec. 822.155. APPLICATION FOR AMENDMENT OF CHARTER. A  
17 domestic insurance company may amend its charter by paying to the  
18 commissioner a fee in the amount determined under Chapter 202  
19 [~~Article 4.07~~] and by filing with the department:

20 (1) an application for a charter amendment on the form  
21 and containing the information prescribed by the commissioner; and

22 (2) the company's proposed amendment.

23 SECTION 2E.008. Sections 822.158(a) and (e), Insurance  
24 Code, are amended to correct cross-references to read as follows:

25 (a) Not later than the 60th day after the date the  
26 application under Section 822.155 is filed, the commissioner shall  
27 determine whether:

1           (1) the proposed capital structure of the insurance  
2 company meets the requirements of this code;

3           (2) the officers, directors, and managing head of the  
4 insurance company have sufficient insurance experience, ability,  
5 standing, and good record to make success of the company probable;

6           (3) the applicants are acting in good faith;

7           (4) if the proposed amendment relates to a diminution  
8 of the insurance company's charter powers with respect to the kinds  
9 of insurance business in which the company may be engaged, all  
10 liabilities incidental to the exercise of the powers to be  
11 eliminated have been terminated or wholly reinsured; and

12           (5) the property involved in an increase of capital or  
13 surplus, or both, is:

14                   (A) properly valued; and

15                   (B) in the form authorized by the following  
16 provisions [~~Section 822.204 and Article 2.10~~], to the extent those  
17 provisions apply:

18                                   (i) Subchapter B, Chapter 424, other than  
19 Sections 424.052, 424.072, and 424.073; and

20                                   (ii) Section 822.204.

21           (e) On approval of a certificate required under Section  
22 822.156 and receipt of a fee in the amount determined under Chapter  
23 202 [~~Article 4.07~~], the commissioner shall issue to the directors a  
24 certified copy of an amendment authorizing the issuance of shares  
25 of stock without par value that is filed under this section. The  
26 amendment is effective on issuance of the certified copy of the  
27 amendment.

1 SECTION 2E.009. Section 822.211, Insurance Code, is amended  
2 to correct cross-references to read as follows:

3 Sec. 822.211. ACTION OF COMMISSIONER WHEN CAPITAL OR  
4 SURPLUS REQUIREMENTS NOT SATISFIED. If an insurance company does  
5 not comply with the capital and surplus requirements of this  
6 chapter, the commissioner may enter an order prohibiting the  
7 company from writing new business and may:

8 (1) place the company under state supervision or  
9 conservatorship;

10 (2) declare the company to be in a hazardous condition  
11 as provided by Subchapter A, Chapter 404 [~~Article 1.32~~];

12 (3) declare the company to be impaired as provided by  
13 Subchapter B, Chapter 404 [~~Section 5, Article 1.10~~]; or

14 (4) apply to the company any other applicable sanction  
15 provided by this code.

16 SECTION 2E.010. Section 823.001(c), Insurance Code, is  
17 amended to read as follows:

18 (c) The purpose of this chapter [~~article~~] is to promote the  
19 public interest by:

20 (1) facilitating the achievement of the objectives  
21 described by Subsection (a);

22 (2) requiring disclosure of pertinent information  
23 relating to and approval of changes in control of an insurer;

24 (3) requiring disclosure and approval of material  
25 transactions and relationships between the insurer and the  
26 insurer's affiliates, including certain dividends to shareholders  
27 paid by the insurer; and

1           (4) providing standards governing material  
2 transactions between the insurer and the insurer's affiliates.

3           SECTION 2E.011. Section 823.353(a), Insurance Code, is  
4 amended to correct a cross-reference to read as follows:

5           (a) Each registered insurer that complies with an order  
6 under Section 823.351(a) shall pay the expense of the examination  
7 in accordance with Sections 401.151, 401.152, 401.155, and 401.156  
8 ~~[Article 1.16]~~.

9           SECTION 2E.012. Section 823.451, Insurance Code, is amended  
10 to correct cross-references to read as follows:

11           Sec. 823.451. RECEIVERSHIP. If it appears to the  
12 commissioner that a person's violation of this chapter so impairs  
13 the financial condition of a domestic insurer as to threaten the  
14 insurer's insolvency or make the further transaction of the  
15 insurer's business hazardous to the insurer's policyholders or  
16 creditors or the public, the commissioner may proceed under  
17 Chapters 441 and 443 ~~[Articles 21.28 and 21.28-A]~~ to take  
18 possession of the insurer's property and conduct the business of  
19 the insurer.

20           SECTION 2E.013. Section 824.151(b), Insurance Code, is  
21 amended to correct a cross-reference to read as follows:

22           (b) Except as provided by Section 824.152, the provisions of  
23 Subchapter D, Chapter 425, ~~[Article 3.39]~~ that limit investments in  
24 the corporate stock of another corporation do not apply to a  
25 purchase made under this section.

26           SECTION 2E.014. Sections 824.152(d) and (g), Insurance  
27 Code, are amended to correct a cross-reference to read as follows:



1 (d) A purchase, offer to purchase, tender offer, request to  
2 purchase, or invitation to purchase shares in excess of the limits  
3 imposed under Subchapter D, Chapter 425, [Article 3.39] may not be  
4 made until it is filed with and approved by the commissioner in  
5 accordance with Chapter 823.

6 (g) If the merger or consolidation does not take effect  
7 within the period finally determined and extended by the  
8 commissioner, the purchasing corporation must sell or otherwise  
9 dispose of the purchased shares that exceed the investment  
10 limitations imposed under Subchapter D, Chapter 425, [Article 3.39]  
11 within six months of the final effective date.

12 SECTION 2E.015. Section 828.051, Insurance Code, is amended  
13 to correct cross-references to read as follows:

14 Sec. 828.051. EXCEPTION TO LIMITATION ON PURCHASING SHARES  
15 OF OTHER COMPANY. Subchapters C and D, Chapter 425, [Articles 3.33  
16 and 3.39] do not apply to a purchase or contract described by  
17 Section 828.001 if all requirements of this subchapter are met.

18 SECTION 2E.016. Section 828.054, Insurance Code, is amended  
19 to correct cross-references to read as follows:

20 Sec. 828.054. APPROVAL REQUIRED. A purchase, offer to  
21 purchase, tender offer, request to purchase, or invitation to  
22 purchase shares in excess of the limits imposed under Subchapter C  
23 or D, Chapter 425, [Article 3.33 or 3.39] may not be made until it is  
24 filed with and approved by the commissioner in accordance with  
25 Chapter 823.

26 SECTION 2E.017. Section 828.056(b), Insurance Code, is  
27 amended to correct cross-references to read as follows:

1 (b) If the reinsurance agreement does not take effect within  
2 the period finally determined and extended by the commissioner, the  
3 purchasing company shall sell or otherwise dispose of the purchased  
4 shares that exceed the investment limitations imposed under  
5 Subchapter C or D, Chapter 425, [Article 3.33 or 3.39] within six  
6 months of the final effective date.

7 SECTION 2E.018. Section 841.002, Insurance Code, is amended  
8 to correct cross-references to read as follows:

9 Sec. 841.002. APPLICABILITY OF CHAPTER AND OTHER  
10 LAW. Except as otherwise expressly provided by this code, each  
11 insurance company incorporated or engaging in business in this  
12 state as a life insurance company, an accident insurance company, a  
13 life and accident insurance company, a health and accident  
14 insurance company, or a life, health, and accident insurance  
15 company is subject to:

16 (1) this chapter;

17 (2) Chapter 3;

18 (3) Chapters 425 and 492; ~~and~~

19 (4) ~~(3)~~ Title 7;

20 (5) Sections 1202.051, 1204.151, 1204.153, and  
21 1204.154;

22 (6) Subchapter A, Chapter 1202, Subchapters A and F,  
23 Chapter 1204, Subchapter A, Chapter 1273, Subchapters A, B, and D,  
24 Chapter 1355, and Subchapter A, Chapter 1366;

25 (7) Subchapter A, Chapter 1507;

26 (8) Chapters 1203, 1210, 1251-1254, 1301, 1351, 1354,  
27 1359, 1364, 1368, 1505, 1506, 1651, 1652, and 1701; and

1           (9) Chapter 177, Local Government Code.

2           SECTION 2E.019. Section 841.054(c), Insurance Code, is  
3 amended to correct a cross-reference to read as follows:

4           (c) At the time of incorporation, the required capital and  
5 surplus shall consist only of:

6                   (1) United States currency;

7                   (2) bonds of the United States, this state, or a county  
8 or municipality of this state; or

9                   (3) government insured mortgage loans that are  
10 authorized by this chapter or Chapter 425 [~~3~~], with not more than 50  
11 percent of the required capital invested in first mortgage real  
12 property loans.

13           SECTION 2E.020. Section 841.058(a), Insurance Code, is  
14 amended to correct a cross-reference to read as follows:

15           (a) To obtain a charter for a domestic insurance company,  
16 the incorporators must pay to the department the charter fee in an  
17 amount determined under Chapter 202 [~~Article 4.07~~] and file with  
18 the department:

19                   (1) an application for charter on the form and  
20 containing the information prescribed by the commissioner;

21                   (2) the company's articles of incorporation; and

22                   (3) an affidavit made by two or more of the  
23 incorporators that states that:

24                           (A) the minimum capital and surplus requirements  
25 of Section 841.054 are satisfied;

26                           (B) the capital and surplus are the bona fide  
27 property of the company; and

1 (C) the information in the articles of  
2 incorporation is true and correct.

3 SECTION 2E.021. Section 841.061(c), Insurance Code, is  
4 amended to correct a cross-reference to read as follows:

5 (c) If the commissioner does not reject the application  
6 under Subsection (b), the commissioner shall approve the  
7 application. On approval of an application, the department shall  
8 record the information required by Section 841.058 in records  
9 maintained for that purpose. On receipt of a fee in the amount  
10 determined under Chapter 202 [~~Article 4.07~~], the commissioner shall  
11 provide to the incorporators a certified copy of the application,  
12 articles of incorporation, and submitted affidavit.

13 SECTION 2E.022. Section 841.207, Insurance Code, is amended  
14 to correct a cross-reference to read as follows:

15 Sec. 841.207. ACTIONS OF COMMISSIONER WHEN CAPITAL AND  
16 SURPLUS REQUIREMENTS NOT SATISFIED. If an insurance company does  
17 not comply with the capital and surplus requirements of this  
18 chapter, the commissioner may order the insurance company to cease  
19 writing new business and may:

20 (1) place the insurance company under state  
21 supervision or conservatorship;

22 (2) declare the insurance company to be in a hazardous  
23 condition as provided by Subchapter A, Chapter 404 [~~Article 1.32~~];

24 (3) declare the insurance company to be impaired as  
25 provided by Section 841.206; or

26 (4) apply to the insurance company any other  
27 applicable sanction provided by this code.

1 SECTION 2E.023. Section 841.255(a), Insurance Code, is  
2 amended to correct a cross-reference to read as follows:

3 (a) Not later than March 1 of each year, a domestic  
4 insurance company shall:

5 (1) prepare a statement showing the condition of the  
6 company on December 31 of the preceding year; and

7 (2) deliver the statement to the department  
8 accompanied by a filing fee in the amount determined under Chapter  
9 202 [~~Article 4.07~~].

10 SECTION 2E.024. Section 841.257, Insurance Code, is amended  
11 to correct cross-references to read as follows:

12 Sec. 841.257. KINDS OF BUSINESS LIMITED. An insurance  
13 company authorized to engage in the business of insurance under  
14 this chapter or in accordance with Section 982.051 may not accept a  
15 risk or write an insurance policy in this state or any other state  
16 or country other than:

17 (1) a life, accident, or health insurance policy;

18 (2) reinsurance under Sections 492.051(b) and (c) or  
19 Chapter 493 [~~Article 5.75-1~~] by a life insurance company authorized  
20 to engage in the business of insurance in this state; or

21 (3) reinsurance under Chapter 494 [~~Article 5.75-3~~] by  
22 a domestic insurance company.

23 SECTION 2E.025. Section 842.201(c), Insurance Code, is  
24 amended to correct a cross-reference to read as follows:

25 (c) The department shall charge a fee in an amount  
26 determined under Chapter 202 [~~Article 4.07~~] for filing the  
27 statement.

1 SECTION 2E.026. Section 842.209, Insurance Code, is amended  
2 to correct cross-references to read as follows:

3 Sec. 842.209. EXAMINATIONS. The following laws [~~Articles~~  
4 ~~1.15 and 1.16~~] apply to a group hospital service corporation:

- 5 (1) Subchapter A, Chapter 86; and  
6 (2) Sections 401.051, 401.052, 401.054-401.062,  
7 401.151, 401.152, 401.155, and 401.156.

8 SECTION 2E.027. Section 842.210, Insurance Code, is amended  
9 to correct cross-references to read as follows:

10 Sec. 842.210. LIQUIDATION, REHABILITATION, OR CONSERVATION  
11 OF GROUP HOSPITAL SERVICE CORPORATION. The dissolution,  
12 liquidation, rehabilitation, or conservation of a group hospital  
13 service corporation is subject to Chapters 441 and 443 [~~Articles~~  
14 ~~21.28 and 21.28-A~~].

15 SECTION 2E.028. Section 842.253, Insurance Code, is amended  
16 to correct a cross-reference to read as follows:

17 Sec. 842.253. POLICY, CERTIFICATE, AND APPLICATION  
18 FORMS. A policy, certificate, or application form used by a group  
19 hospital service corporation is subject to Chapter 1701 [~~Article~~  
20 ~~3.42~~].

21 SECTION 2E.029. Sections 843.002(20), (28), and (30),  
22 Insurance Code, are amended to correct cross-references to read as  
23 follows:

24 (20) "Net worth" means the amount by which total  
25 liabilities, excluding liability for subordinated debt issued in  
26 compliance with Chapter 427 [~~Article 1.39~~], is exceeded by total  
27 admitted assets.

1           (28) "Uncovered expenses" means the estimated amount  
2 of administrative expenses and the estimated cost of health care  
3 services that are not guaranteed, insured, or assumed by a person  
4 other than the health maintenance organization. The term does not  
5 include the cost of health care services if the physician or  
6 provider agrees in writing that an enrollee is not liable,  
7 assessable, or in any way subject to making payment for the services  
8 except as described in the evidence of coverage issued to the  
9 enrollee under Chapter 1271 [~~Article 20A.09~~]. The term includes  
10 any amount due on loans in the next calendar year unless the amount  
11 is specifically subordinated to uncovered medical and health care  
12 expenses or the amount is guaranteed by a sponsoring organization.

13           (30) "Delegated entity" means an entity, other than a  
14 health maintenance organization authorized to engage in business  
15 under this chapter, that by itself, or through subcontracts with  
16 one or more entities, undertakes to arrange for or provide medical  
17 care or health care to an enrollee in exchange for a predetermined  
18 payment on a prospective basis and that accepts responsibility for  
19 performing on behalf of the health maintenance organization a  
20 function regulated by this chapter, Section 1367.053, Subchapter A,  
21 Chapter 1452, Subchapter B, Chapter 1507, Chapter 222, 251, or 258,  
22 as applicable to a health maintenance organization, or Chapter 1271  
23 or 1272 [~~or Chapter 20A~~]. The term does not include:

24                   (A) an individual physician; or

25                   (B) a group of employed physicians, practicing  
26 medicine under one federal tax identification number, whose total  
27 claims paid to providers not employed by the group constitute less

1 than 20 percent of the group's total collected revenue computed on a  
2 calendar year basis.

3 SECTION 2E.030. Section 843.006(a), Insurance Code, is  
4 amended to correct a cross-reference to read as follows:

5 (a) Except as provided by Subsection (b), each application,  
6 filing, and report required under this chapter, Section 1367.053,  
7 Subchapter A, Chapter 1452, Subchapter B, Chapter 1507, Chapter  
8 222, 251, or 258, as applicable to a health maintenance  
9 organization, or Chapter 1271 or 1272 [~~or Chapter 20A~~] is a public  
10 document.

11 SECTION 2E.031. Section 843.007(a), Insurance Code, is  
12 amended to correct a cross-reference to read as follows:

13 (a) Any information relating to the diagnosis, treatment,  
14 or health of an enrollee or applicant obtained by a health  
15 maintenance organization from the enrollee or applicant or from a  
16 physician or provider shall be held in confidence and may not be  
17 disclosed to any person except:

18 (1) to the extent necessary to accomplish the purposes  
19 of this chapter or:

20 (A) Section 1367.053;

21 (B) Subchapter A, Chapter 1452;

22 (C) Subchapter B, Chapter 1507;

23 (D) Chapter 222, 251, or 258, as applicable to a  
24 health maintenance organization; or

25 (E) Chapter 1271 or 1272 [~~Chapter 20A~~];

26 (2) with the express consent of the enrollee or  
27 applicant;



1 (3) in compliance with a statute or court order for the  
2 production or discovery of evidence; or

3 (4) in the event of a claim or litigation between the  
4 enrollee or applicant and the health maintenance organization in  
5 which the information is pertinent.

6 SECTION 2E.032. Section 843.008, Insurance Code, is amended  
7 to correct cross-references to read as follows:

8 Sec. 843.008. COSTS OF ADMINISTERING HEALTH MAINTENANCE  
9 ORGANIZATION LAWS. Money collected under this chapter and  
10 Chapters 222, 251, and 258, as applicable to a health maintenance  
11 organization, [Article 20A.33] must be sufficient to administer  
12 this chapter and:

13 (1) Section 1367.053;

14 (2) Subchapter A, Chapter 1452;

15 (3) Subchapter B, Chapter 1507;

16 (4) Chapters 222, 251, and 258, as applicable to a  
17 health maintenance organization; and

18 (5) Chapters 1271 and 1272 [Chapter 20A].

19 SECTION 2E.033. Sections 843.051(a), (b), and (e),  
20 Insurance Code, are amended to correct cross-references to read as  
21 follows:

22 (a) Except to the extent that the commissioner determines  
23 that the nature of health maintenance organizations, health care  
24 plans, or evidences of coverage renders a provision of the  
25 following laws clearly inappropriate, Subchapter A, Chapter 542,  
26 Subchapters D and E, Chapter 544, and Chapters 541, 543, and 547  
27 [Articles 21.21, 21.21A, 21.21-2, 21.21-5, and 21.21-6, as added by

1 ~~Chapter 522, Acts of the 74th Legislature, Regular Session, 1995,~~  
2 ~~and the Unauthorized Insurers False Advertising Process Act~~  
3 ~~(Article 21.21-1, Vernon's Texas Insurance Code)]~~ apply to:

4 (1) health maintenance organizations that offer  
5 basic, limited, and single health care coverages;

6 (2) basic, limited, and single health care plans; and

7 (3) evidences of coverage under basic, limited, and  
8 single health care plans.

9 (b) A health maintenance organization is subject to:

10 (1) Chapter 402 [~~Section 3B, Article 3.51-6~~];

11 (2) Chapter 827 and is an authorized insurer for  
12 purposes of that chapter; and

13 (3) Subchapter G, Chapter 1251, and Section 1551.064  
14 [~~Article 21.49-8~~].

15 (e) Except for Chapter 251, as applicable to a third-party  
16 administrator, and Chapters 259, 4151, and 4201 [~~Articles 21.07-6~~  
17 ~~and 21.58A~~], insurance laws and group hospital service corporation  
18 laws do not apply to a physician or provider. Notwithstanding this  
19 subsection, a physician or provider who conducts a utilization  
20 review during the ordinary course of treatment of patients under a  
21 joint or delegated review agreement with a health maintenance  
22 organization on services provided by the physician or provider is  
23 not required to obtain certification under Subchapter C, Chapter  
24 4201 [~~Section 3, Article 21.58A~~].

25 SECTION 2E.034. Section 843.071(b), Insurance Code, is  
26 amended to correct a cross-reference to read as follows:

27 (b) A person may not use "health maintenance organization"

1 or "HMO" in the course of operation unless the person:

2 (1) complies with this chapter and:

3 (A) Section 1367.053;

4 (B) Subchapter A, Chapter 1452;

5 (C) Subchapter B, Chapter 1507;

6 (D) Chapters 222, 251, and 258, as applicable to  
7 a health maintenance organization; and

8 (E) Chapters 1271 and 1272 [~~Chapter 20A~~]; and

9 (2) holds a certificate of authority under this  
10 chapter.

11 SECTION 2E.035. Section 843.073(b), Insurance Code, is  
12 amended to correct a cross-reference to read as follows:

13 (b) Except as provided by Section 843.101 or 843.318(a), a  
14 physician or provider that employs or enters into a contractual  
15 arrangement with a provider or group of providers to provide basic  
16 or limited health care services or a single health care service is  
17 subject to this chapter and the following provisions [~~Chapter 20A~~]  
18 and is required to obtain a certificate of authority under this  
19 chapter:

20 (1) Section 1367.053;

21 (2) Subchapter A, Chapter 1452;

22 (3) Subchapter B, Chapter 1507;

23 (4) Chapters 222, 251, and 258, as applicable to a  
24 health maintenance organization; and

25 (5) Chapters 1271 and 1272.

26 SECTION 2E.036. Sections 843.078(j), (m), and (n),  
27 Insurance Code, are amended to correct cross-references to read as

1 follows:

2 (j) An application for a certificate of authority must  
3 include a description of the procedures and programs to be  
4 implemented by the applicant to meet the quality of health care  
5 requirements of this chapter and:

- 6 (1) Section 1367.053;  
7 (2) Subchapter A, Chapter 1452;  
8 (3) Subchapter B, Chapter 1507; and  
9 (4) Chapters 1271 and 1272 [~~Chapter 20A~~].

10 (m) An application for a certificate of authority must  
11 include documentation demonstrating that the applicant will comply  
12 with Section 1271.005(c) [~~Article 20A.097~~].

13 (n) An application for a certificate of authority must  
14 include any other information that the commissioner requires to  
15 make the determinations required by this chapter and:

- 16 (1) Section 1367.053;  
17 (2) Subchapter A, Chapter 1452;  
18 (3) Subchapter B, Chapter 1507;  
19 (4) Chapters 222, 251, and 258, as applicable to a  
20 health maintenance organization; and  
21 (5) Chapters 1271 and 1272 [~~Chapter 20A~~].

22 SECTION 2E.037. Section 843.084, Insurance Code, is amended  
23 to correct a cross-reference to read as follows:

24 Sec. 843.084. DURATION OF CERTIFICATE OF AUTHORITY. A  
25 certificate of authority continues in effect:

- 26 (1) while the certificate holder meets the  
27 requirements of this chapter and:

1           (A) Section 1367.053;

2           (B) Subchapter A, Chapter 1452;

3           (C) Subchapter B, Chapter 1507;

4           (D) Chapters 222, 251, and 258, as applicable to  
5 a health maintenance organization; and

6           (E) Chapters 1271 and 1272 [~~Chapter 20A~~]; or

7           (2) until the commissioner suspends or revokes the  
8 certificate or the commissioner terminates the certificate at the  
9 request of the certificate holder.

10           SECTION 2E.038. Section 843.107, Insurance Code, is amended  
11 to correct a cross-reference to read as follows:

12           Sec. 843.107. INDEMNITY BENEFITS; POINT-OF-SERVICE  
13 PROVISIONS. A health maintenance organization may offer:

14           (1) indemnity benefits covering out-of-area emergency  
15 care;

16           (2) indemnity benefits, in addition to those relating  
17 to out-of-area and emergency care, provided through an insurer or  
18 group hospital service corporation;

19           (3) a point-of-service plan under Subchapter A,  
20 Chapter 1273 [~~Article 3.64~~]; or

21           (4) a point-of-service rider under Section 843.108.

22           SECTION 2E.039. Section 843.151, Insurance Code, is amended  
23 to correct a cross-reference to read as follows:

24           Sec. 843.151. RULES. The commissioner may adopt reasonable  
25 rules as necessary and proper to:

26           (1) implement this chapter and Section 1367.053,  
27 Subchapter A, Chapter 1452, Subchapter B, Chapter 1507, Chapters

1 222, 251, and 258, as applicable to a health maintenance  
2 organization, and Chapters 1271 and 1272 [Chapter 20A], including  
3 rules to:

4 (A) prescribe authorized investments for a  
5 health maintenance organization for all investments not otherwise  
6 addressed in this chapter;

7 (B) ensure that enrollees have adequate access to  
8 health care services; and

9 (C) establish minimum physician-to-patient  
10 ratios, mileage requirements for primary and specialty care,  
11 maximum travel time, and maximum waiting time for obtaining an  
12 appointment; and

13 (2) meet the requirements of federal law and  
14 regulations.

15 SECTION 2E.040. Section 843.152, Insurance Code, is amended  
16 to correct a cross-reference to read as follows:

17 Sec. 843.152. SUBPOENA AUTHORITY. In implementing this  
18 chapter and the following provisions [Chapter 20A], the  
19 commissioner may exercise subpoena authority in accordance with  
20 Subchapter C, Chapter 36:

21 (1) Section 1367.053;

22 (2) Subchapter A, Chapter 1452;

23 (3) Subchapter B, Chapter 1507;

24 (4) Chapters 222, 251, and 258, as applicable to a  
25 health maintenance organization; and

26 (5) Chapters 1271 and 1272.

27 SECTION 2E.041. Section 843.153, Insurance Code, is amended

1 to correct a cross-reference to read as follows:

2           Sec. 843.153. AUTHORITY TO CONTRACT. In performing duties  
3 under this chapter and the following provisions [~~Chapter 20A~~], the  
4 commissioner may contract with a state agency or, after notice and  
5 opportunity for hearing, with a qualified person to make  
6 recommendations concerning determinations to be made by the  
7 commissioner:

8                   (1) Section 1367.053;

9                   (2) Subchapter A, Chapter 1452;

10                   (3) Subchapter B, Chapter 1507;

11                   (4) Chapters 222, 251, and 258, as applicable to a  
12 health maintenance organization; and

13                   (5) Chapters 1271 and 1272.

14           SECTION 2E.042. Sections 843.155(b) and (c), Insurance  
15 Code, are amended to correct cross-references to read as follows:

16           (b) The report shall:

17                   (1) be verified by at least two principal officers;

18                   (2) be in a form prescribed by the commissioner; and

19                   (3) include:

20                           (A) a financial statement of the health  
21 maintenance organization, including its balance sheet and receipts  
22 and disbursements for the preceding calendar year, certified by an  
23 independent public accountant;

24                           (B) the number of individuals enrolled during the  
25 preceding calendar year, the number of enrollees as of the end of  
26 that year, and the number of enrollments terminated during that  
27 year;

1 (C) updated financial projections for the next  
2 calendar year of the type described in Section 843.078(e), until  
3 the health maintenance organization has had a net income for 12  
4 consecutive months; and

5 (D) other information relating to the  
6 performance of the health maintenance organization as necessary to  
7 enable the commissioner to perform the commissioner's duties under:

8 (i) this chapter;

9 (ii) Section 1367.053;

10 (iii) Subchapter A, Chapter 1452;

11 (iv) Subchapter B, Chapter 1507;

12 (v) Chapters 222, 251, and 258, as  
13 applicable to a health maintenance organization; and

14 (vi) Chapters 1271 and 1272 [~~and Chapter~~  
15 ~~20A~~].

16 (c) Sections 36.108 and 201.055 and Chapter 802 [~~and Article~~  
17 ~~1.11~~] apply to the annual report of a health maintenance  
18 organization.

19 SECTION 2E.043. Sections 843.156(f), (h), and (i),  
20 Insurance Code, are amended to correct cross-references to read as  
21 follows:

22 (f) The commissioner may examine and use the records of a  
23 health maintenance organization, including records of a quality of  
24 care assurance program and records of a medical peer review  
25 committee, as necessary to implement the purposes of this chapter,  
26 Section 1367.053, Subchapter A, Chapter 1452, Subchapter B, Chapter  
27 1507, Chapters 222, 251, and 258, as applicable to a health



1 maintenance organization, and Chapters 1271 and 1272 [~~and Chapter~~  
2 ~~20A~~], including commencement of an enforcement action under Section  
3 843.461 or 843.462. Information obtained under this subsection is  
4 confidential and privileged and is not subject to the public  
5 information law, Chapter 552, Government Code, or to subpoena  
6 except as necessary for the commissioner to enforce this chapter,  
7 Section 1367.053, Subchapter A, Chapter 1452, Subchapter B, Chapter  
8 1507, Chapter 222, 251, or 258, as applicable to a health  
9 maintenance organization, or Chapter 1271 or 1272 [~~or Chapter 20A~~].

10 In this subsection, "medical peer review committee" has the meaning  
11 assigned by Section 151.002, Occupations Code.

12 (h) Chapter 86, Section 401.101, and Subchapters B and D,  
13 Chapter 401, [~~Articles 1.04A, 1.15, 1.16, and 1.19~~] apply to a  
14 health maintenance organization, except to the extent that the  
15 commissioner determines that the nature of the examination of a  
16 health maintenance organization renders the applicability of those  
17 provisions clearly inappropriate.

18 (i) Section 38.001, Section 81.003, and Chapter 82 [~~and~~  
19 ~~Article 1.12~~] apply to a health maintenance organization.

20 SECTION 2E.044. Section 843.157(a), Insurance Code, is  
21 amended to correct cross-references to read as follows:

22 (a) The rehabilitation, liquidation, supervision, or  
23 conservation of a health maintenance organization shall be treated  
24 as the rehabilitation, liquidation, supervision, or conservation  
25 of an insurer and be conducted under the supervision of the  
26 commissioner under Chapter 441 or 443 [~~Article 21.28 or 21.28-A~~],  
27 as appropriate.

1 SECTION 2E.045. Sections 843.204(b) and (c), Insurance  
2 Code, are amended to correct cross-references to read as follows:

3 (b) In this chapter, Section 1367.053, Subchapter A,  
4 Chapter 1452, Subchapter B, Chapter 1507, Chapters 222, 251, and  
5 258, as applicable to a health maintenance organization, and  
6 Chapters 1271 and 1272 [~~and Chapter 20A~~], a statement or item of  
7 information is:

8 (1) considered to be untrue if the statement or item  
9 does not conform to fact in any respect that is or may be  
10 significant to an enrollee of, or person considering enrollment in,  
11 a health care plan; and

12 (2) considered to be misleading, whether or not the  
13 statement or item is literally untrue, if, in the total context in  
14 which the statement is made or the item is communicated, the  
15 statement or item may be reasonably understood by a reasonable  
16 person who does not possess special knowledge regarding health care  
17 coverage as indicating:

18 (A) the inclusion of a benefit or advantage that  
19 does not exist and that is of possible significance to an enrollee  
20 of, or person considering enrollment in, a health care plan; or

21 (B) the absence of an exclusion, limitation, or  
22 disadvantage that does exist and that is of possible significance  
23 to an enrollee of, or person considering enrollment in, a health  
24 care plan.

25 (c) In this chapter, Section 1367.053, Subchapter A,  
26 Chapter 1452, Subchapter B, Chapter 1507, Chapters 222, 251, and  
27 258, as applicable to a health maintenance organization, and

1 Chapters 1271 and 1272 [~~and Chapter 20A~~], an evidence of coverage is  
2 considered to be deceptive if the evidence of coverage, taken as a  
3 whole and with consideration given to typography and format as well  
4 as language, would cause a reasonable person who does not possess  
5 special knowledge regarding health care plans and evidences of  
6 coverage for health care plans to expect charges or benefits,  
7 services, or other advantages that the evidence of coverage does  
8 not provide or that the health care plan issuing the evidence of  
9 coverage does not regularly make available for enrollees covered  
10 under the evidence of coverage.

11 SECTION 2E.046. Sections 843.261(a), (c), and (d),  
12 Insurance Code, are amended to correct cross-references to read as  
13 follows:

14 (a) A health maintenance organization shall implement and  
15 maintain an internal appeal system that:

16 (1) provides reasonable procedures for the resolution  
17 of an oral or written appeal concerning dissatisfaction or  
18 disagreement with an adverse determination; and

19 (2) includes procedures for notification, review, and  
20 appeal of an adverse determination in accordance with Chapter 4201  
21 [~~Article 21.58A~~].

22 (c) When an enrollee, a person acting on behalf of an  
23 enrollee, or an enrollee's provider of record expresses orally or  
24 in writing any dissatisfaction or disagreement with an adverse  
25 determination, the health maintenance organization or utilization  
26 review agent shall:

27 (1) consider the expression of dissatisfaction or

1 disagreement as an appeal of the adverse determination; and

2 (2) review and resolve the appeal in accordance with  
3 Chapter 4201 [~~Article 21.58A~~].

4 (d) A health maintenance organization may integrate its  
5 appeal procedures related to adverse determinations with the  
6 complaint and appeal procedures established by the health  
7 maintenance organization under Section 843.251 and otherwise  
8 governed by this subchapter only if the procedures related to  
9 adverse determinations comply with this section and Chapter 4201  
10 [~~Article 21.58A~~].

11 SECTION 2E.047. Section 843.282(a), Insurance Code, is  
12 amended to correct a cross-reference to read as follows:

13 (a) Any person, including a person who has attempted to  
14 resolve a complaint through a health maintenance organization's  
15 complaint system process and is dissatisfied with the resolution,  
16 may submit a complaint to the department alleging a violation of:

- 17 (1) this chapter;  
18 (2) Section 1367.053;  
19 (3) Subchapter A, Chapter 1452;  
20 (4) Subchapter B, Chapter 1507;  
21 (5) Chapters 222, 251, and 258, as applicable to a  
22 health maintenance organization; or  
23 (6) Chapter 1271 or 1272 [~~or Chapter 20A~~].

24 SECTION 2E.048. Section 843.301, Insurance Code, is amended  
25 to correct a cross-reference to read as follows:

26 Sec. 843.301. PRACTICE OF MEDICINE NOT AFFECTED. This  
27 chapter, Section 1367.053, Subchapter A, Chapter 1452, Subchapter

1 B, Chapter 1507, Chapters 222, 251, and 258, as applicable to a  
2 health maintenance organization, and Chapters 1271 and 1272 [~~and~~  
3 ~~Chapter 20A~~] do not:

4 (1) authorize any person, other than a licensed  
5 physician or practitioner of the healing arts, acting within the  
6 scope of the person's license, to engage directly or indirectly in  
7 the practice of medicine or a healing art; or

8 (2) authorize any person to regulate, interfere with,  
9 or intervene in any manner in the practice of medicine or a healing  
10 art.

11 SECTION 2E.049. Section 843.337(e), Insurance Code, is  
12 amended to correct a cross-reference to read as follows:

13 (e) Except as provided by Chapter 1213 [~~Article 21.527~~], a  
14 physician or provider may, as appropriate:

15 (1) mail a claim by United States mail, first class, or  
16 by overnight delivery service;

17 (2) submit the claim electronically;

18 (3) fax the claim; or

19 (4) hand deliver the claim.

20 SECTION 2E.050. Section 843.352, Insurance Code, is amended  
21 to correct a cross-reference to read as follows:

22 Sec. 843.352. CONFLICT WITH OTHER LAW. To the extent of  
23 any conflict between this subchapter and Subchapter C, Chapter 1204  
24 [~~Article 21.52C~~], this subchapter controls.

25 SECTION 2E.051. Sections 843.407(a), (b), and (c),  
26 Insurance Code, are amended to correct cross-references to read as  
27 follows:

1 (a) In addition to all other remedies available by law, if  
2 the commissioner believes that a health maintenance organization or  
3 another person is insolvent or does not maintain the net worth  
4 required under Sections 843.403, 843.4031, and 843.404, the  
5 commissioner may bring an action in a Travis County district court  
6 to be named receiver in accordance with Section 843.157 and Chapter  
7 443 [~~Article 21.28~~].

8 (b) The court may:

9 (1) find that a receiver should take charge of the  
10 assets of the health maintenance organization; and

11 (2) name the commissioner as the receiver of the  
12 health maintenance organization in accordance with Section 843.157  
13 and Chapter 443 [~~Article 21.28~~].

14 (c) The operations and business of a health maintenance  
15 organization represent the business of insurance for purposes of  
16 Section 843.157 and Chapters 441 and 443 [~~Articles 21.28 and~~  
17 ~~21.28-A~~].

18 SECTION 2E.052. Section 843.461(b), Insurance Code, is  
19 amended to correct cross-references to read as follows:

20 (b) The commissioner may take an enforcement action listed  
21 in Subsection (a) against a health maintenance organization if the  
22 commissioner finds that the health maintenance organization:

23 (1) is operating in a manner that is:

24 (A) significantly contrary to its basic  
25 organizational documents or health care plan; or

26 (B) contrary to the manner described in and  
27 reasonably inferred from other information submitted under Section

1 843.078, 843.079, or 843.080;

2 (2) issues an evidence of coverage or uses a schedule  
3 of charges for health care services that does not comply with the  
4 requirements of Sections 843.346, 1271.001-1271.005, 1271.007,  
5 1271.151, 1271.152, and 1271.156, and Subchapters B, C, E, F, and G,  
6 Chapter 1271 [~~Article 20A.09~~];

7 (3) does not meet the requirements of Section  
8 843.082(1);

9 (4) provides a health care plan that does not provide  
10 or arrange for basic health care services, provides a limited  
11 health care service plan that does not provide or arrange for the  
12 plan's limited health care services, or provides a single health  
13 care service plan that does not provide or arrange for a single  
14 health care service;

15 (5) cannot fulfill its obligation to provide:

16 (A) health care services as required under its  
17 health care plan;

18 (B) limited health care services as required  
19 under its limited health care service plan; or

20 (C) a single health care service as required  
21 under its single health care service plan;

22 (6) is no longer financially responsible and may  
23 reasonably be expected to be unable to meet its obligations to  
24 enrollees or prospective enrollees;

25 (7) has not implemented the complaint system required  
26 by Section 843.251 in a manner to resolve reasonably valid  
27 complaints;

1           (8) has advertised or merchandised its services in an  
2 untrue, misrepresentative, misleading, deceptive, or unfair manner  
3 or a person on behalf of the health maintenance organization has  
4 advertised or merchandised the health maintenance organization's  
5 services in an untrue, misrepresentative, misleading, deceptive,  
6 or untrue manner;

7           (9) would be hazardous to its enrollees if it  
8 continued in operation;

9           (10) has not complied substantially with:

10           (A) this chapter [~~or Chapter 20A~~] or a rule  
11 adopted under this chapter; or

12           (B) Section 1367.053, Subchapter A, Chapter  
13 1452, Subchapter B, Chapter 1507, Chapter 222, 251, or 258, as  
14 applicable to a health maintenance organization, or Chapter 1271 or  
15 1272 or a rule adopted under one of those provisions [~~Chapter 20A~~];

16 or

17           (11) has not taken corrective action the commissioner  
18 considers necessary to correct a failure to comply with this  
19 chapter, any applicable provision of this code, or any applicable  
20 rule or order of the commissioner not later than the 30th day after  
21 the date of notice of the failure or within any longer period  
22 specified in the notice and determined by the commissioner to be  
23 reasonable.

24           SECTION 2E.053. Section 843.463, Insurance Code, is amended  
25 to correct a cross-reference to read as follows:

26           Sec. 843.463. INJUNCTIONS. If the commissioner believes  
27 that a health maintenance organization or another person is



1 violating or has violated this chapter [~~or Chapter 20A~~] or a rule  
2 adopted under this chapter or Section 1367.053, Subchapter A,  
3 Chapter 1452, Subchapter B, Chapter 1507, Chapter 222, 251, or 258,  
4 as applicable to a health maintenance organization, or Chapter 1271  
5 or 1272 or a rule adopted under one of those provisions [~~Chapter~~  
6 ~~20A~~], the commissioner may bring an action in a Travis County  
7 district court to enjoin the violation and obtain other relief the  
8 court considers appropriate.

9 SECTION 2E.054. Section 843.464(a), Insurance Code, is  
10 amended to correct a cross-reference to read as follows:

11 (a) A person, including an agent or officer of a health  
12 maintenance organization, commits an offense if the person:

13 (1) wilfully violates this chapter or [~~Chapter 20A or~~]  
14 a rule adopted under this chapter or Section 1367.053, Subchapter  
15 A, Chapter 1452, Subchapter B, Chapter 1507, Chapter 222, 251, or  
16 258, as applicable to a health maintenance organization, or Chapter  
17 1271 or 1272 or a rule adopted under one of those provisions  
18 [~~Chapter 20A~~]; or

19 (2) knowingly makes a false statement with respect to  
20 a report or statement required under this chapter or Section  
21 1367.053, Subchapter A, Chapter 1452, Subchapter B, Chapter 1507,  
22 Chapter 222, 251, or 258, as applicable to a health maintenance  
23 organization, or Chapter 1271 or 1272 [~~Chapter 20A~~].

24 SECTION 2E.055. Section 845.051, Insurance Code, is amended  
25 to correct a cross-reference to read as follows:

26 Sec. 845.051. STATEWIDE RURAL HEALTH CARE SYSTEM. The  
27 commissioner shall designate a single organization as the statewide

1 rural health care system. The system is authorized to sponsor,  
2 arrange for the provision of, or provide health care services to  
3 enrollees in programs in rural areas. The programs are not subject  
4 to:

5 (1) a law requiring the coverage or the offer of  
6 coverage for services by a particular health care provider under:

7 (A) Chapter 62, Health and Safety Code;

8 (B) Chapter 32, Human Resources Code;

9 (C) a state-, county-, or local  
10 government-sponsored indigent care initiative; or

11 (D) a federal Medicare Plus Choice program; or

12 (2) Subchapters A-I, Chapter 1251, Subchapter A,  
13 Chapter 1364, Subchapter A, Chapter 1366, or Section 1551.064  
14 [~~Article 3.51-6~~] under a state-, county-, or local  
15 government-sponsored uninsured or indigent care initiative.

16 SECTION 2E.056. Section 846.003(b), Insurance Code, is  
17 amended to correct cross-references to read as follows:

18 (b) A multiple employer welfare arrangement is subject to  
19 the following laws:

20 (1) Subchapters C and D, Chapter 36;

21 (2) Section 38.001;

22 (3) Section 81.002;

23 (4) Chapter 82;

24 (5) Chapter 83;

25 (6) Chapter 86;

26 (7) Section 201.003;

27 (8) Sections 401.051, 401.052, 401.054-401.062,

- 1 401.151, 401.152, 401.155, and 401.156;  
2 (9) Chapter 441;  
3 (10) Chapter 443;  
4 (11) Chapter 461;  
5 (12) Section 521.005;  
6 (13) Chapter 541;  
7 (14) Chapter 701;  
8 (15) Chapter 801;  
9 (16) [(7)] Chapter 803;  
10 (17) [(8)] Chapter 804;  
11 (18) [(9)] Subchapter A, Chapter 805; and  
12 (19) [(10)] Sections 841.259, 841.701-841.702, and  
13 841.704-841.705[+]  
14 ~~[(11) Section 841.704;~~  
15 ~~[(12) Section 841.259;~~  
16 ~~[(13) Article 1.10D;~~  
17 ~~[(14) Article 1.12;~~  
18 ~~[(15) Article 1.13;~~  
19 ~~[(16) Article 1.15;~~  
20 ~~[(17) Article 1.16;~~  
21 ~~[(18) Article 1.19;~~  
22 ~~[(19) Article 1.35;~~  
23 ~~[(20) Article 1.31;~~  
24 ~~[(21) Article 3.56;~~  
25 ~~[(22) Article 21.21;~~  
26 ~~[(23) Article 21.28;~~  
27 ~~[(24) Article 21.28A; and~~

1           ~~[(25) Article 21.28E]~~.

2           SECTION 2E.057. Section 846.007(d), Insurance Code, is  
3 amended to correct a cross-reference to read as follows:

4           (d) A multiple employer welfare arrangement may establish  
5 premium discounts, rebates, or a reduction in otherwise applicable  
6 copayments or deductibles in return for adherence to programs of  
7 health promotion and disease prevention. A discount, rebate, or  
8 reduction established under this subsection does not violate  
9 Section 541.056(a) ~~[4(8), Article 21.21]~~.

10          SECTION 2E.058. Section 846.158(c), Insurance Code, is  
11 amended to correct a cross-reference to read as follows:

12          (c) Each multiple employer welfare arrangement shall pay  
13 the expenses of the examination as provided by Sections 401.151,  
14 401.152, 401.155, and 401.156 ~~[Article 1.16]~~.

15          SECTION 2E.059. Section 846.202(a), Insurance Code, is  
16 amended to correct a cross-reference to read as follows:

17          (a) In this section, "creditable coverage" has the meaning  
18 assigned by Section 1205.004 ~~[Section 3, Article 21.52G, as added~~  
19 ~~by Chapter 955, Acts of the 75th Legislature, Regular Session,~~  
20 ~~1997]~~.

21          SECTION 2E.060. Sections 861.052(b) and (d), Insurance  
22 Code, are amended to correct a cross-reference to read as follows:

23          (b) The incorporators shall file with the department:

24               (1) articles of incorporation for the general casualty  
25 company;

26               (2) a charter fee in the amount determined under  
27 Chapter 202 ~~[Article 4.07]~~; and

1 (3) an affidavit, made by two or more of the  
2 incorporators, that all of the general casualty company's stock is  
3 subscribed in good faith and fully paid for.

4 (d) On receipt of a fee in the amount determined under  
5 Chapter 202 [~~Article 4.07~~], the department shall provide the  
6 incorporators with a certified copy of the articles of  
7 incorporation.

8 SECTION 2E.061. Section 861.154, Insurance Code, is amended  
9 to correct a cross-reference to read as follows:

10 Sec. 861.154. DIVIDENDS. Except as authorized by Sections  
11 403.001 and 403.051 [~~Article 21.31~~], the directors of a general  
12 casualty company may not issue dividends.

13 SECTION 2E.062. Section 861.251(b), Insurance Code, is  
14 amended to correct a cross-reference to read as follows:

15 (b) After incorporation and issuance of a certificate of  
16 authority, a general casualty company shall invest the minimum  
17 capital and surplus as provided by Section 822.204. The company  
18 shall invest all other funds of the company in excess of the minimum  
19 capital and surplus as provided by:

20 (1) a provision of Subchapter B, Chapter 424, other  
21 than Section 424.052, 424.072, or 424.073; [~~Article 2.10~~] and

22 (2) Section 862.002.

23 SECTION 2E.063. Section 861.252(a), Insurance Code, is  
24 amended to correct a cross-reference to read as follows:

25 (a) On granting of the charter to a general casualty  
26 company, the company shall deposit with the comptroller \$50,000 in:

27 (1) cash; or

1           (2) securities of the kind described by a provision of  
2 Subchapter B, Chapter 424, other than Section 424.052, 424.072, or  
3 424.073 [Article 2.10].

4           SECTION 2E.064. Section 861.254(h), Insurance Code, is  
5 amended to correct a cross-reference to read as follows:

6           (h) Except as provided by Chapter 202 [Article 4.07], the  
7 department shall charge a fee of \$20 for filing the annual statement  
8 required by this section. The comptroller shall collect the fee.

9           SECTION 2E.065. Section 861.257, Insurance Code, is amended  
10 to correct cross-references to read as follows:

11           Sec. 861.257. EXAMINATION OF COMPANY. A general casualty  
12 company is subject to:

13                 (1) Subchapter A, Chapter 86; and

14                 (2) Sections 401.051, 401.052, 401.054-401.062,  
15 401.151, 401.152, 401.155, and 401.156 [Articles 1.15 and 1.16].

16           SECTION 2E.066. Section 861.258(d), Insurance Code, is  
17 amended to correct a cross-reference to read as follows:

18           (d) Subsection (b) does not apply to:

19                 (1) real property occupied by buildings used in whole  
20 or in part by a general casualty company in the transaction of  
21 business;

22                 (2) an interest in minerals or royalty reserved on the  
23 sale of real property acquired under Sections 862.002(c)(1)-(3);  
24 and

25                 (3) investment real property acquired under Section  
26 424.064 [Article 2.10(e)(11)].

27           SECTION 2E.067. Section 862.101(f), Insurance Code, is

1 amended to correct cross-references to read as follows:

2 (f) Reinsurance that is required or permitted by this  
3 section must comply with:

4 (1) Subchapter A, Chapter 491;

5 (2) Sections 492.051(b) and (c); and

6 (3) Chapter 493 [Articles 5.75-1 and 21.72].

7 SECTION 2E.068. Section 862.151, Insurance Code, is amended  
8 to correct a cross-reference to read as follows:

9 Sec. 862.151. REDUCTION OF CAPITAL STOCK AND PAR VALUE OF  
10 SHARES. (a) If the minimum surplus of a fire, marine, or inland  
11 marine insurance company is impaired in excess of the amount  
12 permitted under Subchapter B, Chapter 404 [~~Section 5, Article~~  
13 ~~1.10~~], the commissioner may allow the company to amend its charter  
14 as provided by Sections 822.157 and 822.158 to reduce the amount of  
15 the company's capital stock and the par value of its shares in  
16 proportion to the extent of the permitted amount of impairment.

17 (b) A company acting under Subsection (a):

18 (1) may not reduce the par value of its shares below  
19 the sum computed under Section 822.055;

20 (2) may not deduct from the assets and property on hand  
21 more than \$125,000;

22 (3) shall retain the remainder of the assets and  
23 property on hand as surplus assets;

24 (4) may not distribute any of the assets or property to  
25 the shareholders; and

26 (5) may not reduce the capital stock or surplus of the  
27 company to an amount less than the minimum capital and the minimum

1 surplus required by Sections 822.202, 822.210, and 822.211, subject  
2 to Subchapter B, Chapter 404 [~~Section 5, Article 1.10~~].

3 SECTION 2E.069. Sections 862.152(a) and (b), Insurance  
4 Code, are amended to correct a cross-reference to read as follows:

5 (a) This section applies to a fire, marine, or inland marine  
6 insurance company that receives notice from the commissioner under  
7 Subchapter B, Chapter 404 [~~Section 5, Article 1.10~~], to make good  
8 within 60 days:

9 (1) any impairment of the company's required capital;  
10 or

11 (2) the company's surplus.

12 (b) The company shall promptly call on its shareholders for  
13 an amount necessary to make the company's capital and surplus equal  
14 to the amount required by Sections 822.054 and 822.210, subject to  
15 Subchapter B, Chapter 404 [~~Section 5, Article 1.10~~].

16 SECTION 2E.070. Section 862.153(a), Insurance Code, is  
17 amended to correct a cross-reference to read as follows:

18 (a) If a shareholder of the insurance company who is given  
19 notice under Section 862.152 does not pay the amount called for by  
20 the company under that section, the company may:

21 (1) require the return of the original certificate of  
22 stock held by the shareholder; and

23 (2) issue a new certificate for a number of shares that  
24 the shareholder may be entitled to in the proportion that the value  
25 of the funds of the company, computed without inclusion of any money  
26 or other property paid by shareholders in response to the notice  
27 under Section 862.152, bears to the total amount of the original



1 capital and the minimum surplus of the company required by Section  
2 822.054 or 822.210, subject to Subchapter B, Chapter 404 [~~Section~~  
3 ~~5, Article 1.10~~].

4 SECTION 2E.071. Section 862.154(b), Insurance Code, is  
5 amended to correct a cross-reference to read as follows:

6 (b) The insurance company shall sell any new stock created  
7 under Subsection (a) for an amount sufficient to make up any  
8 impairment of the company's required minimum capital and to make up  
9 the surplus of the company as required by Section 822.054 or  
10 822.210, subject to Subchapter B, Chapter 404 [~~Section 5, Article~~  
11 ~~1.10~~], but may not impair the capital of the company.

12 SECTION 2E.072. Section 881.006(b), Insurance Code, is  
13 amended to correct a cross-reference to read as follows:

14 (b) Sections 201.001 and 201.002 apply [~~Article 1.31A~~  
15 ~~applies~~] to the fee.

16 SECTION 2E.073. Section 882.002, Insurance Code, is amended  
17 to correct cross-references to read as follows:

18 Sec. 882.002. EXAMINATION OF COMPANY. The following  
19 provisions [~~Articles 1.15 and 1.16~~] apply to a mutual life  
20 insurance company organized under this chapter:

- 21 (1) Subchapter A, Chapter 86; and  
22 (2) Sections 401.051, 401.052, 401.054-401.062,  
23 401.151, 401.152, 401.155, and 401.156.

24 SECTION 2E.074. Section 882.056(a), Insurance Code, is  
25 amended to correct a cross-reference to read as follows:

26 (a) To obtain a charter for a mutual life insurance company  
27 under this chapter, the incorporators must pay the charter fee in

1 the amount determined under Chapter 202 [~~Article 4.07~~] and file  
2 with the department:

3 (1) an application for charter on the form and  
4 including the information prescribed by the commissioner;

5 (2) the company's articles of incorporation; and

6 (3) an affidavit made by two or more of the  
7 incorporators that states that:

8 (A) the unencumbered surplus requirements of  
9 Section 882.055 are satisfied;

10 (B) the unencumbered surplus is the bona fide  
11 property of the company; and

12 (C) the information in the application and  
13 articles of incorporation is true and correct.

14 SECTION 2E.075. Section 883.202(a), Insurance Code, is  
15 amended to correct a cross-reference to read as follows:

16 (a) A domestic mutual insurance company that writes  
17 fidelity and surety bond coverage shall maintain on deposit with  
18 the comptroller cash or securities of the kind described by a  
19 provision of Subchapter B, Chapter 424, other than Section 424.052,  
20 424.072, or 424.073, [~~Article 2.10~~] in an amount equal to the amount  
21 of cash or securities required of a domestic stock insurance  
22 company.

23 SECTION 2E.076. Section 884.002(c), Insurance Code, is  
24 amended to correct cross-references to read as follows:

25 (c) The following provisions of this code apply to a  
26 stipulated premium company:

27 (1) Article [~~1.15,~~

- 1           ~~[(2) Article 1.15A;~~  
2           ~~[(3) Article 1.16;~~  
3           ~~[(4) Article 1.19;~~  
4           ~~[(5) Article 1.32;~~  
5           ~~[(6) Article 3.10;~~  
6           ~~[(7) Article 3.39;~~  
7           ~~[(8) Article 3.40;~~  
8           ~~[(9) Article 21.07-7;~~  
9           ~~[(10) Article 21.21;~~  
10           ~~[(11) Article 21.28;~~  
11           ~~[(12) Article 21.32;~~  
12           ~~[(13) Article 21.39;~~  
13           ~~[(14) Article]~~ 21.47;  
14           (2) [(15)] Section 38.001;  
15           (3) Chapter 86;  
16           (4) Subchapter A, Chapter 401;  
17           (5) Sections 401.051, 401.052, 401.054-401.062,  
18 401.151, 401.152, 401.155, and 401.156;  
19           (6) Sections 403.001, 403.052, and 403.102;  
20           (7) Subchapter A, Chapter 404;  
21           (8) Section 421.001;  
22           (9) Subchapter D, Chapter 425;  
23           (10) Chapter 443;  
24           (11) Chapter 492, other than Sections 492.051(b) and  
25 (c);  
26           (12) Chapter 541;  
27           (13) [(16)] Sections 801.001-801.002;

- 1           (14) [~~(17)~~] Sections 801.051-801.055;  
2           (15) [~~(18)~~] Section 801.057;  
3           (16) [~~(19)~~] Sections 801.101-801.102;  
4           (17) [~~(20)~~] Subchapter A, Chapter 821;  
5           (18) [~~(21)~~] Chapter 824;  
6           (19) [~~(22)~~] Chapter 828;  
7           (20) [~~(23)~~] Section 841.251;  
8           (21) [~~(24)~~] Section 841.259;  
9           (22) [~~(25)~~] Section 841.261; [~~and~~]  
10          (23) [~~(26)~~] Section 841.703; and  
11          (24) Chapter 4152.

12           SECTION 2E.077. Section 884.056(a), Insurance Code, is  
13 amended to correct a cross-reference to read as follows:

14           (a) To obtain a charter for a stipulated premium company  
15 under this chapter, the incorporators must pay a charter fee in an  
16 amount determined under Chapter 202 [~~Article 4.07~~] and file with  
17 the department:

18                   (1) an application for charter on the form and  
19 containing the information prescribed by the department;

20                   (2) the company's articles of incorporation; and

21                   (3) an affidavit made by two or more of the  
22 incorporators that states that:

23                           (A) the minimum capital and surplus requirements  
24 of Section 884.054 are satisfied;

25                           (B) the capital and surplus is the bona fide  
26 property of the company; and

27                           (C) the information in the application and

1 articles of incorporation is true and correct.

2 SECTION 2E.078. Section 884.059(c), Insurance Code, is  
3 amended to correct a cross-reference to read as follows:

4 (c) If the commissioner does not reject the application  
5 under Subsection (b), the commissioner shall approve the  
6 application and on receipt of a fee in the amount determined under  
7 Chapter 202 [~~Article 4.07~~] shall provide to the incorporators a  
8 certified copy of the application, articles of incorporation, and  
9 submitted affidavit.

10 SECTION 2E.079. Section 884.201, Insurance Code, is amended  
11 to correct a cross-reference to read as follows:

12 Sec. 884.201. FORM OF CAPITAL AND SURPLUS. After a charter  
13 is granted under this chapter, the stipulated premium company:

14 (1) shall maintain the company's minimum capital at  
15 all times in a form described by Section 884.054(d); and

16 (2) may invest the company's surplus as provided by  
17 Sections 425.203-425.228 [~~Article 3.39~~].

18 SECTION 2E.080. Section 884.253(c), Insurance Code, is  
19 amended to correct a cross-reference to read as follows:

20 (c) A stipulated premium company that complies with  
21 Subsection (b) may pay cash dividends in accordance with Sections  
22 403.001 and 403.052 [~~Article 21.32~~].

23 SECTION 2E.081. Sections 884.256(a) and (e), Insurance  
24 Code, are amended to correct cross-references to read as follows:

25 (a) Except as provided by Section 884.406, not later than  
26 March 31 of each year a stipulated premium company shall:

27 (1) prepare a statement showing the condition of the

1 company on December 31 of the preceding year; and

2 (2) deliver the statement to the department  
3 accompanied by a filing fee in the amount determined under Chapter  
4 202 [~~Article 4.07~~].

5 (e) Fees collected under this section shall be deposited to  
6 the credit of the Texas Department of Insurance operating account.  
7 Sections 201.001 and 201.002 apply [~~Article 1.31A applies~~] to fees  
8 collected under this section.

9 SECTION 2E.082. Section 884.307(a), Insurance Code, is  
10 amended to correct cross-references to read as follows:

11 (a) A stipulated premium company that possesses capital and  
12 unencumbered surplus in a combined amount of at least \$100,000 more  
13 than all of its liabilities, including contingent liabilities, may  
14 issue annuity contracts as authorized by Chapters [~~Chapter~~] 3 and  
15 1701 and Title 7.

16 SECTION 2E.083. Section 884.310, Insurance Code, is amended  
17 to correct a cross-reference to read as follows:

18 Sec. 884.310. AGENT. Each agent of a stipulated premium  
19 company must be licensed under Title 13 [~~Subchapter A, Chapter 21~~].

20 SECTION 2E.084. Sections 884.311(a) and (c), Insurance  
21 Code, are amended to correct cross-references to read as follows:

22 (a) A stipulated premium insurance company issuing life,  
23 health, or accident coverages or maintaining policies in force that  
24 were issued in accordance with Subchapter I may elect that the  
25 company's investments and transactions be governed by Subchapter C,  
26 Chapter 425 [~~Article 3.33 of this code~~].

27 (c) After the second anniversary of the effective date of an

1 initial election authorized by this section, the stipulated premium  
2 insurance company may elect that the company's investments and  
3 transactions be governed by Sections 425.203-425.228 [~~Article 3.39~~  
4 ~~of this code~~].

5 SECTION 2E.085. Section 884.357, Insurance Code, is amended  
6 to correct a cross-reference to read as follows:

7 Sec. 884.357. FORM APPROVAL. The approval of a form of an  
8 insurance policy issued by a stipulated premium company is governed  
9 by Chapter 1701 [~~Article 3.42~~].

10 SECTION 2E.086. Section 884.402, Insurance Code, is amended  
11 to correct cross-references to read as follows:

12 Sec. 884.402. ADDITIONAL COVERAGE. A stipulated premium  
13 company that, at the time it begins to issue coverages under this  
14 subchapter, possesses the amounts of capital and unencumbered  
15 surplus equal to or greater than the corresponding amounts required  
16 for organization of a life and health company under Sections  
17 841.052, 841.054, 841.204, 841.205, 841.301, and 841.302 may,  
18 subject to Section 884.403:

19 (1) issue any kind of life insurance coverage  
20 authorized by Chapter 3, 841, or 1701 or Title 7;

21 (2) issue any kind of health or accident insurance  
22 coverage authorized by:

23 (A) Title 7;

24 (B) Chapter 3, 704, 841, 846, 982, 1201, 1202,  
25 1203, 1210, 1251, 1252, 1253, 1254, 1301, 1351, 1354, 1359, 1364,  
26 1368, 1501, 1504, 1505, 1506, 1552, 1575, 1576, 1577, 1579, 1581,  
27 1625, 1651, 1652, or 1701;

1                    (C) Chapter 492, other than Sections 492.051(b)  
2 and (c);

3                    (D) Subchapter B, Chapter 38, Subchapter D,  
4 Chapter 425, Subchapter A or F, Chapter 1204, Subchapter A, Chapter  
5 1273, Subchapter A, B, or D, Chapter 1355, Subchapter A, Chapter  
6 1366, Subchapter A, Chapter 1507;

7                    (E) Section 1204.151, 1204.153, 1204.154, or  
8 1451.051; or

9                    (F) Chapter 177, Local Government Code; or

10                    (3) issue life insurance coverage through policies  
11 without cash surrender values or nonforfeiture values and that  
12 exceed \$10,000 on one life.

13                    SECTION 2E.087. Section 884.405, Insurance Code, is amended  
14 to correct cross-references to read as follows:

15                    Sec. 884.405. AGENT; LICENSE. (a) An agent may not  
16 solicit or write any coverage authorized by this subchapter unless  
17 the agent:

18                    (1) holds a license issued under Chapter 4054 [~~Chapter~~  
19 ~~213, Acts of the 54th Legislature, Regular Session, 1955 (Article~~  
20 ~~21.07-1, Vernon's Texas Insurance Code)] ; and~~

21                    (2) is appointed by the stipulated premium company for  
22 which the agent is soliciting and writing coverage under this  
23 subchapter.

24                    (b) The commissioner may issue under Chapter 4054 [~~Chapter~~  
25 ~~213, Acts of the 54th Legislature, Regular Session, 1955 (Article~~  
26 ~~21.07-1, Vernon's Texas Insurance Code), ] a license for an agent to  
27 solicit and write any coverage authorized by this subchapter for a~~



1 stipulated premium company. Chapter 4054 applies [~~Chapter 213,~~  
2 ~~Acts of the 54th Legislature, Regular Session, 1955 (Article~~  
3 ~~21.07-1, Vernon's Texas Insurance Code), applies~~] to the stipulated  
4 premium company as if the company were a legal reserve life  
5 insurance company.

6 SECTION 2E.088. Section 884.455, Insurance Code, is amended  
7 to correct a cross-reference to read as follows:

8 Sec. 884.455. REQUIRED SECURITIES. The commissioner shall  
9 require that a stipulated premium company have securities of the  
10 class and character required by Sections 425.203-425.228 [~~Article~~  
11 ~~3.39~~] in the amount of the reserve liability computed for the  
12 company under Section 884.454 less any deficiency reserve under  
13 Section 884.453 after all the debts and claims against the company  
14 and the minimum capital required by this chapter have been applied.

15 SECTION 2E.089. Section 884.601(a), Insurance Code, is  
16 amended to correct a cross-reference to read as follows:

17 (a) The shareholders of a stipulated premium company that  
18 possesses capital in an amount equal to at least \$700,000,  
19 unencumbered surplus in an amount equal to at least \$700,000, and  
20 sufficient reserves on hand for the company's policies as required  
21 under provisions of Chapter 425, other than Sections  
22 425.002-425.005, [~~Subchapter C, Chapter 3,~~] may convert the company  
23 to a legal reserve company that operates under Chapter 841 by  
24 complying with each requirement applicable to a company operating  
25 under that chapter.

26 SECTION 2E.090. Section 884.701, Insurance Code, is amended  
27 to correct cross-references to read as follows:

1           Sec. 884.701. HAZARDOUS FINANCIAL CONDITION, SUPERVISION,  
2 CONSERVATORSHIP, AND LIQUIDATION. Subchapter A, Chapter 404, and  
3 Chapters 441 and 443 [~~Articles 1.32, 21.28, and 21.28-A~~] apply to a  
4 stipulated premium company engaged in the business of insurance in  
5 this state.

6           SECTION 2E.091. Section 885.301(a), Insurance Code, is  
7 amended to correct cross-references to read as follows:

8           (a) A fraternal benefit society may provide for the payment  
9 of:

- 10           (1) death benefits in any form;
- 11           (2) endowment benefits;
- 12           (3) annuity benefits;
- 13           (4) benefits for temporary or permanent disability  
14 resulting from disease or accident;
- 15           (5) benefits for hospital, medical, or nursing  
16 expenses resulting from sickness, bodily infirmity, or accident;
- 17           (6) benefits for the erection of a monument or  
18 tombstone to the memory of a deceased member;
- 19           (7) funeral benefits; and
- 20           (8) any other benefit that may be provided by a life,  
21 accident, or health insurance company and that is:

22                   (A) offered in compliance with a law described by  
23 Section 841.002 [~~the provisions of Chapter 3 and Title 7~~]  
24 applicable to a life, accident, or health insurance company; and

25                   (B) consistent with this chapter.

26           SECTION 2E.092. Section 885.306(a), Insurance Code, is  
27 amended to correct a cross-reference to read as follows:

1 (a) A fraternal benefit society may not deliver or issue for  
2 delivery in this state a benefit certificate unless the form of the  
3 certificate has been filed under Chapter 1701 [~~Article 3.42~~].

4 SECTION 2E.093. Section 885.351, Insurance Code, is amended  
5 to correct cross-references to read as follows:

6 Sec. 885.351. AGENTS. (a) A fraternal benefit society may  
7 appoint an agent licensed by the department under Subchapter B,  
8 Chapter 4054, [~~Article 21.07-1~~] to sell benefits listed under  
9 Section 885.301(a) to society members.

10 (b) Except as provided by Section 885.352, a person may not  
11 solicit or procure benefit contracts for a fraternal benefit  
12 society unless the person is licensed as a general life, accident,  
13 and health agent under Subchapter B, Chapter 4054 [~~Article~~  
14 ~~21.07-1~~].

15 (c) The licensing and regulation of agents for fraternal  
16 benefit societies is subject to Title 13 [~~Subchapter A, Chapter~~  
17 ~~21,~~] and other laws regulating those agents.

18 SECTION 2E.094. Section 885.353, Insurance Code, is amended  
19 to correct cross-references to read as follows:

20 Sec. 885.353. EMPLOYMENT OF CERTAIN PERSONS TO SOLICIT  
21 BUSINESS PROHIBITED. A fraternal benefit society may not employ or  
22 otherwise retain a person to solicit business if the person has had  
23 a license revoked under Chapter 4005 [~~Article 21.07 or 21.14, or~~  
24 ~~under Chapter 213, Acts of the 54th Legislature, Regular Session,~~  
25 ~~1955 (Article 21.07-1, Vernon's Texas Insurance Code)] .~~

26 SECTION 2E.095. Section 885.404(c), Insurance Code, is  
27 amended to correct a cross-reference to read as follows:

1 (c) For any category of benefit certificates issued to  
2 insure a female risk, a modified net premium or present value  
3 referred to in Subchapter B, Chapter 425, [~~Article 3.28~~] may be  
4 computed according to an age not more than six years younger than  
5 the actual age of the insured.

6 SECTION 2E.096. Section 885.408(b), Insurance Code, is  
7 amended to correct a cross-reference to read as follows:

8 (b) Sections 425.203-425.228 apply [~~Article 3.39 applies~~]  
9 to reserve investments for a domestic fraternal benefit society.

10 SECTION 2E.097. Section 885.410, Insurance Code, is amended  
11 to correct cross-references to read as follows:

12 Sec. 885.410. EXAMINATION OF DOMESTIC FRATERNAL BENEFIT  
13 SOCIETIES. A domestic fraternal benefit society is subject to:

14 (1) Subchapter A, Chapter 86;

15 (2) Subchapter A, Chapter 401; and

16 (3) Sections 401.051, 401.052, 401.054-401.062,  
17 401.151, 401.152, 401.155, and 401.156 [~~Articles 1.15, 1.15A, and~~  
18 ~~1.16~~].

19 SECTION 2E.098. Section 885.411(e), Insurance Code, is  
20 amended to correct cross-references to read as follows:

21 (e) A foreign fraternal benefit society is subject to the  
22 provisions of Subchapter A, Chapter 86, and Sections 401.051,  
23 401.052, 401.054-401.062, 401.151, 401.152, 401.155, and 401.156  
24 [~~Articles 1.15 and 1.16~~] that apply to an insurer that is not  
25 organized under the laws of this state but is authorized to engage  
26 in business in this state.

27 SECTION 2E.099. Section 885.412(b), Insurance Code, is

1 amended to correct cross-references to read as follows:

2 (b) This section does not apply to a proceeding involving a  
3 fraternal benefit society instituted by the commissioner or the  
4 state, including an administrative hearing, a proceeding under  
5 Chapter 441 or 443 [~~Article 21.28 or 21.28-A~~], or a court  
6 proceeding.

7 SECTION 2E.100. Section 885.413, Insurance Code, is amended  
8 to correct a cross-reference to read as follows:

9 Sec. 885.413. FEES. The department shall deposit fees  
10 collected under this chapter to the credit of the Texas Department  
11 of Insurance operating account. Sections 201.001 and 201.002 apply  
12 [~~Article 1.31A applies~~] to fees collected under this chapter.

13 SECTION 2E.101. Section 885.414(a), Insurance Code, is  
14 amended to correct cross-references to read as follows:

15 (a) This chapter does not prevent or limit any action by or  
16 remedy available to the department or the state under Chapter 441 or  
17 443 [~~Article 21.28 or 21.28-A~~] or other applicable law.

18 SECTION 2E.102. Section 886.107(b), Insurance Code, is  
19 amended to correct a cross-reference to read as follows:

20 (b) Sections 201.001 and 201.002 apply [~~Article 1.31A~~  
21 ~~applies~~] to the fee.

22 SECTION 2E.103. Section 887.062, Insurance Code, is amended  
23 to correct cross-references to read as follows:

24 Sec. 887.062. EXAMINATION. The following provisions  
25 [~~Articles 1.15 and 1.16~~] apply to an association:

- 26 (1) Subchapter A, Chapter 86; and  
27 (2) Sections 401.051, 401.052, 401.054-401.062,

1 401.151, 401.152, 401.155, and 401.156.

2 SECTION 2E.104. Section 887.551, Insurance Code, is amended  
3 to correct cross-references to read as follows:

4 Sec. 887.551. HAZARDOUS FINANCIAL CONDITION, SUPERVISION,  
5 CONSERVATORSHIP, AND LIQUIDATION. The following provisions  
6 ~~[Articles 1.32, 21.28, and 21.28-A]~~ apply to an association engaged  
7 in the business of insurance in this state:

8 (1) Subchapter A, Chapter 404;

9 (2) Chapter 441; and

10 (3) Chapter 443.

11 SECTION 2E.105. Section 888.052(b), Insurance Code, is  
12 amended to correct a cross-reference to read as follows:

13 (b) Annual assessments collected under this section shall  
14 be deposited to the credit of the Texas Department of Insurance  
15 operating account. Sections 201.001 and 201.002 apply ~~[Article~~  
16 ~~1.31A applies]~~ to the assessments.

17 SECTION 2E.106. Section 911.001(c), Insurance Code, is  
18 amended to correct cross-references to read as follows:

19 (c) Except to the extent of any conflict with this chapter,  
20 the following provisions apply to a farm mutual insurance company:

21 (1) Subchapter A, Chapter 32;

22 (2) Subchapter D, Chapter 36;

23 (3) Sections 31.002(2), 32.021(c), 32.023, 32.041,  
24 33.002, 38.001, 81.001-81.004, 201.005, 201.055, 401.051, 401.052,  
25 401.054-401.062, 401.103-401.106, 401.151, 401.152, 401.155,  
26 401.156, 421.001, 801.051-801.055, 801.057, 801.101, 801.102,  
27 822.204, 841.004, 841.251, 841.252, ~~[and]~~ 862.101, 1806.001,

1 1806.101, 1806.103(b), and 1806.104-1806.107;

2 (4) Chapter 86;

3 (5) Subchapter A, Chapter 401;

4 (6) Subchapter B, Chapter 404;

5 (7) Chapter 422;

6 (8) Subchapter B, Chapter 424, other than Section  
7 424.052, 424.072, or 424.073;

8 (9) Chapter 441;

9 (10) Chapter 443;

10 (11) Chapter 462;

11 (12) Chapter 481;

12 (13) Chapter 541;

13 (14) [~~5~~] Chapter 802;

14 (15) [~~6~~] Subchapter A, Chapter 805;

15 (16) [~~7~~] Chapter 824; and

16 (17) Article [~~8~~ Sections 2, 5, 6, and 17, Article  
17 1.10, and Articles] 1.09-1[, 1.12, 1.13, 1.15, 1.15A, 1.16, 1.17,  
18 1.18, 1.19, 2.10, 5.20, 21.28, 21.28--A, 21.28--C, 21.39, and  
19 21.39--A].

20 SECTION 2E.107. Section 911.251, Insurance Code, is amended  
21 to correct cross-references to read as follows:

22 Sec. 911.251. LICENSING AND APPOINTMENT OF CERTAIN  
23 AGENTS. (a) An individual or firm may not solicit, write, sign,  
24 execute, or deliver insurance policies, bind insurance risks,  
25 collect premiums, or otherwise act on behalf of a farm mutual  
26 insurance company in the capacity of an insurance agent in the  
27 solicitation or sale of crop insurance unless the individual or

1 firm holds a license issued under Title 13 [~~Subchapter A, Chapter~~  
2 ~~21~~].

3 (b) A farm mutual insurance company may not appoint and act  
4 through an agent under Subchapter F, Chapter 4051 [~~Article~~  
5 ~~21.14-2~~].

6 SECTION 2E.108. Sections 911.308(c) and (d), Insurance  
7 Code, are amended to correct cross-references to read as follows:

8 (c) A company described by Subsection (b) shall invest the  
9 minimum unencumbered surplus as provided by Section 822.204. The  
10 company may invest funds in excess of the minimum unencumbered  
11 surplus as provided by the provisions of Subchapter B, Chapter 424,  
12 other than Sections 424.052, 424.072, and 424.073 [~~Article 2.10~~].

13 (d) A company described by Subsection (b) shall, without  
14 delay, restore the minimum unencumbered surplus if the surplus is  
15 impaired. The department shall proceed as provided by Subchapter  
16 B, Chapter 404 [~~Section 5, Article 1.10~~].

17 SECTION 2E.109. Sections 912.002(b) and (c), Insurance  
18 Code, are amended to correct cross-references to read as follows:

19 (b) A county mutual insurance company is subject to:

20 (1) Sections 38.001, 401.051, 401.052,  
21 401.054-401.062, 401.151, 401.152, 401.155, 401.156, 501.159,  
22 501.202, 501.203, [and] 822.204, 1806.001, 1806.101, 1806.103(b),  
23 1806.104-1806.107, 2002.002, and 2002.005;

24 (2) Subchapter A, Chapter 86;

25 (3) Subchapter A, Chapter 401;

26 (4) the provisions of Subchapter B, Chapter 424, other  
27 than Sections 424.052, 424.072, and 424.073;



1           (5) Chapters 221, 251, 252, 254, [~~and~~] 541, and 2210;

2 and

3           (6) [~~(3)~~] Articles [~~1.15, 1.15A, 1.16, 2.10, 5.20,~~  
4 ~~5.37, 5.38,~~] 5.39 and [~~7~~] 5.40 [~~, and 21.49~~].

5           (c) Rate regulation for a residential fire and allied lines  
6 insurance policy written by a county mutual insurance company is  
7 subject to Chapter 2253 [~~Subchapters Q and U, Chapter 5~~]. On and  
8 after December 1, 2004, rate regulation for a personal automobile  
9 insurance policy and a residential fire and allied lines insurance  
10 policy written by a county mutual insurance company is subject to  
11 Article 5.13-2 and Chapter 2251. A county mutual insurance company  
12 is subject to Chapter 2253 [~~Subchapter U, Chapter 5~~]. The  
13 commissioner may adopt rules as necessary to implement this  
14 subsection.

15           SECTION 2E.110. Section 912.152, Insurance Code, is amended  
16 to correct cross-references to read as follows:

17           Sec. 912.152. POLICY FORMS. (a) A county mutual insurance  
18 company is subject to:

19                   (1) Sections 1952.051-1952.055;

20                   (2) Subchapter B, Chapter 2002;

21                   (3) Chapter 2301; and

22                   (4) Articles 5.06 and [~~7~~] 5.35 [~~, and 5.145~~].

23           (b) County mutual insurance companies shall file policy  
24 forms under Subchapter B, Chapter 2301, [~~Article 5.145~~] or continue  
25 to use the standard policy forms and endorsements promulgated under  
26 former Articles 5.06 and 5.35 on notification to the commissioner  
27 in writing in the manner prescribed by those articles that those

1 forms will continue to be used.

2 SECTION 2E.111. Section 912.251, Insurance Code, is amended  
3 to correct a cross-reference to read as follows:

4 Sec. 912.251. LICENSING AND APPOINTMENT OF AGENTS. An  
5 agent for a county mutual insurance company must be licensed and  
6 appointed as provided by Title 13 [~~Subchapter A, Chapter 21~~].

7 SECTION 2E.112. Section 912.308(b), Insurance Code, is  
8 amended to correct a cross-reference to read as follows:

9 (b) A county mutual insurance company is subject to  
10 Subchapter B, Chapter 404, and Sections 822.203, 822.205, 822.210,  
11 and 822.212 [~~and Section 5, Article 1.10~~].

12 SECTION 2E.113. Section 912.701, Insurance Code, is amended  
13 to correct cross-references to read as follows:

14 Sec. 912.701. HAZARDOUS FINANCIAL CONDITION, SUPERVISION,  
15 CONSERVATORSHIP, AND LIQUIDATION. Subchapter A, Chapter 404, and  
16 Chapters 441 and 443 [~~Articles 1.32, 21.28, and 21.28-A~~] apply to a  
17 county mutual insurance company engaged in the business of  
18 insurance in this state.

19 SECTION 2E.114. Section 941.003(c), Insurance Code, is  
20 amended to correct a cross-reference to read as follows:

21 (c) Chapter 2007 [~~Subchapter M, Chapter 5,~~] applies to rates  
22 for motor vehicle insurance written by a Lloyd's plan.

23 SECTION 2E.115. Section 941.102(d), Insurance Code, is  
24 amended to correct a cross-reference to read as follows:

25 (d) Sections 201.001 and 201.002 apply [~~Article 1.31A~~  
26 ~~applies~~] to a fee collected under Subsection (c).

27 SECTION 2E.116. Section 941.204(b), Insurance Code, is

1 amended to correct a cross-reference to read as follows:

2 (b) Funds of a Lloyd's plan other than the minimum guaranty  
3 fund and surplus described by Subsection (a) must, if invested, be  
4 invested as provided by:

5 (1) the provisions of Subchapter B, Chapter 424, other  
6 than Sections 424.052, 424.072, and 424.073 [Article 2.10]; or

7 (2) any other law governing the investment of the  
8 funds of a capital stock insurance company engaged in the same kind  
9 of business.

10 SECTION 2E.117. Section 941.206, Insurance Code, is amended  
11 to correct cross-references to read as follows:

12 Sec. 941.206. HAZARDOUS FINANCIAL CONDITION, SUPERVISION,  
13 CONSERVATORSHIP, AND LIQUIDATION; IMPAIRMENT OF SURPLUS. (a)  
14 Subchapter A, Chapter 404, and Chapters 441 and 443 [Articles 1.32,  
15 21.28, and 21.28-A] apply to a Lloyd's plan engaged in the business  
16 of insurance in this state.

17 (b) Subchapter B, Chapter 404, [Section 5, Article 1.10,]  
18 applies to a Lloyd's plan.

19 SECTION 2E.118. Section 941.251(a), Insurance Code, is  
20 amended to correct cross-references to read as follows:

21 (a) The provisions of Sections 86.001, 86.002, 401.051,  
22 401.052, 401.054-401.062, 401.151, 401.152, 401.155, and 401.156  
23 [The provisions of Articles 1.15 and 1.16] that relate to the  
24 examination of insurers apply to a Lloyd's plan.

25 SECTION 2E.119. Section 942.003(c), Insurance Code, is  
26 amended to correct a cross-reference to read as follows:

27 (c) Chapter 2007 [Subchapter M, Chapter 5,] applies to rates

1 for motor vehicle insurance written by an exchange.

2 SECTION 2E.120. Section 942.155(c), Insurance Code, is  
3 amended to correct a cross-reference to read as follows:

4 (c) An exchange shall maintain the required assets as to:

5 (1) minimum surplus requirements, as provided by  
6 Section 822.204; and

7 (2) other funds, as provided by the provisions of  
8 Subchapter B, Chapter 424, other than Sections 424.052, 424.072,  
9 and 424.073 [~~Article 2.10~~].

10 SECTION 2E.121. Section 942.156, Insurance Code, is amended  
11 to correct a cross-reference to read as follows:

12 Sec. 942.156. ISSUANCE OF FIDELITY AND SURETY BOND  
13 INSURANCE; DEPOSIT REQUIRED. (a) If a domestic exchange writes  
14 fidelity or surety bond insurance in this state, the exchange shall  
15 keep on deposit with the comptroller money, bonds, or other  
16 securities in an amount of not less than \$50,000. The department  
17 shall approve for the deposit securities described by the  
18 provisions of Subchapter B, Chapter 424, other than Sections  
19 424.052, 424.072, and 424.073, [~~Article 2.10,~~] and the exchange  
20 shall maintain the approved securities intact at all times.

21 (b) A foreign exchange that writes fidelity or surety bond  
22 insurance in this state shall file with the department evidence  
23 satisfactory to the department that the exchange has, for the  
24 protection of its subscribers, at least \$100,000 in money, bonds,  
25 or other securities as described by the provisions of Subchapter B,  
26 Chapter 424, other than Sections 424.052, 424.072, and 424.073,  
27 [~~Article 2.10~~] on deposit with the comptroller or other appropriate

1 official of its state of domicile or in escrow under that official's  
2 supervision and control in a reliable bank or trust company. If  
3 those bonds or other securities are not acceptable to and approved  
4 by the department, the department may deny the attorney in fact for  
5 the exchange a certificate of authority.

6 SECTION 2E.122. Sections 942.203(a) and (b), Insurance  
7 Code, are amended to correct cross-references to read as follows:

8 (a) To the extent applicable, the schedule of fees  
9 established under Chapter 202 [~~Article 4.07~~] applies to an exchange  
10 and the exchange's attorney in fact.

11 (b) An exchange is subject to:

12 (1) Chapters 221 and 222; and

13 (2) Chapters 251-255 [~~Articles 4.04, 4.10, 4.11, 5.12,~~  
14 ~~5.24, 5.49, and 5.68~~].

15 SECTION 2E.123. Section 961.002(b), Insurance Code, is  
16 amended to correct cross-references to read as follows:

17 (b) The following provisions of this code apply to a  
18 nonprofit legal services corporation in the same manner that they  
19 apply to an insurer or a person engaged in the business of  
20 insurance, to the extent the provisions do not conflict with this  
21 chapter:

22 (1) Articles [~~1.01~~] 1.09-1 and [~~1.11, 1.12, 1.13,~~  
23 ~~1.15, 1.15A, 1.16, 1.17, 1.18, 1.19, 1.20, 1.21, 1.22, 21.21,~~  
24 ~~21.21-2, 21.28, 21.28-A,~~] 21.47 [~~and 21.49-8~~];

25 (2) [~~Sections 2, 6, and 17, Article 1.10,~~

26 [~~3~~] Sections 31.002, 31.004, 31.007, 31.021,  
27 31.022, 31.023, [~~31.025~~] 31.026, 31.027, [~~32.001, 32.002,~~

1 ~~32.003,~~ 32.021, 32.022(a), 32.023, [~~32.041,~~] 33.002, 33.006,  
2 36.108, 38.001, 81.004, 201.005, 201.055, 401.051, 401.052,  
3 401.054-401.062, 401.103-401.106, 401.151, 401.152, 401.155,  
4 401.156, 801.001, 801.002, 801.051-801.055, 801.057, 801.101,  
5 801.102, [~~802.003,~~] 841.251, and 841.252;

6 (3) [~~(4)~~] Subchapter B, Chapter 31;

7 (4) Subchapters A and C, Chapter 32;

8 (5) Subchapter D, Chapter 36;

9 (6) Subchapter A, Chapter 401;

10 (7) Subchapter A, Chapter 542;

11 (8) Subchapter A, Chapter 805; and

12 (9) Chapters 86, 402, 441, 443, 481, 541, 802, and [~~(7)~~  
13 Chapter] 824.

14 SECTION 2E.124. Section 961.005, Insurance Code, is amended  
15 to correct a cross-reference to read as follows:

16 Sec. 961.005. AGENTS. The licensing and regulation of an  
17 agent authorized to solicit prepaid legal services contracts for a  
18 nonprofit legal services corporation is subject to Title 13  
19 [~~Subchapter A, Chapter 21~~].

20 SECTION 2E.125. Section 981.005, Insurance Code, is amended  
21 to correct a cross-reference to read as follows:

22 Sec. 981.005. VALIDITY OF CONTRACTS. (a) Unless a material  
23 and intentional violation of this chapter or Chapter 225 [~~Section~~  
24 ~~12, Article 1.14-2,~~] exists, an insurance contract obtained from an  
25 eligible surplus lines insurer is:

26 (1) valid and enforceable as to all parties; and

27 (2) recognized in the same manner as a comparable

1 contract issued by an authorized insurer.

2 (b) A material and intentional violation of this chapter or  
3 Chapter 225 [~~Section 12, Article 1.14-2,~~] does not preclude the  
4 insured from enforcing the insured's rights under the contract.

5 SECTION 2E.126. Section 981.006, Insurance Code, is amended  
6 to correct a cross-reference to read as follows:

7 Sec. 981.006. SANCTIONS. Chapter 82 applies to a surplus  
8 lines agent or an eligible surplus lines insurer that violates:

9 (1) this chapter;

10 (2) Chapter 225 [~~Section 12, Article 1.14-2~~]; or

11 (3) a rule or order adopted under Subchapter B or  
12 Section 981.005.

13 SECTION 2E.127. Section 981.008, Insurance Code, is amended  
14 to correct a cross-reference to read as follows:

15 Sec. 981.008. SURPLUS LINES INSURANCE PREMIUM TAX. The  
16 premiums charged for surplus lines insurance are subject to the  
17 premium tax imposed under Chapter 225 [~~Section 12, Article 1.14-2~~].

18 SECTION 2E.128. Section 981.101(b), Insurance Code, is  
19 amended to correct cross-references to read as follows:

20 (b) A surplus lines document must state, in 11-point type,  
21 the following:

22 This insurance contract is with an insurer not licensed to transact  
23 insurance in this state and is issued and delivered as surplus line  
24 coverage under the Texas insurance statutes. The Texas Department  
25 of Insurance does not audit the finances or review the solvency of  
26 the surplus lines insurer providing this coverage, and the insurer  
27 is not a member of the property and casualty insurance guaranty

1 association created under Chapter 462 [~~Article 21.28-C~~], Insurance  
2 Code. Chapter 225 [~~Section 12, Article 1.14-2~~], Insurance Code,  
3 requires payment of a \_\_\_\_\_ (insert appropriate tax rate)  
4 percent tax on gross premium.

5 SECTION 2E.129. Section 981.104(b), Insurance Code, is  
6 amended to correct a cross-reference to read as follows:

7 (b) A change made under Subsection (a) may not result in  
8 coverage or an insurance contract that would violate this chapter  
9 or Chapter 225 [~~Section 12, Article 1.14-2~~], if originally issued  
10 on that basis.

11 SECTION 2E.130. Section 981.160, Insurance Code, is amended  
12 to correct a cross-reference to read as follows:

13 Sec. 981.160. NO ENFORCEMENT AUTHORITY. This subchapter  
14 does not give the stamping office authority to enforce this chapter  
15 or Chapter 225 [~~Section 12, Article 1.14-2~~].

16 SECTION 2E.131. Section 981.201, Insurance Code, is amended  
17 to correct a cross-reference to read as follows:

18 Sec. 981.201. DEFINITION. In this subchapter, "managing  
19 general agent" means an agent licensed under Chapter 4053 [~~the~~  
20 ~~Managing General Agents' Licensing Act (Article 21.07-3, Vernon's~~  
21 ~~Texas Insurance Code)~~].

22 SECTION 2E.132. Section 981.203(a), Insurance Code, is  
23 amended to correct cross-references to read as follows:

24 (a) The department may issue a surplus lines license to an  
25 applicant who the department determines complies with Subsection  
26 (b) and is:

27 (1) an individual who:



1 (A) has passed an examination under Chapter 4002  
2 [~~Article 21.01-1~~] and department rules; and

3 (B) holds a current license as:

4 (i) a general property and casualty agent  
5 authorized under Subchapter B, Chapter 4051 [~~Article 21.14~~]; or

6 (ii) a managing general agent; or

7 (2) a corporation, limited liability company, or  
8 partnership that:

9 (A) has at least one officer or director or at  
10 least one active partner who has passed the required surplus lines  
11 license examination;

12 (B) holds a current license as:

13 (i) a general property and casualty agent  
14 authorized under Subchapter B, Chapter 4051 [~~Article 21.14~~]; or

15 (ii) a managing general agent; and

16 (C) conducts insurance activities under this  
17 chapter only through an individual licensed under this section.

18 SECTION 2E.133. Section 981.220(b), Insurance Code, is  
19 amended to correct a cross-reference to read as follows:

20 (b) A surplus lines license granted to a managing general  
21 agent who is not also licensed under Subchapters A-E, Chapter 4051,  
22 [~~Article 21.14~~] is limited to the acceptance of business  
23 originating through a licensed general property and casualty agent.  
24 The license does not authorize the agent to engage in business  
25 directly with the insurance applicant.

26 SECTION 2E.134. Section 981.221, Insurance Code, is amended  
27 to correct a cross-reference to read as follows:

1           Sec. 981.221. SUSPENSION OR REVOCATION OF LICENSE. If a  
2 license holder does not maintain the qualifications necessary to  
3 obtain the license, the department may revoke or suspend the  
4 license or deny the renewal of that license in accordance with  
5 Chapter 4003 and Subchapters B and C, Chapter 4005 [~~Article~~  
6 ~~21.01-2~~].

7           SECTION 2E.135. Section 981.222, Insurance Code, is amended  
8 to correct cross-references to read as follows:

9           Sec. 981.222. APPLICABILITY OF OTHER LAW. In addition to  
10 the requirements of this chapter, the administration and regulation  
11 of a surplus lines agent's license is governed by Title 13  
12 [~~Subchapter A, Chapter 21~~], except that the provisions of Sections  
13 4001.002(b)(2)-(6), 4001.003, and 4001.004 and Subchapters C-G,  
14 Chapter 4001, do [~~Article 21.07 does~~] not apply to a license issued  
15 under this subchapter.

16           SECTION 2E.136. Section 982.107, Insurance Code, is amended  
17 to correct a cross-reference to read as follows:

18           Sec. 982.107. APPLICABILITY OF OTHER LAW. Chapter 402  
19 [~~Article 21.49-8~~] applies to a foreign or alien insurance company.

20           SECTION 2E.137. Section 982.254, Insurance Code, is amended  
21 to correct a cross-reference to read as follows:

22           Sec. 982.254. FAILURE TO ELIMINATE IMPAIRMENT OF TRUSTEED  
23 SURPLUS. If an alien insurance company has not satisfied the  
24 commissioner at the end of the designated period under Section  
25 982.253(a) that the impairment has been eliminated, the  
26 commissioner may proceed against the company as provided by Chapter  
27 441 [~~Article 21.28-A~~] as an insurance company whose further

1 transaction of the business of insurance in the United States will  
2 be hazardous to its policyholders in the United States.

3 SECTION 2E.138. Section 982.255(a), Insurance Code, is  
4 amended to correct cross-references to read as follows:

5 (a) The books, records, accounting, and verification  
6 relating to an authorized alien insurance company's trusteed assets  
7 are subject to examination by the department or the department's  
8 appointed representative at the United States branch office of the  
9 company, in the same manner and to the same extent that applies  
10 under Subchapter A, Chapter 86, and Sections 401.051, 401.052,  
11 401.054-401.062, 401.151, 401.152, 401.155, and 401.156 [~~Articles~~  
12 ~~1.15 and 1.16~~] to domestic and foreign insurance companies  
13 authorized to engage in the same kind of insurance.

14 SECTION 2E.139. Section 984.002, Insurance Code, is amended  
15 to correct cross-references to read as follows:

16 Sec. 984.002. AUTHORIZED AGENT REQUIRED. A Mexican  
17 casualty insurance company may engage in the business of insurance  
18 in this state only through an agent licensed by the department under  
19 Subchapters A-E and G, Chapter 4051, or Chapter 4055 [~~Article 21.09~~  
20 ~~or 21.14~~].

21 PART F. CROSS-REFERENCE UPDATES: TITLE 7, INSURANCE CODE

22 SECTION 2F.001. Section 1101.055(b), Insurance Code, is  
23 amended to correct a cross-reference to read as follows:

24 (b) A life insurance policy may provide for a settlement  
25 that will be less than the amount required under Subsection (a) if  
26 the death of the insured is:

27 (1) by the insured's own hand regardless of whether the

1 insured is sane or insane;

2 (2) caused by following a hazardous occupation that is  
3 stated in the policy; or

4 (3) the result of aviation activities under conditions  
5 specified in the policy and approved by the department under  
6 Chapter 1701 [~~Article 3.42~~].

7 SECTION 2F.002. Section 1101.101(b), Insurance Code, is  
8 amended to correct a cross-reference to read as follows:

9 (b) Notwithstanding Chapter 1701 [~~Article 3.42~~], a policy  
10 issued or delivered in another state, territory, district, or  
11 county by a life insurance company organized under the laws of this  
12 state may contain any provision required by the laws of that state,  
13 territory, district, or county.

14 SECTION 2F.003. Section 1102.004(b), Insurance Code, is  
15 amended to correct a cross-reference to read as follows:

16 (b) This section does not require the resubmission for  
17 approval of any previously approved insurance policy form unless:

18 (1) withdrawal of approval is authorized under this  
19 section or Chapter 1701 [~~Article 3.42~~]; or

20 (2) after notice and hearing, the commissioner  
21 determines that approval was obtained by improper means, including  
22 by misrepresentation, fraud, or a misleading statement or document.

23 SECTION 2F.004. Section 1105.007(b), Insurance Code, is  
24 amended to correct a cross-reference to read as follows:

25 (b) Subsection (a) does not require a cash surrender value  
26 greater than the reserve for the policy computed as provided by  
27 Subchapter B, Chapter 425 [~~Article 3.28~~].

1 SECTION 2F.005. Section 1105.056, Insurance Code, is  
2 amended to correct a cross-reference to read as follows:

3 Sec. 1105.056. NONFORFEITURE INTEREST RATE. The annual  
4 nonforfeiture interest rate for a policy issued in a particular  
5 calendar year is equal to 125 percent of the calendar year statutory  
6 valuation interest rate for that policy as defined by Subchapter B,  
7 Chapter 425 [~~Article 3.28~~], rounded to the nearest one-fourth of  
8 one percent.

9 SECTION 2F.006. Section 1111.006, Insurance Code, is  
10 amended to correct cross-references to read as follows:

11 Sec. 1111.006. APPLICABILITY OF OTHER INSURANCE LAWS. The  
12 following laws apply to a person engaged in the business of life or  
13 viatical settlements:

- 14 (1) [~~Articles 1.10, 1.10D, 1.19, and 21.21;~~  
15 [~~2~~] Chapters 82, 83, [and] 84, 481, 541, and 701;  
16 (2) [~~3~~] Sections 31.002, [32.001, 32.002, 32.003,  
17 32.021, 32.023, 32.041, 38.001, 81.004, 86.001, 86.051, 86.052,  
18 201.004, 401.051, 401.054, 401.151(a), 521.003, 521.004,  
19 543.001(c), 801.056, and 862.052;  
20 (3) Subchapter A, Chapter 32; [and]  
21 (4) Subchapter C, Chapter 36;  
22 (5) Subchapter B, Chapter 404; and  
23 (6) Subchapter B, Chapter 491.

24 SECTION 2F.007. Section 1131.007, Insurance Code, is  
25 amended to correct a cross-reference to read as follows:

26 Sec. 1131.007. POLICY FORM. A policy of group life  
27 insurance is subject to Chapter 1701 [~~Article 3.42~~].

1 SECTION 2F.008. Section 1151.101, Insurance Code, is  
2 amended to correct a cross-reference to read as follows:

3 Sec. 1151.101. AUTHORIZED PROVISIONS. In addition to the  
4 provisions required by Subchapter B and Section 1151.152, an  
5 industrial life insurance policy may:

6 (1) exclude liability or promise a benefit that is  
7 less than the full amount payable as a death benefit if the insured:

8 (A) dies by the insured's own hand, regardless of  
9 whether the insured is sane or insane; or

10 (B) dies as a result of engaging in a stated  
11 hazardous occupation;

12 (2) promise a benefit that is less than the full amount  
13 payable if the insured dies as a result of an aviation activity  
14 under a condition specified in the policy approved by the  
15 department as provided by Chapter 1701 [~~Article 3.42~~];

16 (3) limit the maximum amount payable on the death of a  
17 child younger than 15 years of age; and

18 (4) include any other provision not otherwise  
19 prohibited by this chapter.

20 SECTION 2F.009. Section 1152.151, Insurance Code, is  
21 amended to correct cross-references to read as follows:

22 Sec. 1152.151. AGENT'S LICENSE REQUIRED. (a) A person may  
23 not sell or offer for sale in this state a variable contract, or act  
24 to negotiate, make, or consummate a variable contract for another,  
25 unless the department has licensed the person under Chapter 4054  
26 [~~Article 21.07-1~~] as a general life, accident, and health agent.

27 (b) The licensing and regulation of a person acting as a

1 variable contract agent is subject to the same provisions  
2 applicable to the licensing and regulation of other agents under  
3 Title 13 [~~Subchapter A, Chapter 21~~].

4 PART G. CROSS-REFERENCE UPDATES: TITLE 8, INSURANCE CODE

5 SECTION 2G.001. Section 1251.202, Insurance Code, is  
6 amended to correct cross-references to read as follows:

7 Sec. 1251.202. NOTICE REGARDING CERTAIN EMPLOYER HEALTH  
8 BENEFIT PLANS. (a) In this section, "standard health benefit plan"  
9 means a plan offered under [~~Article 3.80, Article 20A.09N, or~~]  
10 Chapter 1507.

11 (b) If an employer offers to employees a standard health  
12 benefit plan, the employer shall:

13 (1) provide a copy of the disclosure statement  
14 provided to the employer by the plan issuer under [~~Section 6,~~  
15 ~~Article 3.80, Article 20A.09N(g),~~] Section 1507.006[~~7~~] or  
16 [~~Section~~] 1507.056 to:

17 (A) each employee:

18 (i) before the employee initially enrolls  
19 in the plan, unless the employee received notice under Paragraph  
20 (B) on or after the 90th day before the date the employee initially  
21 enrolls; and

22 (ii) not later than the 30th day before the  
23 date the employee renews enrollment in the plan; and

24 (B) each prospective employee before the  
25 prospective employee is hired by the employer; and

26 (2) obtain a copy of the notice signed by the employee  
27 or prospective employee at the time the notice is provided.

1 SECTION 2G.002. Section 1272.052(c), Insurance Code, is  
2 amended to correct a cross-reference to read as follows:

3 (c) The parties to the delegation agreement shall determine  
4 which party bears the expense of complying with a requirement of  
5 this subchapter, including the cost of an examination required by  
6 the department under Subchapter B, Chapter 401 [~~Article 1.15~~], if  
7 applicable.

8 SECTION 2G.003. Section 1272.058, Insurance Code, is  
9 amended to correct a cross-reference to read as follows:

10 Sec. 1272.058. INFORMATION RELATING TO DELEGATED THIRD  
11 PARTY. A delegation agreement required by Section 1272.052 must  
12 require the delegated entity to provide the license number of a  
13 delegated third party performing a function that requires:

14 (1) a license as a third-party administrator under  
15 Chapter 4151 or utilization review agent under Chapter 4201  
16 [~~Article 21.58A~~]; or

17 (2) another license under this code or another  
18 insurance law of this state.

19 SECTION 2G.004. Section 1272.060, Insurance Code, is  
20 amended to correct a cross-reference to read as follows:

21 Sec. 1272.060. UTILIZATION REVIEW. A delegation agreement  
22 required by Section 1272.052 must provide that:

23 (1) enrollees shall receive notification at the time  
24 of enrollment of which entity is responsible for performing  
25 utilization review;

26 (2) the delegated entity or third party performing  
27 utilization review shall perform that review in accordance with



1 Chapter 4201 [~~Article 21.58A~~]; and

2 (3) the delegated entity or third party shall forward  
3 utilization review decisions made by the entity or third party to  
4 the health maintenance organization on a monthly basis.

5 SECTION 2G.005. Section 1272.301(d), Insurance Code, is  
6 amended to correct a cross-reference to read as follows:

7 (d) A denial of out-of-network services under this section  
8 is subject to appeal under Chapter 4201 [~~Article 21.58A~~].

9 SECTION 2G.006. Section 1274.004(b), Insurance Code, is  
10 amended to correct a cross-reference to read as follows:

11 (b) Before adopting rules under this section, the  
12 commissioner shall consult and receive advice from the technical  
13 advisory committee on claims processing established under Chapter  
14 1212 [~~Article 21.52Y~~].

15 SECTION 2G.007. Sections 1305.004(a)(11), (12), (17),  
16 (27), and (28), Insurance Code, are amended to correct  
17 cross-references to read as follows:

18 (11) "Independent review organization" means an  
19 entity that is certified by the commissioner to conduct independent  
20 review under Chapter 4202 [~~Article 21.58C~~] and rules adopted by the  
21 commissioner.

22 (12) "Life-threatening" has the meaning assigned by  
23 Section 4201.002 [~~2, Article 21.58A~~].

24 (17) "Nurse" has the meaning assigned by Section  
25 4201.002 [~~Section 2, Article 21.58A~~].

26 (27) "Utilization review" has the meaning assigned by  
27 Section 4201.002 [~~2, Article 21.58A~~].

1           (28) "Utilization review agent" has the meaning  
2 assigned by Section 4201.002 [~~Article 21.58A~~].

3           SECTION 2G.008. Section 1305.056(c), Insurance Code, is  
4 amended to correct a cross-reference to read as follows:

5           (c) A network is subject to Chapters 441 and 443 [~~Articles~~  
6 ~~21.28 and 21.28-A~~] and is considered an insurer or insurance  
7 company, as applicable, for purposes of those laws.

8           SECTION 2G.009. Section 1305.154(c), Insurance Code, is  
9 amended to correct a cross-reference to read as follows:

10          (c) A network's contract with a carrier must include:

11           (1) a description of the functions that the carrier  
12 delegates to the network, consistent with the requirements of  
13 Subsection (b), and the reporting requirements for each function;

14           (2) a statement that the network and any management  
15 contractor or third party to which the network delegates a function  
16 will perform all delegated functions in full compliance with all  
17 requirements of this chapter, the Texas Workers' Compensation Act,  
18 and rules of the commissioner or the commissioner of workers'  
19 compensation;

20           (3) a provision that the contract:

21           (A) may not be terminated without cause by either  
22 party without 90 days' prior written notice; and

23           (B) must be terminated immediately if cause  
24 exists;

25           (4) a hold-harmless provision stating that the  
26 network, a management contractor, a third party to which the  
27 network delegates a function, and the network's contracted

1 providers are prohibited from billing or attempting to collect any  
2 amounts from employees for health care services under any  
3 circumstances, including the insolvency of the carrier or the  
4 network, except as provided by Section 1305.451(b)(6);

5 (5) a statement that the carrier retains ultimate  
6 responsibility for ensuring that all delegated functions and all  
7 management contractor functions are performed in accordance with  
8 applicable statutes and rules and that the contract may not be  
9 construed to limit in any way the carrier's responsibility,  
10 including financial responsibility, to comply with all statutory  
11 and regulatory requirements;

12 (6) a statement that the network's role is to provide  
13 the services described under Subsection (b) as well as any other  
14 services or functions delegated by the carrier, including functions  
15 delegated to a management contractor, subject to the carrier's  
16 oversight and monitoring of the network's performance;

17 (7) a requirement that the network provide the  
18 carrier, at least monthly and in a form usable for audit purposes,  
19 the data necessary for the carrier to comply with reporting  
20 requirements of the department and the division of workers'  
21 compensation with respect to any services provided under the  
22 contract, as determined by commissioner rules;

23 (8) a requirement that the carrier, the network, any  
24 management contractor, and any third party to which the network  
25 delegates a function comply with the data reporting requirements of  
26 the Texas Workers' Compensation Act and rules of the commissioner  
27 of workers' compensation;

1           (9) a contingency plan under which the carrier would,  
2 in the event of termination of the contract or a failure to perform,  
3 reassume one or more functions of the network under the contract,  
4 including functions related to:

5                   (A) payments to providers and notification to  
6 employees;

7                   (B) quality of care;

8                   (C) utilization review;

9                   (D) retrospective review; and

10                   (E) continuity of care, including a plan for  
11 identifying and transitioning employees to new providers;

12           (10) a provision that requires that any agreement by  
13 which the network delegates any function to a management contractor  
14 or any third party be in writing, and that such an agreement require  
15 the delegated third party or management contractor to be subject to  
16 all the requirements of this subchapter;

17           (11) a provision that requires the network to provide  
18 to the department the license number of a management contractor or  
19 any delegated third party who performs a function that requires a  
20 license as a utilization review agent under Chapter 4201 [~~Article~~  
21 ~~21.58A~~] or any other license under this code or another insurance  
22 law of this state;

23           (12) an acknowledgment that:

24                   (A) any management contractor or third party to  
25 whom the network delegates a function must perform in compliance  
26 with this chapter and other applicable statutes and rules, and that  
27 the management contractor or third party is subject to the

1 carrier's and the network's oversight and monitoring of its  
2 performance; and

3 (B) if the management contractor or the third  
4 party fails to meet monitoring standards established to ensure that  
5 functions delegated to the management contractor or the third party  
6 under the delegation contract are in full compliance with all  
7 statutory and regulatory requirements, the carrier or the network  
8 may cancel the delegation of one or more delegated functions;

9 (13) a requirement that the network and any management  
10 contractor or third party to which the network delegates a function  
11 provide all necessary information to allow the carrier to provide  
12 information to employees as required by Section 1305.451; and

13 (14) a provision that requires the network, in  
14 contracting with a third party directly or through another third  
15 party, to require the third party to permit the commissioner to  
16 examine at any time any information the commissioner believes is  
17 relevant to the third party's financial condition or the ability of  
18 the network to meet the network's responsibilities in connection  
19 with any function the third party performs or has been delegated.

20 SECTION 2G.010. Section 1305.351(a), Insurance Code, is  
21 amended to correct cross-references to read as follows:

22 (a) The requirements of Chapter 4201 [~~Article 21.58A~~] apply  
23 to utilization review conducted in relation to claims in a workers'  
24 compensation health care network. In the event of a conflict  
25 between Chapter 4201 [~~Article 21.58A~~] and this chapter, this  
26 chapter controls.

27 SECTION 2G.011. Section 1305.355(a), Insurance Code, is

1 amended to correct a cross-reference to read as follows:

2 (a) The utilization review agent shall:

3 (1) permit the employee or person acting on behalf of  
4 the employee and the employee's requesting provider whose  
5 reconsideration of an adverse determination is denied to seek  
6 review of that determination within the period prescribed by  
7 Subsection (b) by an independent review organization assigned in  
8 accordance with Chapter 4202 [~~Article 21.58C~~] and commissioner  
9 rules; and

10 (2) provide to the appropriate independent review  
11 organization, not later than the third business day after the date  
12 the utilization review agent receives notification of the  
13 assignment of the request to an independent review organization:

14 (A) any medical records of the employee that are  
15 relevant to the review;

16 (B) any documents used by the utilization review  
17 agent in making the determination;

18 (C) the response letter described by Section  
19 1305.354(a)(4);

20 (D) any documentation and written information  
21 submitted in support of the request for reconsideration; and

22 (E) a list of the providers who provided care to  
23 the employee and who may have medical records relevant to the  
24 review.

25 SECTION 2G.012. Section 1369.056, Insurance Code, is  
26 amended to correct cross-references to read as follows:

27 Sec. 1369.056. ADVERSE DETERMINATION. (a) The refusal of a

1 group health benefit plan issuer to provide benefits to an enrollee  
2 for a prescription drug is an adverse determination for purposes of  
3 Section 4201.002 [~~2, Article 21.58A,~~] if:

4 (1) the drug is not included in a drug formulary used  
5 by the group health benefit plan; and

6 (2) the enrollee's physician has determined that the  
7 drug is medically necessary.

8 (b) The enrollee may appeal the adverse determination under  
9 Subchapters H and I, Chapter 4201 [~~Sections 6 and 6A, Article~~  
10 ~~21.58A~~].

11 SECTION 2G.013. Sections 1501.002(8) and (14), Insurance  
12 Code, are amended to correct cross-references to read as follows:

13 (8) "Large employer" means a person who employed an  
14 average of at least 51 eligible employees on business days during  
15 the preceding calendar year and who employs at least two employees  
16 on the first day of the plan year. The term includes a governmental  
17 entity subject to Article 3.51-1, [~~3.51-2,~~] 3.51-4, or 3.51-5, to  
18 Subchapter C, Chapter 1364, [~~or~~] to Chapter 1578, or to Chapter 177,  
19 Local Government Code, that otherwise meets the requirements of  
20 this subdivision. For purposes of this definition, a partnership  
21 is the employer of a partner.

22 (14) "Small employer" means a person who employed an  
23 average of at least two employees but not more than 50 eligible  
24 employees on business days during the preceding calendar year and  
25 who employs at least two employees on the first day of the plan  
26 year. The term includes a governmental entity subject to Article  
27 3.51-1, [~~3.51-2,~~] 3.51-4, or 3.51-5, to Subchapter C, Chapter 1364,

1 ~~[or]~~ to Chapter 1578, or to Chapter 177, Local Government Code, that  
2 otherwise meets the requirements of this subdivision. For purposes  
3 of this definition, a partnership is the employer of a partner.

4 SECTION 2G.014. Section 1501.009(b), Insurance Code, is  
5 amended to correct cross-references to read as follows:

6 (b) An independent school district that is participating in  
7 the uniform group coverage program established under Chapter 1579  
8 ~~[Article 3.50-7]~~ may not participate in the small employer market  
9 under this section for health insurance coverage and may not renew a  
10 health insurance contract obtained in accordance with this section  
11 after the date on which the program of coverages provided under  
12 Chapter 1579 ~~[Article 3.50-7]~~ is implemented. This subsection does  
13 not affect a contract for the provision of optional coverages not  
14 included in a health benefit plan under this chapter.

15 SECTION 2G.015. Section 1501.257(c), Insurance Code, is  
16 amended to correct a cross-reference to read as follows:

17 (c) Utilization review performed for any cost containment,  
18 case management, or managed care arrangement must comply with  
19 Chapter 4201 ~~[Article 21.58A]~~.

20 SECTION 2G.016. Section 1504.001(4), Insurance Code, is  
21 amended to correct a cross-reference to read as follows:

22 (4) "Health benefit plan issuer" means:

23 (A) an insurance company, group hospital service  
24 corporation, or health maintenance organization that delivers or  
25 issues for delivery an individual, group, blanket, or franchise  
26 insurance policy or agreement, a group hospital service contract,  
27 or an evidence of coverage that provides benefits for medical or



1 surgical expenses incurred as a result of an accident or sickness;

2 (B) a governmental entity subject to Subchapter  
3 D, Chapter 1355, Subchapter C, Chapter 1364, Chapter 1578, [~~or~~]  
4 Article 3.51-1, [~~3.51-2,~~] 3.51-4, or 3.51-5, or Chapter 177, Local  
5 Government Code;

6 (C) the issuer of a multiple employer welfare  
7 arrangement as defined by Section 846.001; or

8 (D) the issuer of a group health plan as defined  
9 by Section 607, Employee Retirement Income Security Act of 1974 (29  
10 U.S.C. Section 1167).

11 SECTION 2G.017. Section 1506.109(a), Insurance Code, is  
12 amended to correct a cross-reference to read as follows:

13 (a) The pool shall provide for and use cost containment  
14 measures and requirements to make the coverage offered by the pool  
15 more cost-effective. To the extent the board determines it is  
16 cost-effective, the cost containment measures must include  
17 individual case management and disease management. The cost  
18 containment measures may include preadmission screening, the  
19 requirement of a second surgical opinion, and concurrent  
20 utilization review subject to Chapter 4201 [~~Article 21.58A~~].

21 SECTION 2G.018. Section 1551.003(12), Insurance Code, is  
22 amended to correct a cross-reference to read as follows:

23 (12) "Serious mental illness" has the meaning assigned  
24 by Section 1355.001 [~~1, Article 3.51-14~~].

25 SECTION 2G.019. Sections 1551.064(a) and (b), Insurance  
26 Code, are amended to correct cross-references to read as follows:

27 (a) This section applies only to a group policy or contract

1 described by Section 1251.301 [~~3B(a), Article 3.51-6~~]. A policy or  
2 contract executed under this chapter must provide that:

3 (1) premium payments must be:

4 (A) paid directly to the Employees Retirement  
5 System of Texas; and

6 (B) postmarked or received not later than the  
7 10th day of the month for which the premium is due;

8 (2) the premium for group continuation coverage under  
9 Subchapter G, Chapter 1251 [~~Section 3B, Article 3.51-6~~], may not  
10 exceed the level established for other surviving dependents of  
11 deceased employees and annuitants;

12 (3) at the time the group policy or contract is  
13 delivered, issued for delivery, renewed, amended, or extended, the  
14 Employees Retirement System of Texas shall give notice of the  
15 continuation option to each state agency covered by the group  
16 benefits program; and

17 (4) each state agency shall give written notice of the  
18 continuation option to each employee and dependent of an employee  
19 who is covered by the group benefits program.

20 (b) A group policy or contract executed under this chapter  
21 must provide that, not later than the 15th day after the date of any  
22 severance of the family relationship that might activate the  
23 continuation option under Subchapter G, Chapter 1251 [~~Section 3B,  
24 Article 3.51-6~~], the group member shall give written notice of the  
25 severance to the employing state agency.

26 SECTION 2G.020. Section 1601.109(a), Insurance Code, is  
27 amended to correct a cross-reference to read as follows:

1 (a) In this section, "serious mental illness" has the  
2 meaning assigned by Section 1355.001 [~~1, Article 3.51-14~~].

3 PART H. CROSS-REFERENCE UPDATES: TITLE 10, INSURANCE CODE

4 SECTION 2H.001. Section 1805.001, Insurance Code, is  
5 amended to correct cross-references to read as follows:

6 Sec. 1805.001. APPLICABILITY OF CHAPTER. This chapter  
7 applies to the kinds of insurance and insurers subject to:

8 (1) Section 403.002;

9 (2) Section 941.003 with respect to the application of  
10 a law described by Section 941.003(b)(1) [~~941.003(b)(3)~~] or (c);

11 (3) Section 942.003 with respect to the application of  
12 a law described by Section 942.003(b)(1) [~~942.003(b)(3)~~] or (c);

13 (4) Subchapter A, B, or C, [~~or D~~] Chapter 5;

14 (5) Subchapter H, Chapter 544;

15 (6) Subchapter A, Chapter 2301;

16 (7) Chapter 252, 253, 254, 255, 426, 1806, 1807, 2001,  
17 2002, 2003, 2004, 2005, 2006, 2008, 2051, 2052, 2053, 2055, 2171,  
18 2251, or 2252;

19 (8) Subtitle B or C, Title 10; or

20 (9) [~~Chapter 406A, Labor Code, or~~

21 [~~10~~] Chapter 2154, Occupations Code.

22 SECTION 2H.002. Section 1951.004(a), Insurance Code, is  
23 amended to correct cross-references to read as follows:

24 (a) An insurer, or an officer or representative of an  
25 insurer, commits an offense if the insurer, officer, or  
26 representative violates:

27 (1) Section 1951.001, 1951.002, 1952.051, 1952.052,

1 1952.053, 1952.054, or 1952.055;

2 (2) Subchapter B, Chapter 1806;

3 (3) Subchapter C, Chapter 1953;

4 (4) Chapter 254; or

5 (5) (4) Article 5.01, [~~5.02~~] 5.03, [~~5.05~~] 5.06,  
6 5.10, or 5.11.

7 SECTION 2H.003. Section 2051.002, Insurance Code, is  
8 amended to correct cross-references to read as follows:

9 Sec. 2051.002. CONSTRUCTION OF CERTAIN LAWS. The following  
10 shall be construed and applied independently of any other law that  
11 relates to insurance rates and forms or prescribes the duties of the  
12 commissioner or the department:

13 (1) this chapter;

14 (2) [~~Subchapter D, Chapter 5,~~

15 [~~3~~] Chapter 251, as that chapter relates to workers'  
16 compensation insurance; and

17 (3) (4) Chapters 255, 426, 2052, [~~and~~] 2053, and  
18 2055 [~~, and~~

19 [~~5~~] Chapter 406A, Labor Code].

20 SECTION 2H.004. Section 2051.157, Insurance Code, is  
21 amended to correct a cross-reference to read as follows:

22 Sec. 2051.157. PENALTY FOR CERTAIN VIOLATIONS. An officer  
23 or other representative of an insurance company is subject to a fine  
24 of not less than \$100 or more than \$500 if the officer or other  
25 representative violates any provision of the following relating to  
26 the company's business:

27 (1) Subchapter A or B;

- 1           (2) Section 2051.156 or 2051.201;  
2           (3) Chapter 426 or 2052;  
3           (4) Subchapter A, C, or D, Chapter 2053; or  
4           (5) Section 2053.051, 2053.052, 2053.053, or  
5 2053.055 [~~or~~  
6           ~~[(6) Article 5.66]~~].

7           SECTION 2H.005. Section 2052.004(a), Insurance Code, is  
8 amended to correct a cross-reference to read as follows:

9           (a) Subject to Subsections (b) and (c), this subtitle [~~and~~  
10 ~~Article 5.66]~~ may not be construed to prohibit an insurance  
11 company, including the Texas Mutual Insurance Company, from issuing  
12 participating policies.

13           SECTION 2H.006. Section 2201.155(a), Insurance Code, is  
14 amended to correct a cross-reference to read as follows:

15           (a) A risk retention group not chartered in this state is  
16 liable for the payment of premium and maintenance taxes and taxes on  
17 premiums of direct business for risks located in this state and  
18 shall report to the commissioner the net premiums written for risks  
19 located in this state. The group is subject to taxation, and any  
20 fine or penalty related to that taxation, on the same basis as a  
21 foreign admitted insurer in accordance with Chapters 4, 201, 202,  
22 203, 221, 222, 224, 227, 228, and 251-257.

23           SECTION 2H.007. Section 2204.101(d), Insurance Code, is  
24 amended to correct a cross-reference to read as follows:

25           (d) The exchange and the members are considered insurers for  
26 purposes of:

- 27           (1) Sections 201.052, 201.053, and 201.054;

1 (2) Chapters 4, 202, 203, 221, 222, 224, 227, 228, 251,  
2 257, and 1109; and

3 (3) Section 171.0525, Tax Code.

4 PART I. CROSS-REFERENCE UPDATES: TITLE 11, INSURANCE CODE

5 SECTION 2I.001. Section 2551.001(c), Insurance Code, is  
6 amended to correct cross-references to read as follows:

7 (c) To the extent applicable, the following provisions of  
8 this code apply to a title insurance company:

9 (1) Articles [~~1.01, 1.04A,~~] 1.09-1 and [~~1.12, 1.13,~~  
10 ~~1.15-1.19, 21.31,~~] 21.47[~~, and 21.49-8~~];

11 (2) Subsection (b), Article 1.04D;

12 (3) [~~Article 1.14-3, other than Section 8,~~

13 [~~(4) Subchapter F, Chapter 5,~~

14 [~~(5)~~] Chapters 33, 82, 83, 84, 86, 102, 261, 281, 401,  
15 402, 493, 494, 541, 547, 555, 701, 801, 802, 824, [~~and~~] 828, 1805,  
16 and 2204;

17 (4) [~~(6)~~] Chapter 31, other than Section 31.005;

18 (5) [~~(7)~~] Chapter 32, other than Section 32.022(b);

19 (6) [~~(8)~~] Chapter 36, other than Sections 36.003,  
20 36.004, and 36.101-36.106;

21 (7) [~~(9)~~] Subchapter A, Chapter 38;

22 (8) [~~(10)~~] Subchapters A-G, Chapter 101;

23 (9) [~~(11)~~] Chapter 982, other than Sections 982.003,  
24 982.051, 982.101, 982.105, 982.106(b), 982.109, and 982.113; and

25 (10) [~~(12)~~] Sections 37.052, 39.001, 39.002, 81.002,  
26 81.004, 201.004, 201.005, 201.051, 201.055, 403.001, 403.051,  
27 403.101, 521.002-521.004, 805.021, 822.001, 822.051, 822.052(1),

1 (2), and (3), 822.053, 822.057, except Subsection (a)(4), 822.058,  
2 822.059, 822.060, 822.155, 822.157, 822.158, except Subsection  
3 (a)(5), 841.004, 841.251, 841.252(a)-(c), and 4001.103.

4 SECTION 2I.002. Sections 2551.151(a) and (g), Insurance  
5 Code, are amended to correct cross-references to read as follows:

6 (a) A title insurance company shall hold all investments in  
7 cash or in the following:

8 (1) an abstract plant or plants, provided that:

9 (A) the corporation is organized under this title  
10 and has the right to engage in the business of title insurance;

11 (B) except as provided by Subsection (b), the  
12 investment is not more than 50 percent of the corporation's capital  
13 stock; and

14 (C) the valuation of the plant or plants is  
15 approved by the department;

16 (2) securities described by Subchapter D, Chapter 425,  
17 other than Sections 425.202 and 425.229-425.232, [~~Article 3.39~~] or  
18 investments authorized for title insurance companies under the laws  
19 of any other state in which the company is authorized to engage in  
20 business;

21 (3) real property or any real property interest that  
22 is:

23 (A) required for the company's convenient  
24 accommodation in the transaction of business with reasonable regard  
25 to future needs;

26 (B) acquired in connection with a claim under a  
27 title insurance policy;

1 (C) acquired in satisfaction or on account of  
2 loans, mortgages, liens, judgments, or decrees previously owed to  
3 the company in the course of business;

4 (D) acquired in partial payment of the  
5 consideration of the sale of real property owned by the company if  
6 the transaction results in a net reduction in the company's  
7 investment in real property; or

8 (E) reasonably necessary to maintain or enhance  
9 the sale value of real property previously acquired or held by the  
10 company under this subdivision;

11 (4) a first mortgage note secured by any of the  
12 following, provided that the amount of the note does not exceed 80  
13 percent of the appraised value of the security for the note:

14 (A) an abstract plant and connected personal  
15 property in or outside this state;

16 (B) stock of a title insurance agent in or  
17 outside this state;

18 (C) a construction contract to build an abstract  
19 plant and connected personal property; or

20 (D) any two or more of the items listed in this  
21 subdivision;

22 (5) the shares of any federal home loan bank in an  
23 amount necessary to qualify for membership and any additional  
24 amounts approved by the commissioner;

25 (6) foreign securities that are substantially of the  
26 same kinds, classes, and investment grade as securities otherwise  
27 qualified for investment under this section, provided that, unless



1 the investment is also qualified under Subdivision (2), the  
2 aggregate amount of foreign investments made under this subdivision  
3 does not exceed:

4 (A) five percent of the insurer's admitted assets  
5 at the end of the preceding year;

6 (B) two percent of the insurer's admitted assets  
7 at the end of the preceding year invested in the securities of all  
8 entities domiciled in any one foreign country; and

9 (C) one-half of one percent of the insurer's  
10 admitted assets at the end of the preceding year invested in the  
11 securities of any one individual entity domiciled in a foreign  
12 country;

13 (7) securities lending, repurchase, reverse  
14 repurchase, and dollar roll transactions, as described by Section  
15 425.121 [~~4(g), Article 3.33~~]; or

16 (8) money market funds, as described by Section  
17 425.123 [~~4(s), Article 3.33~~].

18 (g) A title insurance company may invest in a certified  
19 capital company in the manner provided by Chapter 228 [~~Subchapter~~  
20 ~~B, Chapter 4~~].

21 SECTION 2I.003. Section 2601.001, Insurance Code, is  
22 amended to correct a cross-reference to read as follows:

23 Sec. 2601.001. SUPERVISION, LIQUIDATION, REHABILITATION,  
24 REORGANIZATION, OR CONSERVATION OF TITLE INSURANCE COMPANIES AND  
25 AGENTS. Each title insurance agent and title insurance company is  
26 subject to Chapters 441 and 443 [~~Articles 21.28 and 21.28-A~~].

27 SECTION 2I.004. Section 2602.002(a), Insurance Code, is

1 amended to correct a cross-reference to read as follows:

2 (a) This chapter is for:

3 (1) the purposes and findings stated in Sections  
4 441.001, 441.003, 441.005, and 441.006 [~~Section 1, Article~~  
5 ~~21.28-A~~]; and

6 (2) the protection of holders of covered claims.

7 SECTION 2I.005. Section 2602.005(b), Insurance Code, is  
8 amended to correct cross-references to read as follows:

9 (b) If this chapter conflicts with another law relating to  
10 the subject matter of this chapter or its application, other than  
11 Chapter 441 or 443 [~~Article 21.28 or 21.28-A~~], this chapter  
12 controls. If this chapter conflicts with Chapter 441 or 443  
13 [~~Article 21.28 or 21.28-A~~], that chapter [~~article~~] controls.

14 SECTION 2I.006. Section 2602.114(e), Insurance Code, is  
15 amended to correct a cross-reference to read as follows:

16 (e) A board member may not disclose information received in  
17 the meeting unless authorized by the commissioner or required as  
18 witness in court. A board member and the meeting are subject to the  
19 confidentiality standard imposed on an examiner under Sections  
20 401.105 and 401.106 [~~Article 1.18~~], except that a bond is not  
21 required of a board member.

22 SECTION 2I.007. Section 2602.254, Insurance Code, is  
23 amended to correct a cross-reference to read as follows:

24 Sec. 2602.254. CERTAIN CONSERVATOR AND RECEIVER EXPENSES  
25 COVERED. Reasonable and necessary administrative expenses  
26 incurred by a conservator appointed by the commissioner or a  
27 receiver appointed by a court for an unauthorized insurer operating

1 in this state are covered claims if the commissioner has notified  
2 the association or the association has otherwise become aware that:

3 (1) the unauthorized insurer has insufficient liquid  
4 assets to pay those expenses; and

5 (2) insufficient money is available from:

6 (A) abandoned money under Section 443.304 [~~87~~  
7 ~~Article 21.28~~]; and

8 (B) department appropriations for use in paying  
9 those expenses.

10 SECTION 2I.008. Section 2602.301(a), Insurance Code, is  
11 amended to correct a cross-reference to read as follows:

12 (a) The association shall:

13 (1) investigate a claim brought against the  
14 association, the commissioner, or a special deputy receiver  
15 appointed under Chapter 443 [~~Article 21.28~~] if the claim involves  
16 or may involve the association's rights and obligations under this  
17 chapter; and

18 (2) adjust, compromise, settle, and pay a covered  
19 claim to the extent of the association's obligation, and deny all  
20 other claims.

21 PART J. CROSS-REFERENCE UPDATES: TITLE 13, INSURANCE CODE

22 SECTION 2J.001. Section 4001.002(a), Insurance Code, is  
23 amended to correct a cross-reference to read as follows:

24 (a) Except as otherwise provided by this code, this title  
25 applies to each person licensed under:

26 (1) Subchapter H, Chapter 885;

27 (2) Subchapter F, Chapter 911;

- 1 (3) Section 912.251;
- 2 (4) Section 961.005;
- 3 (5) Subchapter E, Chapter 981;
- 4 (6) [~~5~~] Subchapter D, Chapter 1152;
- 5 (7) [~~6~~] Subchapter C or D of this chapter;
- 6 (8) [~~7~~] Subtitle B, C, or D of this title;
- 7 [~~8~~ Article 23.23A,] or
- 8 (9) Subsection (c), Article 5.13-1.

9 SECTION 2J.002. Section 4001.009(a), Insurance Code, is  
10 amended to correct cross-references to read as follows:

11 (a) As referenced in Section 4001.003(9), a reference to an  
12 agent in the following laws includes a subagent without regard to  
13 whether a subagent is specifically mentioned:

- 14 (1) Chapters 281, 402, 421-423, 441, 444, 461-463,  
15 523, 541-556, 558, 559, 702, 703, 705, 821, 823-825, 827, 828, 844,  
16 963, 1108, 1205-1209, 1211-1214 [~~1211-1213~~], 1352, 1353, 1357,  
17 1358, 1360-1363, 1369, 1453-1455, 1503, 1550, 1801, 1803,  
18 2151-2154, 2201-2203, 2205-2213, 3501, 3502, 4007, [and] 4102, and  
19 4201-4203;
- 20 (2) Chapter 403, excluding Section 403.002;
- 21 (3) Subchapter A, Chapter 491;
- 22 (4) Subchapter C, Chapter 521;
- 23 [~~3~~ Subchapter F, Chapter 542,
- 24 [~~4~~ Subchapters G and I, Chapter 544,]
- 25 (5) Subchapter A, Chapter 557;
- 26 (6) Subchapter B, Chapter 805;
- 27 (7) Subchapters D, E, and F, Chapter 982;

1           (8) [~~(7)~~] Subchapter D, Chapter 1103;

2           (9) [~~(8)~~] Subchapters B, C, D, and E, Chapter 1204,  
3 excluding Sections 1204.153 and 1204.154;

4           (10) [~~(9)~~] Subchapter B, Chapter 1366;

5           (11) [~~(10)~~] Subchapters B, C, and D, Chapter 1367,  
6 excluding Section 1367.053(c);

7           (12) [~~(11)~~] Subchapters A, C, D, E, F, H, and I,  
8 Chapter 1451;

9           (13) [~~(12)~~] Subchapter B, Chapter 1452;

10          (14) [~~(13)~~] Sections 551.004, 841.303, 982.001,  
11 982.002, 982.004, 982.052, 982.102, 982.103, 982.104, 982.106,  
12 982.107, 982.108, 982.110, 982.111, [~~and~~] 982.112, and 1802.001;  
13 and

14          (15) [~~(14)~~] ~~Subchapters D, E, and F, Chapter 982;~~

15          ~~[(15)] Section 1101.003(a); and~~

16          ~~[(16)] Chapter 107, Occupations Code.~~

17          SECTION 2J.003. Section 4051.002, Insurance Code, is  
18 amended to correct a cross-reference to read as follows:

19          Sec. 4051.002. REQUIREMENTS APPLICABLE TO CERTAIN AGENT  
20 CONTRACTS. An agent's contract entered into on or after August 27,  
21 1973, by an insurer engaged in the business of property and casualty  
22 insurance in this state is subject to Chapter 444 [~~Article~~  
23 ~~21.11-2~~].

24          SECTION 2J.004. Section 4051.101(a), Insurance Code, is  
25 amended to correct cross-references to read as follows:

26          (a) Except as provided by Section 4051.052, a person is  
27 required to hold a limited property and casualty license if the

1 person acts as an agent who writes:

2 (1) job protection insurance as defined by Section  
3 962.002 [~~Article 25.01~~];

4 (2) exclusively, insurance on growing crops under  
5 Subchapter F;

6 (3) any form of insurance authorized under Chapter 911  
7 for a farm mutual insurance company;

8 (4) exclusively, any form of insurance authorized to  
9 be solicited and written in this state that relates to:

10 (A) the ownership, operation, maintenance, or  
11 use of a motor vehicle designed for use on the public highways,  
12 including a trailer or semitrailer, and the motor vehicle's  
13 accessories or equipment; or

14 (B) the ownership, occupancy, maintenance, or  
15 use of a manufactured home classified as personal property under  
16 Section 2.001, Property Code;

17 (5) a prepaid legal services contract under Article  
18 5.13-1 or Chapter 961;

19 (6) exclusively, an industrial fire insurance policy:

20 (A) covering dwellings, household goods, and  
21 wearing apparel;

22 (B) written on a weekly, monthly, or quarterly  
23 basis on a continuous premium payment plan; and

24 (C) written for an insurer exclusively engaged in  
25 the business as described by Section 912.310;

26 (7) credit insurance, except as otherwise provided by  
27 Chapter 4055; or

1           (8) any other kind of insurance, if holding a limited  
2 property and casualty license to write that kind of insurance is  
3 determined necessary by the commissioner for the protection of the  
4 insurance consumers of this state.

5           SECTION 2J.005. Section 4152.104(b), Insurance Code, is  
6 amended to correct a cross-reference to read as follows:

7           (b) Expenses relating to an examination conducted under  
8 this subchapter may be charged to the person examined in accordance  
9 with Sections 401.151, 401.152, 401.155, and 401.156 [~~Article~~  
10 ~~1.16~~].

11           SECTION 2J.006. Section 4152.152, Insurance Code, is  
12 amended to correct cross-references to read as follows:

13           Sec. 4152.152. PLACEMENT OF REINSURANCE WITH UNAUTHORIZED  
14 REINSURER. Unless the ceding insurer releases the broker in  
15 writing from the broker's obligations under this section, a broker  
16 who places reinsurance on behalf of an authorized ceding insurer  
17 with a reinsurer that is not authorized, accredited, or trusteeed in  
18 this state under Chapter 492 [~~Article 3.10~~] or 493 [~~5.75-1~~] shall:

19           (1) exercise due diligence in inquiring into the  
20 financial condition of the reinsurer;

21           (2) disclose to the ceding insurer the broker's  
22 findings in connection with the inquiry under Subdivision (1); and

23           (3) make available to the ceding insurer a copy of the  
24 current financial statement of the reinsurer.

25           SECTION 2J.007. Section 4152.214(a), Insurance Code, is  
26 amended to correct cross-references to read as follows:

27           (a) Unless the ceding insurer releases the manager in

1 writing from the manager's obligations under this section, a  
2 manager who places reinsurance on behalf of an authorized ceding  
3 insurer with a reinsurer that is not authorized, accredited, or  
4 trustee in this state under Chapter 492 [~~Article 3.10~~] or 493  
5 [~~5.75-1~~] shall:

6 (1) exercise due diligence in inquiring into the  
7 financial condition of the reinsurer;

8 (2) disclose to the ceding insurer the manager's  
9 findings in connection with the inquiry under Subdivision (1); and

10 (3) make available to the ceding insurer a copy of the  
11 current financial statement of the reinsurer.

12 PART K. EFFECTIVE DATE

13 SECTION 2K.001. This article takes effect April 1, 2009.

14 ARTICLE 3. INSURANCE CODE UPDATE

15 PART A. GENERAL PROVISIONS

16 SECTION 3A.001. This article is enacted as part of the  
17 state's continuing statutory revision program under Chapter 323,  
18 Government Code. This article is a revision for purposes of Section  
19 43, Article III, Texas Constitution, and has the purposes of:

20 (1) conforming codifications enacted by the 79th  
21 Legislature to other Acts of that legislature that amended the laws  
22 codified or added new law to subject matter codified;

23 (2) making necessary corrections to enacted  
24 codifications; and

25 (3) renumbering titles, chapters, and sections of  
26 codes that duplicate title, chapter, or section numbers.

27 SECTION 3A.002. (a) The repeal of a statute by this article



1 does not affect an amendment, revision, or reenactment of the  
2 statute by the 80th Legislature, Regular Session, 2007. The  
3 amendment, revision, or reenactment is preserved and given effect  
4 as part of the code provision that revised the statute so amended,  
5 revised, or reenacted.

6 (b) If any provision of this article conflicts with a  
7 statute enacted by the 80th Legislature, Regular Session, 2007, the  
8 statute controls.

9 SECTION 3A.003. (a) A transition or saving provision of a  
10 law codified by this article applies to the codified law to the same  
11 extent as it applied to the original law.

12 (b) The repeal of a transition or saving provision by this  
13 article does not affect the application of the provision to the  
14 codified law.

15 (c) In this section, "transition provision" includes any  
16 temporary provision providing for a special situation in the  
17 transition period between the existing law and the establishment or  
18 implementation of the new law.

19 PART B. CHANGES UPDATING INSURANCE CODE

20 SECTION 3B.001. (a) Section 401.010(a), Insurance Code, is  
21 amended to conform to Section 2, Chapter 408, Acts of the 79th  
22 Legislature, Regular Session, 2005, to read as follows:

23 (a) An accountant must audit the financial reports provided  
24 by an insurer or health maintenance organization for purposes of an  
25 audit under this subchapter. The accountant who audits the reports  
26 must conduct the audit in accordance with generally accepted  
27 auditing standards or with standards adopted by the Public Company

1 Accounting Oversight Board, as applicable, and must consider the  
2 standards specified [~~other procedures described~~] in the Financial  
3 Condition Examiner's Handbook adopted by the National Association  
4 of Insurance Commissioners or other analogous nationally  
5 recognized standards adopted by commissioner rule.

6 (b) Section 2, Chapter 408, Acts of the 79th Legislature,  
7 Regular Session, 2005, which amended former Subsection (b), Section  
8 14, Article 1.15A, Insurance Code, is repealed.

9 SECTION 3B.002. (a) Section 401.011(d), Insurance Code, is  
10 amended to conform to Section 1, Chapter 408, Acts of the 79th  
11 Legislature, Regular Session, 2005, to read as follows:

12 (d) The commissioner may not accept an audited financial  
13 report prepared wholly or partly by an individual or firm who the  
14 commissioner finds:

15 (1) has been convicted of fraud, bribery, a violation  
16 of the Racketeer Influenced and Corrupt Organizations Act (18  
17 U.S.C. Section 1961 et seq.), or a state or federal criminal offense  
18 involving dishonest conduct;

19 (2) has violated the insurance laws of this state with  
20 respect to a report filed under this subchapter; [~~or~~]

21 (3) has demonstrated a pattern or practice of failing  
22 to detect or disclose material information in reports filed under  
23 this subchapter; or

24 (4) has directly or indirectly entered into an  
25 agreement of indemnity or release of liability regarding an audit  
26 of an insurer.

27 (b) Section 1, Chapter 408, Acts of the 79th Legislature,

1 Regular Session, 2005, which amended former Subsection (c), Section  
2 12, Article 1.15A, Insurance Code, is repealed.

3 SECTION 3B.003. Subchapters A, B, C, D, E, F, G, H, I, J, K,  
4 L, M, N, O, and P, Chapter 442, Insurance Code, and Section 6.069,  
5 Chapter 265, Acts of the 79th Legislature, Regular Session, 2005,  
6 which amended former Section 3A, Article 21.28, Insurance Code, are  
7 repealed to conform to the repeal of Article 21.28, Insurance Code,  
8 by Section 9, Chapter 995, Acts of the 79th Legislature, Regular  
9 Session, 2005.

10 SECTION 3B.004. (a) The following changes are made to Title  
11 1, Insurance Code, and Subtitle C, Title 4, Insurance Code, for  
12 organizational purposes:

13 (1) Chapter 21A, Insurance Code, is redesignated as  
14 Chapter 443, Subtitle C, Title 4, Insurance Code, and:

15 (A) Subchapter A in the redesignated chapter is  
16 redesignated as Subchapter A, Chapter 443, Insurance Code, and the  
17 sections in the redesignated subchapter, Sections 21A.001,  
18 21A.002, 21A.003, 21A.004, 21A.005, 21A.006, 21A.007, 21A.008,  
19 21A.009, 21A.010, 21A.011, 21A.012, 21A.013, 21A.0135, 21A.014,  
20 21A.015, 21A.016, and 21A.017, are redesignated as Sections  
21 443.001, 443.002, 443.003, 443.004, 443.005, 443.006, 443.007,  
22 443.008, 443.009, 443.010, 443.011, 443.012, 443.013, 443.0135,  
23 443.014, 443.015, 443.016, and 443.017, respectively;

24 (B) Subchapter B in the redesignated chapter is  
25 redesignated as Subchapter B, Chapter 443, Insurance Code, and the  
26 sections in the redesignated subchapter, Sections 21A.051 through  
27 21A.059, are redesignated as Sections 443.051 through 443.059;

1           (C) Subchapter C in the redesignated chapter is  
2 redesignated as Subchapter C, Chapter 443, Insurance Code, and the  
3 sections in the redesignated subchapter, Sections 21A.101 through  
4 21A.105, are redesignated as Sections 443.101 through 443.105;

5           (D) Subchapter D in the redesignated chapter is  
6 redesignated as Subchapter D, Chapter 443, Insurance Code, and the  
7 sections in the redesignated subchapter, Sections 21A.151 through  
8 21A.156, are redesignated as Sections 443.151 through 443.156;

9           (E) Subchapter E in the redesignated chapter is  
10 redesignated as Subchapter E, Chapter 443, Insurance Code, and the  
11 sections in the redesignated subchapter, Sections 21A.201 through  
12 21A.213, are redesignated as Sections 443.201 through 443.213;

13           (F) Subchapter F in the redesignated chapter is  
14 redesignated as Subchapter F, Chapter 443, Insurance Code, and the  
15 sections in the redesignated subchapter, Sections 21A.251 through  
16 21A.261, are redesignated as Sections 443.251 through 443.261;

17           (G) Subchapter G in the redesignated chapter is  
18 redesignated as Subchapter G, Chapter 443, Insurance Code, and the  
19 sections in the redesignated subchapter, Sections 21A.301 through  
20 21A.304, are redesignated as Sections 443.301 through 443.304;

21           (H) Subchapter H in the redesignated chapter is  
22 redesignated as Subchapter H, Chapter 443, Insurance Code, and the  
23 sections in the redesignated subchapter, Sections 21A.351 through  
24 21A.355, are redesignated as Sections 443.351 through 443.355; and

25           (I) Subchapter I in the redesignated chapter is  
26 redesignated as Subchapter I, Chapter 443, Insurance Code, and the  
27 sections in the redesignated subchapter, Sections 21A.401 and

1 21A.402, are redesignated as Sections 443.401 and 443.402,  
2 respectively; and

3 (2) Subchapter Q, Chapter 442, Insurance Code, is  
4 redesignated as Chapter 444, Insurance Code, the heading of  
5 Subchapter Q is amended to read as follows: "CHAPTER 444  
6 [~~SUBCHAPTER Q~~]. AGENCY CONTRACTS WITH CERTAIN INSURERS", and  
7 Sections 442.801, 442.802, 442.803, and 442.804 in the redesignated  
8 subchapter are redesignated as Sections 444.001, 444.002, 444.003,  
9 and 444.004, respectively.

10 (b) Sections 21A.004(a)(4), (11), (14), (17), and (26),  
11 Insurance Code, redesignated as Sections 443.004(a)(4), (11),  
12 (14), (17), and (26), Insurance Code, respectively, by Subsection  
13 (a)(1)(A) of this section, are amended to conform to the additional  
14 changes made by Subsection (a)(1) of this section and to the  
15 recodification and repeal of Articles 21.28-C and 21.28-D,  
16 Insurance Code, by Chapter 727, Acts of the 79th Legislature,  
17 Regular Session, 2005, to read as follows:

18 (4) "Delinquency proceeding" means any proceeding  
19 instituted against an insurer for the purpose of liquidating,  
20 rehabilitating, or conserving the insurer, and any proceeding under  
21 Section 443.051 [~~21A.051~~].

22 (11) "Guaranty association" means any mechanism  
23 mandated by [~~Article 21.28-C or 21.28-D,~~] Chapter 462, 463, or  
24 2602[7] or other laws of this state or a similar mechanism in  
25 another state that is created for the payment of claims or  
26 continuation of policy obligations of financially impaired or  
27 insolvent insurers.

1           (14) "Insurer" means any person that has done,  
2 purports to do, is doing, or is authorized to do the business of  
3 insurance in this state, and is or has been subject to the authority  
4 of or to liquidation, rehabilitation, reorganization, supervision,  
5 or conservation by any insurance commissioner. For purposes of  
6 this chapter, any other persons included under Section 443.003  
7 [~~21A.003~~] are insurers.

8           (17) "Party in interest" means the commissioner, a 10  
9 percent or greater equity security holder in the insolvent insurer,  
10 any affected guaranty association, any nondomiciliary commissioner  
11 for a jurisdiction in which the insurer has outstanding claims  
12 liabilities, and any of the following parties that have filed a  
13 request for inclusion on the service list under Section 443.007  
14 [~~21A.007~~]:

15                   (A) an insurer that ceded to or assumed business  
16 from the insolvent insurer; and

17                   (B) an equity shareholder, policyholder,  
18 third-party claimant, creditor, and any other person, including any  
19 indenture trustee, with a financial or regulatory interest in the  
20 receivership proceeding.

21           (26) "Secured claim" means any claim secured by an  
22 asset that is not a general asset. The term includes the right to  
23 set off as provided in Section 443.209 [~~21A.209~~]. The term does not  
24 include a claim arising from a constructive or resulting trust, a  
25 special deposit claim, or a claim based on mere possession.

26           (c) Sections 21A.005(e), (h), and (i), Insurance Code,  
27 redesignated as Sections 443.005(e), (h), and (i), Insurance Code,

1 respectively, by Subsection (a)(1)(A) of this section, are amended  
2 to conform to the additional changes made by Subsection (a)(1) of  
3 this section to read as follows:

4 (e) If, on motion of any party, the receivership court finds  
5 that any action, as a matter of substantial justice, should be tried  
6 in a forum outside this state, the receivership court may enter an  
7 appropriate order to stay further proceedings on the action in this  
8 state. Except as to claims against the estate, nothing in this  
9 chapter deprives a party of any contractual right to pursue  
10 arbitration. A party in arbitration may bring a claim or  
11 counterclaim against the estate, but the claim or counterclaim is  
12 subject to Section 443.209 [~~21A.209~~].

13 (h) At any time after an order is entered pursuant to  
14 Section 443.051, 443.101, or 443.151 [~~21A.051, 21A.101, or~~  
15 ~~21A.151~~], the commissioner or receiver may transfer the case to the  
16 county of the principal office of the person proceeded against. In  
17 the event of transfer, the court in which the proceeding was  
18 commenced, upon application of the commissioner or receiver, shall  
19 direct its clerk to transmit the court's file to the clerk of the  
20 court to which the case is to be transferred. The proceeding, after  
21 transfer, shall be conducted in the same manner as if it had been  
22 commenced in the court to which the matter is transferred.

23 (i) A person may not intervene in any delinquency proceeding  
24 in this state for the purpose of seeking or obtaining payment of any  
25 judgment, lien, or other claim of any kind. The claims procedure  
26 set forth in this chapter constitutes the exclusive means for  
27 obtaining payment of claims from the receivership estate. This

1 provision is not intended to affect the rights conferred on the  
2 guaranty associations by Section 443.008(1) [~~21A.008(1)~~].

3 (d) Section 21A.008(e), Insurance Code, redesignated as  
4 Section 443.008(e), Insurance Code, by Subsection (a)(1)(A) of this  
5 section, is amended to conform to the additional changes made by  
6 Subsection (a)(1) of this section to read as follows:

7 (e) Notwithstanding Subsection (c), the commencement of a  
8 delinquency proceeding under this chapter does not operate as a  
9 stay of:

10 (1) regulatory actions not described by Subsection  
11 (c)(7) that are taken by the commissioners of nondomiciliary  
12 states, including the suspension of licenses;

13 (2) criminal proceedings;

14 (3) any act to perfect or to maintain or continue the  
15 perfection of an interest in property to the extent that the act is  
16 accomplished within any relation back period under applicable law;

17 (4) set off as permitted by Section 443.209 [~~21A.209~~];

18 (5) pursuit and enforcement of nonmonetary  
19 governmental claims, judgments, and proceedings;

20 (6) presentment of a negotiable instrument and the  
21 giving of notice and protesting dishonor of the instrument;

22 (7) enforcement of rights against single beneficiary  
23 trusts established pursuant to and in compliance with laws relating  
24 to credit for reinsurance;

25 (8) termination, liquidation, and netting of  
26 obligations under qualified financial contracts as provided for in  
27 Section 443.261 [~~21A.261~~];



1           (9) discharge by a guaranty association of statutory  
2 responsibilities under any law governing guaranty associations; or

3           (10) any of the following actions:

4                 (A) an audit by a governmental unit to determine  
5 tax liability;

6                 (B) the issuance to the insurer by a governmental  
7 unit of a notice of tax deficiency;

8                 (C) a demand for tax returns; or

9                 (D) the making of an assessment for any tax and  
10 issuance of a notice and demand for payment of the assessment.

11           (e) Section 21A.009(c), Insurance Code, redesignated as  
12 Section 443.009(c), Insurance Code, by Subsection (a)(1)(A) of this  
13 section, is amended to conform to the additional changes made by  
14 Subsection (a)(1) of this section to read as follows:

15           (c) If applicable law, an order, or an agreement fixes a  
16 period for commencing or continuing a civil action in a court other  
17 than the receivership court on a claim against the insurer, and the  
18 period has not expired before the date of the initial filing of the  
19 petition in a delinquency proceeding, then the period does not  
20 expire until the later of:

21                 (1) the end of the period, including any suspension of  
22 the period occurring on or after the filing of the initial petition  
23 in the delinquency proceeding; or

24                 (2) 30 days after termination or expiration of the  
25 stay under Section 443.008 [~~21A.008~~] with respect to the claim.

26           (f) Section 21A.0135, Insurance Code, redesignated as  
27 Section 443.0135, Insurance Code, by Subsection (a)(1)(A) of this

1 section, is amended to conform to the additional changes made by  
2 Subsection (a)(1) of this section to read as follows:

3 Sec. 443.0135 [~~21A.0135~~]. CONTRACTS FOR SPECIAL DEPUTIES.

4 (a) The receiver shall use a competitive bidding process in the  
5 selection of any special deputies appointed under Section 443.102  
6 or 443.154 [~~21A.102 or 21A.154~~]. The process must include  
7 procedures to promote the participation of historically  
8 underutilized businesses that have been certified by the Texas  
9 Building and Procurement Commission under Section 2161.061,  
10 Government Code.

11 (b) A proposal submitted in connection with a bid  
12 solicitation under Subsection (a) must describe the efforts that  
13 have been made to include historically underutilized businesses as  
14 subcontractors and the plan for using the historically  
15 underutilized businesses in the administration of the receivership  
16 estate. A special deputy appointed under Section 443.102 or  
17 443.154 [~~21A.102 or 21A.154~~] shall make a good faith effort to  
18 implement the plan and shall report to the receiver the special  
19 deputy's efforts to identify and subcontract with historically  
20 underutilized businesses.

21 (g) Sections 21A.015(a), (c), and (i), Insurance Code,  
22 redesignated as Sections 443.015(a), (c), and (i), Insurance Code,  
23 respectively, by Subsection (a)(1)(A) of this section, are amended  
24 to conform to the additional changes made by Subsection (a)(1) of  
25 this section to read as follows:

26 (a) The receiver may pay any expenses under contracts,  
27 leases, employment agreements, or other arrangements entered into

1 by the insurer prior to receivership, as the receiver deems  
2 necessary for the purposes of this chapter. The receiver is not  
3 required to pay any expenses that the receiver determines are not  
4 necessary, and may reject any contract pursuant to Section 443.013  
5 [~~21A.013~~].

6 (c) The receiver shall submit to the receivership court an  
7 application pursuant to Section 443.007 [~~21A.007~~] to approve:

8 (1) the terms of compensation of each special deputy  
9 or contractor with respect to which the total amount of the  
10 compensation is reasonably expected by the receiver for the  
11 duration of the delinquency proceeding to exceed \$250,000, or  
12 another amount established by the receivership court; and

13 (2) any other anticipated expense in excess of  
14 \$25,000, or another amount established by the receivership court.

15 (i) All expenses of receivership shall be paid from the  
16 assets of the insurer, except as provided by this subsection. In  
17 the event that the property of the insurer does not contain  
18 sufficient cash or liquid assets to defray the expenses incurred,  
19 the commissioner may advance funds from the account established  
20 under Section 443.304(c) [~~21A.304(c)~~]. Any amounts advanced shall  
21 be repaid to the account out of the first available money of the  
22 insurer.

23 (h) Sections 21A.051(a), (b), and (i), Insurance Code,  
24 redesignated as Sections 443.051(a), (b), and (i), Insurance Code,  
25 respectively, by Subsection (a)(1)(B) of this section, are amended  
26 to conform to the additional changes made by Subsection (a)(1) of  
27 this section to read as follows:

1 (a) The commissioner may file in a district court of Travis  
2 County a petition with respect to an insurer domiciled in this  
3 state, an unauthorized insurer, or, pursuant to Section 443.401  
4 [~~21A.401~~], a foreign insurer:

5 (1) alleging that grounds exist that would justify a  
6 court order for a formal delinquency proceeding against the insurer  
7 under this chapter;

8 (2) alleging that the interests of policyholders,  
9 creditors, or the public will be endangered by delay; and

10 (3) setting forth the contents of a seizure order  
11 deemed to be necessary by the commissioner.

12 (b) Upon a filing under Subsection (a), the receivership  
13 court may issue, ex parte and without notice or hearing, the  
14 requested seizure order directing the commissioner to take  
15 possession and control of all or a part of the property, books,  
16 accounts, documents, and other records of an insurer, and of the  
17 premises occupied by it for transaction of its business, and until  
18 further order of the receivership court, enjoining the insurer and  
19 its officers, managers, agents, and employees from disposition of  
20 its property and from the transaction of its business except with  
21 the written consent of the commissioner. Any person having  
22 possession or control of and refusing to deliver any of the books,  
23 records, or assets of a person against whom a seizure order has been  
24 issued commits an offense. An offense under this subsection is  
25 punishable in the manner described by Section 443.010(e)  
26 [~~21A.010(e)~~].

27 (i) In all proceedings and judicial reviews under this

1 section, all records of the insurer, department files, court  
2 records and papers, and other documents, so far as they pertain to  
3 or are a part of the record of the proceedings, are confidential,  
4 and all papers filed with the clerk of the court shall be held by the  
5 clerk in a confidential file as permitted by law, except to the  
6 extent necessary to obtain compliance with any order entered in  
7 connection with the proceedings, unless and until:

8 (1) the court, after hearing argument in chambers,  
9 orders otherwise;

10 (2) the insurer requests that the matter be made  
11 public; or

12 (3) the commissioner applies for an order under  
13 Section 443.057 [~~21A.057~~].

14 (i) Section 21A.052(b), Insurance Code, redesignated as  
15 Section 443.052(b), Insurance Code, by Subsection (a)(1)(B) of this  
16 section, is amended to conform to the additional changes made by  
17 Subsection (a)(1) of this section to read as follows:

18 (b) The petition must state the grounds upon which the  
19 proceeding is based and the relief requested and may include a  
20 prayer for restraining orders and injunctive relief as described in  
21 Section 443.008 [~~21A.008~~]. On the filing of the petition or order,  
22 a copy shall be forwarded by first class mail or electronic  
23 communication as permitted by the receivership court to the  
24 insurance regulatory officials and guaranty associations in states  
25 in which the insurer did business.

26 (j) Section 21A.056(a), Insurance Code, redesignated as  
27 Section 443.056(a), Insurance Code, by Subsection (a)(1)(B) of this

1 section, is amended to conform to the additional changes made by  
2 Subsection (a)(1) of this section to read as follows:

3 (a) The commissioner, rehabilitator, or liquidator may  
4 share documents, materials, or other information in the possession,  
5 custody, or control of the department without regard to the  
6 confidentiality of those documents, materials, or information,  
7 pertaining to an insurer that is the subject of a proceeding under  
8 this chapter with other state, federal, and international  
9 regulatory agencies, with the National Association of Insurance  
10 Commissioners and its affiliates and subsidiaries, with state,  
11 federal, and international law enforcement authorities, with an  
12 auditor appointed by the receivership court in accordance with  
13 Section 443.355 [~~21A.355~~], and, pursuant to Section 443.105  
14 [~~21A.105~~], with representatives of guaranty associations that may  
15 have statutory obligations as a result of the insolvency of the  
16 insurer, provided that the recipient agrees to maintain the  
17 confidentiality, if any, of the documents, material, or other  
18 information. Nothing in this section limits the power of the  
19 commissioner to disclose information under other applicable law.

20 (k) Section 21A.057, Insurance Code, redesignated as  
21 Section 443.057, Insurance Code, by Subsection (a)(1)(B) of this  
22 section, is amended to conform to the additional changes made by  
23 Subsection (a)(1) of this section and to the recodification and  
24 repeal of Articles 1.15, 1.15A, 1.16, 1.32, and 21.28-A, Insurance  
25 Code, by Chapter 727, Acts of the 79th Legislature, Regular  
26 Session, 2005, to read as follows:

27 Sec. 443.057 [~~21A.057~~]. GROUNDS FOR CONSERVATION,

1 REHABILITATION, OR LIQUIDATION. The commissioner may file with a  
2 court in this state a petition with respect to an insurer domiciled  
3 in this state or an unauthorized insurer for an order of  
4 rehabilitation or liquidation on any one or more of the following  
5 grounds:

6 (1) the insurer is impaired;

7 (2) the insurer is insolvent;

8 (3) the insurer is about to become insolvent, with  
9 "about to become insolvent" being defined as reasonably anticipated  
10 that the insurer will not have liquid assets to meet its next 90  
11 days' current obligations;

12 (4) the insurer has neglected or refused to comply  
13 with an order of the commissioner to make good within the time  
14 prescribed by law any deficiency, whenever its capital and minimum  
15 required surplus, if a stock company, or its surplus, if a company  
16 other than stock, has become impaired;

17 (5) the insurer, its parent company, its subsidiaries,  
18 or its affiliates have converted, wasted, or concealed property of  
19 the insurer or have otherwise improperly disposed of, dissipated,  
20 used, released, transferred, sold, assigned, hypothecated, or  
21 removed the property of the insurer;

22 (6) the insurer is in a condition such that it could  
23 not meet the requirements for organization and authorization as  
24 required by law, except as to the amount of the original surplus  
25 required of a stock company under Title 6, and except as to the  
26 amount of the surplus required of a company other than a stock  
27 company in excess of the minimum surplus required to be maintained;

1           (7) the insurer, its parent company, its subsidiaries,  
2 or its affiliates have concealed, removed, altered, destroyed, or  
3 failed to establish and maintain books, records, documents,  
4 accounts, vouchers, and other pertinent material adequate for the  
5 determination of the financial condition of the insurer by  
6 examination under Chapter 401 [~~Article 1.15, 1.15A, or 1.16~~] or has  
7 failed to properly administer claims or maintain claims records  
8 that are adequate for the determination of its outstanding claims  
9 liability;

10           (8) at any time after the issuance of an order under  
11 Section 404.003 or Chapter 441 [~~Article 1.32 or 21.28-A~~], or at the  
12 time of instituting any proceeding under this chapter, it appears  
13 to the commissioner that, upon good cause shown, it would not be in  
14 the best interest of the policyholders, creditors, or the public to  
15 proceed with the conduct of the business of the insurer;

16           (9) the insurer is in a condition such that the further  
17 transaction of business would be hazardous financially, according  
18 to Subchapter A, Chapter 404, [~~Article 1.32~~] or otherwise, to its  
19 policyholders, creditors, or the public;

20           (10) there is reasonable cause to believe that there  
21 has been embezzlement from the insurer, wrongful sequestration or  
22 diversion of the insurer's property, forgery or fraud affecting the  
23 insurer, or other illegal conduct in, by, or with respect to the  
24 insurer that, if established, would endanger assets in an amount  
25 threatening the solvency of the insurer;

26           (11) control of the insurer is in a person who is:

27                   (A) dishonest or untrustworthy; or



1 (B) so lacking in insurance company managerial  
2 experience or capability as to be hazardous to policyholders,  
3 creditors, or the public;

4 (12) any person who in fact has executive authority in  
5 the insurer, whether an officer, manager, general agent, director,  
6 trustee, employee, shareholder, or other person, has refused to be  
7 examined under oath by the commissioner concerning the insurer's  
8 affairs, whether in this state or elsewhere or if examined under  
9 oath, refuses to divulge pertinent information reasonably known to  
10 the person; and after reasonable notice of the fact, the insurer has  
11 failed promptly and effectively to terminate the employment and  
12 status of the person and all the person's influence on management;

13 (13) after demand by the commissioner under Chapter  
14 401 [~~Article 1.15, 1.15A, or 1.16~~] or under this chapter, the  
15 insurer has failed promptly to make available for examination any  
16 of its own property, books, accounts, documents, or other records,  
17 or those of any subsidiary or related company within the control of  
18 the insurer or of any person having executive authority in the  
19 insurer, so far as they pertain to the insurer;

20 (14) without first obtaining the written consent of  
21 the commissioner, the insurer has transferred, or attempted to  
22 transfer, in a manner contrary to Chapter 823 or any law relating to  
23 bulk reinsurance, substantially its entire property or business, or  
24 has entered into any transaction the effect of which is to merge,  
25 consolidate, or reinsure substantially its entire property or  
26 business in or with the property or business of any other person;

27 (15) the insurer or its property has been or is the

1 subject of an application for the appointment of a receiver,  
2 trustee, custodian, conservator, sequestrator, or similar  
3 fiduciary of the insurer or its property otherwise than as  
4 authorized under the insurance laws of this state;

5 (16) within the previous five years, the insurer has  
6 wilfully and continuously violated its charter, articles of  
7 incorporation or bylaws, any insurance law of this state, or any  
8 valid order of the commissioner;

9 (17) the insurer has failed to pay within 60 days after  
10 the due date any obligation to any state or political subdivision of  
11 a state or any judgment entered in any state, if the court in which  
12 the judgment was entered had jurisdiction over the subject matter,  
13 except that nonpayment is not a ground until 60 days after any good  
14 faith effort by the insurer to contest the obligation has been  
15 terminated, whether it is before the commissioner or in the courts;

16 (18) the insurer has systematically engaged in the  
17 practice of reaching settlements with and obtaining releases from  
18 claimants, and then unreasonably delayed payment, failed to pay the  
19 agreed-upon settlements, or systematically attempted to compromise  
20 with claimants or other creditors on the ground that it is  
21 financially unable to pay its claims or obligations in full;

22 (19) the insurer has failed to file its annual report  
23 or other financial report required by statute within the time  
24 allowed by law;

25 (20) the board of directors or the holders of a  
26 majority of the shares entitled to vote, or a majority of those  
27 individuals entitled to the control of those entities specified by

1 Section 443.003 [~~21A.003~~], request or consent to rehabilitation or  
2 liquidation under this chapter;

3 (21) the insurer does not comply with its domiciliary  
4 state's requirements for issuance to it of a certificate of  
5 authority, or its certificate of authority has been revoked by its  
6 state of domicile; or

7 (22) when authorized by department rules.

8 (1) Section 21A.058, Insurance Code, redesignated as  
9 Section 443.058, Insurance Code, by Subsection (a)(1)(B) of this  
10 section, is amended to conform to the additional changes made by  
11 Subsection (a)(1) of this section to read as follows:

12 Sec. 443.058 [~~21A.058~~]. ENTRY OF ORDER. If the  
13 commissioner establishes any of the grounds provided in Section  
14 443.057 [~~21A.057~~], the receivership court shall grant the petition  
15 and issue the order of rehabilitation or liquidation requested in  
16 the petition.

17 (m) Section 21A.101(b), Insurance Code, redesignated as  
18 Section 443.101(b), Insurance Code, by Subsection (a)(1)(C) of this  
19 section, is amended to conform to the additional changes made by  
20 Subsection (a)(1) of this section to read as follows:

21 (b) Any order issued under this section must require  
22 accountings to the receivership court by the rehabilitator.  
23 Accountings must be at the intervals specified by the receivership  
24 court in its order, but not less frequently than semi-annually.  
25 Each accounting must include a report concerning the  
26 rehabilitator's opinion as to the likelihood that a plan under  
27 Section 443.103 [~~21A.103~~] will be prepared by the rehabilitator and

1 the timetable for doing so.

2 (n) Section 21A.102(a), Insurance Code, redesignated as  
3 Section 443.102(a), Insurance Code, by Subsection (a)(1)(C) of this  
4 section, is amended to conform to the additional changes made by  
5 Subsection (a)(1) of this section to read as follows:

6 (a) The rehabilitator may appoint one or more special  
7 deputies. A special deputy serves at the pleasure of the  
8 rehabilitator and has all the powers and responsibilities of the  
9 rehabilitator granted under this section, unless specifically  
10 limited by the rehabilitator. The rehabilitator may employ or  
11 contract with legal counsel, actuaries, accountants, appraisers,  
12 consultants, clerks, assistants, and other personnel as may be  
13 deemed necessary. Any special deputy or any other person with whom  
14 the rehabilitator contracts under this subsection may act on behalf  
15 of the commissioner only in the commissioner's capacity as  
16 rehabilitator. Any person with whom the rehabilitator contracts  
17 under this subsection is not considered an agent of the state, and  
18 any contract entered into under this subsection does not constitute  
19 a contract with the state. The provisions of any law governing the  
20 procurement of goods and services by the state does not apply to any  
21 contract entered into by the commissioner as rehabilitator. The  
22 compensation of any special deputies, employees, and contractors  
23 and all expenses of taking possession of the insurer and of  
24 conducting the rehabilitation shall be fixed by the rehabilitator,  
25 with the approval of the receivership court in accordance with  
26 Section 443.015 [~~21A.015~~], and shall be paid out of the property of  
27 the insurer. The persons appointed under this subsection serve at

1 the pleasure of the rehabilitator. If the rehabilitator deems it  
2 necessary to the proper performance of the rehabilitator's duties  
3 under this chapter, the rehabilitator may appoint an advisory  
4 committee of policyholders, claimants, or other creditors,  
5 including guaranty associations. The advisory committee serves at  
6 the pleasure of the rehabilitator and without compensation or  
7 reimbursement for expenses. The rehabilitator or the receivership  
8 court in rehabilitation proceedings conducted under this chapter  
9 may not appoint another committee of any nature.

10 (o) Section 21A.104, Insurance Code, redesignated as  
11 Section 443.104, Insurance Code, by Subsection (a)(1)(C) of this  
12 section, is amended to conform to the additional changes made by  
13 Subsection (a)(1) of this section to read as follows:

14 Sec. 443.104 [~~21A.104~~]. TERMINATION OF REHABILITATION. (a)  
15 When the rehabilitator believes further attempts to rehabilitate an  
16 insurer would substantially increase the risk of loss to creditors,  
17 policyholders, or the public or would be futile, the rehabilitator  
18 may move for an order of liquidation. In accordance with Section  
19 443.105 [~~21A.105~~], the rehabilitator or the rehabilitator's  
20 designated representative shall coordinate with the guaranty  
21 associations that may become liable as a result of the liquidation  
22 and any national association of guaranty associations to plan for  
23 transition to liquidation.

24 (b) Because the protection of the interests of insureds,  
25 claimants, and the public requires the timely performance of all  
26 insurance policy obligations, if the payment of policy obligations  
27 is suspended in substantial part for a period of six months at any

1 time after the appointment of the rehabilitator and the  
2 rehabilitator has not filed an application for approval of a plan  
3 under Section 443.103 [~~21A.103~~], the rehabilitator shall petition  
4 the receivership court for an order of liquidation.

5 (c) The rehabilitator or the directors of the insurer may at  
6 any time petition the receivership court for, or the receivership  
7 court on its own motion may enter, an order terminating  
8 rehabilitation of an insurer. Subject to the provisions of Section  
9 443.351 [~~21A.351~~], if the receivership court finds that  
10 rehabilitation has been accomplished and that grounds for  
11 rehabilitation under Section 443.057 [~~21A.057~~] no longer exist, it  
12 shall order that the insurer be restored to title and possession of  
13 its property and the control of the business.

14 (p) Sections 21A.151(b) and (e), Insurance Code,  
15 redesignated as Sections 443.151(b) and (e), Insurance Code,  
16 respectively, by Subsection (a)(1)(D) of this section, are amended  
17 to conform to the additional changes made by Subsection (a)(1) of  
18 this section to read as follows:

19 (b) Upon issuance of the order of liquidation, the rights  
20 and liabilities of the insurer and of its creditors, policyholders,  
21 shareholders, members, and all other persons interested in its  
22 estate become fixed as of the date of entry of the order of  
23 liquidation, except as provided by Sections 443.152 and 443.255  
24 [~~21A.152 and 21A.255~~], unless otherwise fixed by the court.

25 (e) In the event an order of liquidation is set aside on  
26 appeal, the company may not be released from delinquency  
27 proceedings except in accordance with Section 443.351 [~~21A.351~~].

1 (q) Sections 21A.152(b), (c), and (d), Insurance Code,  
2 redesignated as Sections 443.152(b), (c), and (d), Insurance Code,  
3 respectively, by Subsection (a)(1)(D) of this section, are amended  
4 to conform to the additional changes made by Subsection (a)(1) of  
5 this section to read as follows:

6 (b) Notwithstanding any policy or contract language or any  
7 other statute, all policies, insurance contracts other than  
8 reinsurance by which the insurer has ceded insurance obligations to  
9 another person, and surety bonds or surety undertakings, other than  
10 life or health insurance or annuities, in effect at the time of  
11 issuance of an order of liquidation, unless further extended by the  
12 receiver with the approval of the receivership court, continue in  
13 force only until the earlier of:

14 (1) the 30th day after the date of entry of the  
15 liquidation order;

16 (2) the date of expiration of the policy coverage;

17 (3) the date the insured has replaced the insurance  
18 coverage with equivalent insurance with another insurer or  
19 otherwise terminated the policy;

20 (4) the date the liquidator has effected a transfer of  
21 the policy obligation pursuant to Section 443.154(h) [~~21A.154(h)~~];

22 or

23 (5) the date proposed by the liquidator and approved  
24 by the receivership court to cancel coverage.

25 (c) An order of liquidation under Section 443.151 [~~21A.151~~]  
26 must terminate coverages at the time specified by Subsections (a)  
27 and (b) for purposes of any other statute.

1           (d) Policies of life or health insurance or annuities  
2 covered by a guaranty association and any portion of policies of  
3 life or health insurance or annuities covered by a guaranty  
4 association continue in force for the period and under the terms  
5 provided for by any applicable guaranty association law. Policies  
6 of life or health insurance or annuities not covered by a guaranty  
7 association and any portion of policies of life or health insurance  
8 or annuities not covered by a guaranty association terminate under  
9 Subsection (b), except to the extent the liquidator proposes and  
10 the receivership court approves the use of property of the estate,  
11 consistent with Section 443.301 [~~21A.301~~], for the purpose of  
12 continuing the contracts or coverage by transferring them to an  
13 assuming reinsurer.

14           (r) Sections 21A.154(a), (b), (h), (k), (l), (y), and (z),  
15 Insurance Code, redesignated as Sections 443.154(a), (b), (h), (k),  
16 (l), (y), and (z), Insurance Code, respectively, by Subsection  
17 (a)(1)(D) of this section, are amended to conform to the additional  
18 changes made by Subsection (a)(1) of this section to read as  
19 follows:

20           (a) The liquidator may appoint a special deputy or deputies  
21 to act for the liquidator under this chapter and employ or contract  
22 with legal counsel, actuaries, accountants, appraisers,  
23 consultants, clerks, assistants, and other personnel the  
24 liquidator may deem necessary to assist in the liquidation. A  
25 special deputy has all powers of the liquidator granted by this  
26 section, unless specifically limited by the liquidator, and serves  
27 at the pleasure of the liquidator. A special deputy or any other



1 person with whom the liquidator contracts under this subsection may  
2 act on behalf of the commissioner only in the commissioner's  
3 capacity as liquidator. Any person with whom the liquidator  
4 contracts is not considered to be an agent of the state and any  
5 contract under this subsection is not a contract with the state.  
6 The provisions of any law governing the procurement of goods and  
7 services by the state do not apply to any contract entered into by  
8 the commissioner as liquidator. This subsection does not waive any  
9 immunity granted by Section 443.014 [~~21A.014~~] or create any cause  
10 of action against the state.

11 (b) The liquidator may determine the reasonable  
12 compensation for any special deputies, employees, or contractors  
13 retained by the liquidator as provided in Subsection (a) and pay  
14 compensation in accordance with Section 443.015 [~~21A.015~~].

15 (h) The liquidator may use property of the estate of an  
16 insurer under a liquidation order to transfer to a solvent assuming  
17 insurer policy obligations or the insurer's obligations under  
18 surety bonds and surety undertakings as well as collateral held by  
19 the insurer with respect to the reimbursement obligations of the  
20 principals under those surety bonds and surety undertakings, if the  
21 transfer can be arranged without prejudice to applicable priorities  
22 under Section 443.301 [~~21A.301~~]. If all insureds, principals,  
23 third-party claimants, and obligees under the policies, surety  
24 bonds, and surety undertakings consent or if the receivership court  
25 so orders, the estate has no further liability under the  
26 transferred policies, surety bonds, or surety undertakings after  
27 the transfer is made.

1           (k) The liquidator may enter into contracts as necessary to  
2 carry out the order to liquidate and, subject to the provisions of  
3 Section 443.013 [~~21A.013~~], may assume or reject any executory  
4 contract or unexpired lease to which the insurer is a party.

5           (1) The liquidator may continue to prosecute and institute  
6 in the name of the insurer or in the liquidator's own name any and  
7 all suits and other legal proceedings, in this state or elsewhere,  
8 and abandon the prosecution of claims the liquidator deems  
9 unprofitable to pursue further. If the insurer is dissolved under  
10 Section 443.153 [~~21A.153~~], the liquidator has the power to apply to  
11 any court in this state or elsewhere for leave to substitute the  
12 liquidator for the insurer as a party.

13           (y) The liquidator may hypothecate, encumber, lease, sell,  
14 transfer, abandon, or otherwise dispose of or deal with any  
15 property of the insurer, settle or resolve any claim brought by the  
16 liquidator on behalf of the insurer, or commute or settle any claim  
17 of reinsurance under any contract of reinsurance, as follows:

18           (1) if the property or claim has a market or settlement  
19 value that does not exceed the lesser of \$1 million or 10 percent of  
20 the general assets of the estate as shown on the receivership's  
21 financial statements, the liquidator may take action at the  
22 liquidator's discretion, provided that the receivership court may,  
23 upon petition of the liquidator, increase the threshold upon a  
24 showing that compliance with this requirement is burdensome to the  
25 liquidator in administering the estate and is unnecessary to  
26 protect the material interests of creditors;

27           (2) in all instances other than those described in

1 Subdivision (1), the liquidator may take the action only after  
2 obtaining approval of the receivership court as provided by Section  
3 443.007 [~~21A.007~~];

4 (3) the liquidator may, at the liquidator's  
5 discretion, request the receivership court to approve a proposed  
6 action as provided by Section 443.007 [~~21A.007~~] if the value of the  
7 property or claim appears to be less than the threshold provided by  
8 Subdivision (1) but cannot be ascertained with certainty, or for  
9 any other reason as determined by the liquidator; and

10 (4) after obtaining approval of the receivership court  
11 as provided in Section 443.007 [~~21A.007~~], the liquidator may,  
12 subject to Subsection (z), transfer rights to payment under ceding  
13 reinsurance agreements covering policies to a third-party  
14 transferee.

15 (z) The transferee of a right to payment under Subsection  
16 (y)(4) has the rights to collect and enforce collection of the  
17 reinsurance for the amount payable to the ceding insurer or to its  
18 receiver, without diminution because of the insolvency or because  
19 the receiver has failed to pay all or a portion of the claim, based  
20 on the amounts paid or allowed pursuant to Section 443.211  
21 [~~21A.211~~]. The transfer of the rights does not give rise to any  
22 defense regarding the reinsurer's obligations under the  
23 reinsurance agreement regardless of whether an agreement or other  
24 applicable law prohibits the transfer of rights under the  
25 reinsurance agreement. Except as provided in this subsection, any  
26 transfer of rights pursuant to Subsection (y)(4) does not impair  
27 any rights or defenses of the reinsurer that existed prior to the

1 transfer or that would have existed in the absence of the transfer.  
2 Except as otherwise provided in this subsection, any transfer of  
3 rights pursuant to Subsection (y)(4) does not relieve the  
4 transferee or the liquidator from obligations owed to the reinsurer  
5 pursuant to the reinsurance or other agreement.

6 (s) Section 21A.155(b), Insurance Code, redesignated as  
7 Section 443.155(b), Insurance Code, by Subsection (a)(1)(D) of this  
8 section, is amended to conform to the additional changes made by  
9 Subsection (a)(1) of this section to read as follows:

10 (b) The notice of the entry of an order of liquidation must  
11 contain or provide directions for obtaining the following  
12 information:

13 (1) a statement that the insurer has been placed in  
14 liquidation;

15 (2) a statement that certain acts are stayed under  
16 Section 443.008 [~~21A.008~~] and describe any additional injunctive  
17 relief ordered by the receivership court;

18 (3) a statement whether, and to what extent, the  
19 insurer's policies continue in effect;

20 (4) to the extent applicable, a statement that  
21 coverage by state guaranty associations may be available for all or  
22 part of policy benefits in accordance with applicable state  
23 guaranty laws;

24 (5) a statement of the deadline for filing claims, if  
25 established, and the requirements for filing a proof of claim  
26 pursuant to Section 443.251 [~~21A.251~~] on or before that date;

27 (6) a statement of the date, time, and location of any

1 initial status hearing scheduled at the time the notice is sent;

2 (7) a description of the process for obtaining notice  
3 of matters before the receivership court; and

4 (8) any other information the liquidator or the  
5 receivership court deems appropriate.

6 (t) Section 21A.156(a), Insurance Code, redesignated as  
7 Section 443.156(a), Insurance Code, by Subsection (a)(1)(D) of this  
8 section, is amended to conform to the additional changes made by  
9 Subsection (a)(1) of this section to read as follows:

10 (a) Every person who represented the insurer as an agent and  
11 receives notice in the form prescribed in Section 443.155 [~~21A.155~~]  
12 that the insurer is the subject of a liquidation order, not later  
13 than the 30th day after the date of the notice, shall provide to the  
14 liquidator, in addition to the information the agent may be  
15 required to provide pursuant to Section 443.010 [~~21A.010~~], the  
16 information in the agent's records related to any policy issued by  
17 the insurer through the agent and any policy issued by the insurer  
18 through an agent under contract to the agent, including the name and  
19 address of any subagent. For purposes of this subsection, a policy  
20 is issued through an agent if the agent has a property interest in  
21 the expiration of the policy or if the agent has had in the agent's  
22 possession a copy of the declarations of the policy at any time  
23 during the life of the policy, except where the ownership of the  
24 expiration of the policy has been transferred to another.

25 (u) Sections 21A.207(a), (d), and (f), Insurance Code,  
26 redesignated as Sections 443.207(a), (d), and (f), Insurance Code,  
27 respectively, by Subsection (a)(1)(E) of this section, are amended

1 to conform to the additional changes made by Subsection (a)(1) of  
2 this section to read as follows:

3 (a) Except as otherwise provided in this section, to the  
4 extent that the receiver obtains an order under Section 443.201  
5 [~~21A.201~~] or avoids a transfer under Section 443.202, 443.203,  
6 443.204, 443.205, or 443.206 [~~Sections 21A.202, 21A.203, 21A.204,~~  
7 ~~21A.205, or 21A.206~~], the receiver may recover the property  
8 transferred, or the value of the property, from:

9 (1) the initial transferee of the transfer or the  
10 entity for whose benefit the transfer was made; or

11 (2) any immediate or mediate transferee of the initial  
12 transferee.

13 (d) In addition to the remedies specifically provided under  
14 Sections 443.201-443.206 [~~21A.201-21A.206~~] and Subsection (a), if  
15 the receiver is successful in establishing a claim to the property  
16 or any part of the property, the receiver is entitled to recover  
17 judgment for:

18 (1) rental for the use of the tangible property from  
19 the later of the entry of the receivership order or the date of the  
20 transfer;

21 (2) in the case of funds or intangible property, the  
22 greater of:

23 (A) the actual interest or income earned by the  
24 property; or

25 (B) interest at the statutory rate for judgments  
26 from the later of the date of the entry of the receivership order or  
27 the date of the transfer; and

1           (3) except as to recoveries from guaranty  
2 associations, all costs, including investigative costs and other  
3 expenses necessary to the recovery of the property or funds, and  
4 reasonable attorney's fees.

5           (f) In any action under Sections 443.201-443.206  
6 [~~21A.201-21A.206~~], the receiver has the burden of proving the  
7 avoidability of a transfer, and the person against whom recovery or  
8 avoidance is sought has the burden of proving the nature and extent  
9 of any affirmative defense.

10          (v) Section 21A.208(b), Insurance Code, redesignated as  
11 Section 443.208(b), Insurance Code, by Subsection (a)(1)(E) of this  
12 section, is amended to conform to the additional changes made by  
13 Subsection (a)(1) of this section to read as follows:

14          (b) A claim allowable under Subsection (a) by reason of the  
15 avoidance, whether voluntary or involuntary, or a preference, lien,  
16 conveyance, transfer, assignment, or encumbrance, may be filed as  
17 an excused late filing under Section 443.251(b) [~~21A.251(b)~~] if  
18 filed not later than the 30th day after the date of the avoidance,  
19 or within the further time allowed by the receivership court under  
20 Subsection (a).

21          (w) Section 21A.210(j), Insurance Code, redesignated as  
22 Section 443.210(j), Insurance Code, by Subsection (a)(1)(E) of this  
23 section, is amended to conform to the additional changes made by  
24 Subsection (a)(1) of this section to read as follows:

25          (j) Any claim filed by an assessee who fails to pay an  
26 assessment, after the conclusion of any legal action by the  
27 assessee objecting to the assessment, is deemed a late filed claim

1 under Section 443.251 [~~21A.251~~].

2 (x) Sections 21A.211(b) and (f), Insurance Code,  
3 redesignated as Sections 443.211(b) and (f), Insurance Code,  
4 respectively, by Subsection (a)(1)(E) of this section, are amended  
5 to conform to the additional changes made by Subsection (a)(1) of  
6 this section and to the recodification and repeal of Articles  
7 21.28-C and 21.28-D, Insurance Code, by Chapter 727, Acts of the  
8 79th Legislature, Regular Session, 2005, to read as follows:

9 (b) Except as provided by Subsection (a), any reinsurance  
10 shall be payable to the receiver under a policy reinsured by the  
11 assuming insurer on the basis of claims:

12 (1) allowed under Section 443.253 [~~21A.253~~]; and

13 (2) paid under:

14 (A) Chapter 462, 463, or [~~Article 21.28-C or~~  
15 ~~21.28-D,~~

16 [~~(B) Chapter~~] 2602; or

17 (B) [~~(C)~~] the guaranty associations of other  
18 states.

19 (f) Nothing in this chapter shall be construed as  
20 authorizing the receiver, or other entity, to compel payment from a  
21 non-life reinsurer on the basis of estimated incurred but not  
22 reported losses or outstanding reserves, except outstanding  
23 reserves with respect to claims made pursuant to Section 443.255  
24 [~~21A.255~~] and approved workers compensation claims filed under  
25 Section 443.252(d) [~~21A.252(d)~~].

26 (y) Sections 21A.212(a), (b), and (c), Insurance Code,  
27 redesignated as Sections 443.212(a), (b), and (c), Insurance Code,



1 respectively, by Subsection (a)(1)(E) of this section, are amended  
2 to conform to the additional changes made by Subsection (a)(1) of  
3 this section to read as follows:

4 (a) An insured shall pay, either directly to the receiver or  
5 to any agent that has paid or is obligated to pay the receiver on  
6 behalf of the insured, any unpaid earned premium or retrospectively  
7 rated premium due the insurer based on the termination of coverage  
8 under Section 443.152 [~~21A.152~~]. Premium on surety business is  
9 deemed earned at inception if a policy term cannot be determined.  
10 All other premium is deemed earned and is prorated equally over the  
11 determined policy term, regardless of any provision in the bond,  
12 guaranty, contract or other agreement.

13 (b) Any person, other than the insured, shall turn over to  
14 the receiver any unpaid premium due and owing as shown on the  
15 records of the insurer, including any amount representing  
16 commissions, for the full policy term due the insurer at the time of  
17 the entry of the receivership order, whether earned or unearned,  
18 based on the termination of coverage under Section 443.152  
19 [~~21A.152~~]. The unpaid premium due the receiver from any person  
20 other than the insured excludes any premium not collected from the  
21 insured and not earned based on the termination of coverage under  
22 Section 443.152 [~~21A.152~~].

23 (c) Any person, other than the insured, responsible for the  
24 remittance of a premium, shall turn over to the receiver any  
25 unearned commission of the person based on the termination of  
26 coverage under Section 443.152 [~~21A.152~~]. Credits, setoffs, or  
27 both may not be allowed to an agent, broker, premium finance

1 company, or any other person for any amounts advanced to the insurer  
2 by the person on behalf of, but in the absence of a payment by, the  
3 insured, or for any other amount paid by the person to any other  
4 person after the entry of the order of receivership.

5 (z) Sections 21A.213(h) and (i), Insurance Code,  
6 redesignated as Sections 443.213(h) and (i), Insurance Code,  
7 respectively, by Subsection (a)(1)(E) of this section, are amended  
8 to conform to the additional changes made by Subsection (a)(1) of  
9 this section to read as follows:

10 (h) To the extent a guaranty association is required by  
11 applicable law to pay any claims for which the insurer would have  
12 been entitled to reimbursement from the policyholder, the following  
13 provisions apply:

14 (1) The receiver shall promptly invoice the  
15 policyholder for the reimbursement due under the agreement, and the  
16 policyholder is obligated to pay the amount invoiced to the  
17 receiver for the benefit of the guaranty associations that paid the  
18 claims. Neither the insolvency of the insurer nor the insurer's  
19 inability to perform any obligations under the deductible agreement  
20 is a defense to the policyholder's reimbursement obligation under  
21 the deductible agreement. At the time the policyholder  
22 reimbursements are collected, the receiver shall promptly forward  
23 those amounts to the guaranty association, based on the claims paid  
24 by the guaranty association that were subject to the deductible.

25 (2) If the collateral is insufficient to reimburse the  
26 guaranty association for claims paid within the deductible, the  
27 receiver shall use any existing collateral to make a partial

1 reimbursement to the guaranty association, subject to any  
2 allocation under Subsection (d), (e), or (f). If more than one  
3 guaranty association has a claim against the same collateral, the  
4 receiver shall prorate payments to each guaranty association based  
5 on the amount of the claims each guaranty association has paid.

6 (3) The receiver is entitled to deduct from  
7 reimbursements owed to a guaranty association or collateral to be  
8 returned to a policyholder reasonable actual expenses incurred in  
9 fulfilling the receiver's responsibilities under this section.  
10 Expenses incurred to collect reimbursements for the benefit of a  
11 guaranty association are subject to the approval of the guaranty  
12 association. Any remaining expenses that are not deducted from the  
13 reimbursements are payable subject to Section 443.015 [~~21A.015~~].

14 (4) The receiver shall provide any affected guaranty  
15 associations with a complete accounting of the receiver's  
16 deductible billing and collection activities on a quarterly basis,  
17 or at other intervals as may be agreed to between the receiver and  
18 the guaranty associations. Accountings under this subdivision must  
19 include copies of the policyholder billings, the reimbursements  
20 collected, the available amounts and use of collateral for each  
21 account, and any prorating of payments.

22 (5) If the receiver fails to make a good faith effort  
23 to collect reimbursements due from a policyholder under a  
24 deductible agreement within 120 days of receipt of claims payment  
25 reports from a guaranty association, the guaranty association may,  
26 after notice to the receiver, collect the reimbursements that are  
27 due, and, in so doing, the guaranty association shall have the same

1 rights and remedies as the receiver. A guaranty association shall  
2 report any amounts collected under this subdivision and expenses  
3 incurred in collecting those amounts to the receiver.

4 (6) The receiver shall periodically adjust the  
5 collateral held as the claims subject to the deductible agreement  
6 are paid, provided that adequate collateral is maintained. The  
7 receiver is not required to adjust the collateral more than once a  
8 year. The receiver shall inform the guaranty associations of all  
9 collateral reviews, including the basis for the adjustment.

10 (7) Reimbursements received or collected by a guaranty  
11 association under this section may not be considered a distribution  
12 of the insurer's assets. A guaranty association shall provide the  
13 receiver with an accounting of any amounts it has received or  
14 collected under this section and any expenses incurred in  
15 connection with that receipt or collection. The amounts received,  
16 net of any expenses incurred in connection with collection of the  
17 amounts, must be set off against the guaranty association's claim  
18 filed under Section 443.251 [~~21A.251~~] for the payments that were  
19 reimbursed.

20 (8) To the extent that a guaranty association pays a  
21 claim within the deductible amount that is not reimbursed by either  
22 the receiver or by policyholder payments, the guaranty association  
23 has a claim for those amounts in the delinquency proceeding in  
24 accordance with Section 443.251 [~~21A.251~~].

25 (9) Nothing in this section limits any rights of a  
26 guaranty association under applicable law to obtain reimbursement  
27 for claims payments made by the guaranty association under policies

1 of the insurer or for the association's related expenses.

2 (i) If a claim that is subject to a deductible agreement and  
3 secured by collateral is not covered by any guaranty association,  
4 the following provisions apply:

5 (1) The receiver is entitled to retain as an asset of  
6 the estate any collateral or deductible reimbursements obtained by  
7 the receiver.

8 (2) If a policyholder fails to assume an obligation  
9 under a deductible agreement to pay a claim, the receiver shall use  
10 the collateral to adjust and pay the claim to the extent that the  
11 available collateral, after any allocation under Subsection (d),  
12 (e), or (f), is sufficient to pay all outstanding and anticipated  
13 claims within the deductible. If the collateral is exhausted and  
14 all reasonable means of collection against the insured have been  
15 exhausted, the remaining claims shall be subject to the provisions  
16 of Sections 443.251 and 443.301 [~~21A.251 and 21A.301~~].

17 (3) The receiver is entitled to deduct from collateral  
18 reasonable actual expenses incurred in fulfilling the receiver's  
19 responsibilities under this section. Any remaining expenses that  
20 are not deducted from the reimbursements are payable subject to  
21 Section 443.015 [~~21A.015~~].

22 (aa) Sections 21A.251(a) and (b), Insurance Code,  
23 redesignated as Sections 443.251(a) and (b), Insurance Code,  
24 respectively, by Subsection (a)(1)(F) of this section, are amended  
25 to conform to the additional changes made by Subsection (a)(1) of  
26 this section to read as follows:

27 (a) Except as provided by this subsection, proof of all

1 claims must be filed with the liquidator in the form required by  
2 Section 443.252 [~~21A.252~~] on or before the last day for filing  
3 specified in the notice required under Section 443.155 [~~21A.155~~],  
4 which date may not be later than 18 months after entry of the order  
5 of liquidation, unless the receivership court, for good cause  
6 shown, extends the time, except that proofs of claims for cash  
7 surrender values or other investment values in life insurance and  
8 annuities and for any other policies insuring the lives of persons  
9 need not be filed unless the liquidator expressly so requires. The  
10 receivership court, only upon application of the liquidator, may  
11 allow alternative procedures and requirements for the filing of  
12 proofs of claim or for allowing or proving claims. Upon  
13 application, if the receivership court dispenses with the  
14 requirements of filing a proof of claim by a person or a class or  
15 group of persons, a proof of claim for the person, class, or group  
16 is deemed to have been filed for all purposes, except that the  
17 receivership court's waiver of proof of claim requirements does not  
18 impact guaranty association proof of claim filing requirements or  
19 coverage determinations to the extent the guaranty fund statute or  
20 filing requirements are inconsistent with the receivership court's  
21 waiver of proof.

22 (b) The liquidator shall permit a claimant that makes a late  
23 filing to share ratably in distributions, whether past or future,  
24 as if the claim were not filed late, to the extent that the payment  
25 will not prejudice the orderly administration of the liquidation,  
26 under the following circumstances:

27 (1) the eligibility to file a proof of claim was not

1 known to the claimant, and the claimant filed a proof of claim not  
2 later than the 90th day after the date of first learning of the  
3 eligibility;

4 (2) a transfer to a creditor was avoided under Section  
5 443.202, 443.203, 443.204, or 443.206 [~~21A.202, 21A.203, 21A.204,~~  
6 ~~or 21A.206~~], or was voluntarily surrendered under Section 443.208  
7 [~~21A.208~~], and the filing satisfies the conditions of Section  
8 443.208 [~~21A.208~~]; or

9 (3) the valuation under Section 443.260 [~~21A.260~~], of  
10 security held by a secured creditor shows a deficiency, and the  
11 claim for the deficiency is filed not later than the 30th day after  
12 the valuation.

13 (bb) Sections 21A.253(b), (d), (i), and (k), Insurance  
14 Code, redesignated as Sections 443.253(b), (d), (i), and (k),  
15 Insurance Code, respectively, by Subsection (a)(1)(F) of this  
16 section, are amended to conform to the additional changes made by  
17 Subsection (a)(1) of this section to read as follows:

18 (b) Pursuant to the review, the liquidator shall provide  
19 written notice of the claim determination by any means authorized  
20 by Section 443.007 [~~21A.007~~] to the claimant or the claimant's  
21 attorney and may provide notice to any reinsurer that is or may be  
22 liable in respect of the claim. The notice must set forth the  
23 amount of the claim allowed by the liquidator, if any, and the  
24 priority class of the claim as established in Section 443.301  
25 [~~21A.301~~].

26 (d) A claim that has not become mature as of the coverage  
27 termination date established under Section 443.201 [~~21A.201~~]

1 because payment on the claim is not yet due may be allowed as if it  
2 were mature. A claim that is allowed under this subsection may be  
3 discounted to present value based upon a reasonable estimated date  
4 of the payment, if the liquidator determines that the present value  
5 of the payment is materially less than the amount of the payment.

6 (i) A claim that does not contain all the applicable  
7 information required by Section 443.252 [~~21A.252~~] need not be  
8 further reviewed or adjudicated, and may be denied or disallowed by  
9 the liquidator subject to the notice and objection procedures in  
10 this section.

11 (k) The liquidator is not required to process claims for any  
12 class until it appears reasonably likely that property will be  
13 available for a distribution to that class. If there are  
14 insufficient assets to justify processing all claims for any class  
15 listed in Section 443.301 [~~21A.301~~], the liquidator shall report  
16 the facts to the receivership court and make such recommendations  
17 as may be appropriate for handling the remainder of the claims.

18 (cc) Section 21A.254, Insurance Code, redesignated as  
19 Section 443.254, Insurance Code, by Subsection (a)(1)(F) of this  
20 section, is amended to conform to the additional changes made by  
21 Subsection (a)(1) of this section to read as follows:

22 Sec. 443.254 [~~21A.254~~]. CLAIMS UNDER OCCURRENCE POLICIES,  
23 SURETY BONDS, AND SURETY UNDERTAKINGS. (a) Subject to the  
24 provisions of Section 443.253 [~~21A.253~~], any insured has the right  
25 to file a claim for the protection afforded under the insured's  
26 policy, regardless of whether a claim is known at the time of  
27 filing, if the policy is an occurrence policy.



1           (b) Subject to the provisions of Section 443.253 [~~21A.253~~],  
2 an obligee under a surety bond or surety undertaking has the right  
3 to file a claim for the protection afforded under the surety bond or  
4 surety undertaking issued by the insurer under which the obligee is  
5 the beneficiary, regardless of whether a claim is known at the time  
6 of filing.

7           (c) After a claim is filed under Subsection (a) or (b), at  
8 the time that a specific claim is made by or against the insured or  
9 by the obligee, the insured or the obligee shall supplement the  
10 claim, and the receiver shall treat the claim as a contingent or  
11 unliquidated claim under Section 443.255 [~~21A.255~~].

12           (dd) Sections 21A.255(a) and (c), Insurance Code,  
13 redesignated as Sections 443.255(a) and (c), Insurance Code,  
14 respectively, by Subsection (a)(1)(F) of this section, are amended  
15 to conform to the additional changes made by Subsection (a)(1) of  
16 this section to read as follows:

17           (a) A claim of an insured or third party may be allowed under  
18 Section 443.253 [~~21A.253~~], regardless of the fact that the claim  
19 was contingent or unliquidated, if any contingency is removed in  
20 accordance with Subsection (b) and the value of the claim is  
21 determined. For purposes of this section, a claim is contingent if:

22           (1) the accident, casualty, disaster, loss, event, or  
23 occurrence insured, reinsured, or bonded or reinsured against  
24 occurred on or before the date fixed under Section 443.151  
25 [~~21A.151~~]; and

26           (2) the act or event triggering the insurer's  
27 obligation to pay has not occurred as of the date fixed under

1 Section 443.151 [~~21A.151~~].

2 (c) The liquidator may petition the receivership court to  
3 set a date before which all claims under this section are final. In  
4 addition to the notice requirements of Section 443.007 [~~21A.007~~],  
5 the liquidator shall give notice of the filing of the petition to  
6 all claimants with claims that remain contingent or unliquidated  
7 under this section.

8 (ee) Section 21A.256(c), Insurance Code, redesignated as  
9 Section 443.256(c), Insurance Code, by Subsection (a)(1)(F) of this  
10 section, is amended to conform to the additional changes made by  
11 Subsection (a)(1) of this section to read as follows:

12 (c) The liquidator may make recommendations to the  
13 receivership court for the allowance of an insured's claim after  
14 consideration of the probable outcome of any pending action against  
15 the insured on which the claim is based, the probable damages  
16 recoverable in the action, and the probable costs and expenses of  
17 defense. After allowance by the receivership court, the liquidator  
18 shall withhold any distribution payable on the claim, pending the  
19 outcome of litigation and negotiation between the insured and the  
20 third party. The liquidator may reconsider the claim as provided in  
21 Section 443.253(j) [~~21A.253(j)~~]. As claims against the insured are  
22 settled or barred, the insured or third party, as appropriate,  
23 shall be paid from the amount withheld the same percentage  
24 distribution as was paid on other claims of like priority, based on  
25 the lesser of the amount actually due from the insured by action or  
26 paid by agreement plus the reasonable costs and expense of defense,  
27 or the amount allowed on the claims by the receivership court.

1 After all claims are settled or barred, any sum remaining from the  
2 amount withheld shall revert to the undistributed property of the  
3 insurer.

4 (ff) Section 21A.257(a), Insurance Code, redesignated as  
5 Section 443.257(a), Insurance Code, by Subsection (a)(1)(F) of this  
6 section, is amended to conform to the additional changes made by  
7 Subsection (a)(1) of this section to read as follows:

8 (a) When objections to the liquidator's proposed treatment  
9 of a claim are filed and the liquidator does not alter the  
10 determination of the claim as a result of the objections, the  
11 liquidator shall ask the receivership court for a hearing pursuant  
12 to Section 443.007 [~~21A.007~~].

13 (gg) Section 21A.258, Insurance Code, redesignated as  
14 Section 443.258, Insurance Code, by Subsection (a)(1)(F) of this  
15 section, is amended to conform to the additional changes made by  
16 Subsection (a)(1) of this section to read as follows:

17 Sec. 443.258 [~~21A.258~~]. LIQUIDATOR'S RECOMMENDATIONS TO  
18 RECEIVERSHIP COURT. The liquidator shall present to the  
19 receivership court, for approval, reports of claims settled or  
20 determined by the liquidator under Section 443.253 [~~21A.253~~]. The  
21 reports must be presented from time to time as determined by the  
22 liquidator and must include information identifying the claim and  
23 the amount and priority class of the claim.

24 (hh) Sections 21A.260(e) and (g), Insurance Code,  
25 redesignated as Sections 443.260(e) and (g), Insurance Code,  
26 respectively, by Subsection (a)(1)(F) of this section, are amended  
27 to conform to the additional changes made by Subsection (a)(1) of

1 this section to read as follows:

2 (e) If collateral is insufficient to satisfy in full all  
3 potential claims against it under Subsections (c) and (g), the  
4 claims against the collateral must be paid on a pro rata basis, and  
5 an obligee or completion contractor under Subsection (c) has a  
6 claim, subject to allowance under Section 443.253 [~~21A.253~~], for  
7 any deficiency.

8 (g) To the extent that a guaranty association has made a  
9 payment relating to a claim against a surety bond, the guaranty  
10 association shall first be reimbursed for that payment and related  
11 expenses out of the available collateral or proceeds related to the  
12 surety bond. To the extent that the collateral is sufficient, the  
13 guaranty association shall be reimbursed 100 percent of its  
14 payment. If the collateral is insufficient to satisfy in full all  
15 potential claims against the collateral under Subsection (c) and  
16 this subsection, a guaranty association that has paid claims on the  
17 surety bond is entitled to a pro rata share of the available  
18 collateral in accordance with Subsection (e), and the guaranty  
19 association has claims against the general assets of the estate in  
20 accordance with Section 443.253 [~~21A.253~~] for any deficiency. Any  
21 payment made to a guaranty association under this subsection from  
22 collateral may not be deemed early access or otherwise deemed a  
23 distribution out of the general assets or property of the estate,  
24 and the guaranty association receiving payment shall subtract any  
25 payment from the collateral from the association's final claims  
26 against the estate.

27 (ii) Sections 21A.261(a) and (e), Insurance Code,

1 redesignated as Sections 443.261(a) and (e), Insurance Code,  
2 respectively, by Subsection (a)(1)(F) of this section, are amended  
3 to conform to the additional changes made by Subsection (a)(1) of  
4 this section to read as follows:

5 (a) Notwithstanding any other provision of this chapter,  
6 including any other provision of this chapter permitting the  
7 modification of contracts, or other law of this state, a person may  
8 not be stayed or prohibited from exercising:

9 (1) a contractual right to terminate, liquidate, or  
10 close out any netting agreement or qualified financial contract  
11 with an insurer because of:

12 (A) the insolvency, financial condition, or  
13 default of the insurer at any time, provided that the right is  
14 enforceable under applicable law other than this chapter; or

15 (B) the commencement of a formal delinquency  
16 proceeding under this chapter;

17 (2) any right under a pledge, security, collateral, or  
18 guarantee agreement, or any other similar security arrangement or  
19 credit support document, relating to a netting agreement or  
20 qualified financial contract; or

21 (3) subject to any provision of Section 443.209(b)  
22 [~~21A.209(b)~~], any right to set off or net out any termination value,  
23 payment amount, or other transfer obligation arising under or in  
24 connection with a netting agreement or qualified financial contract  
25 where the counterparty or its guarantor is organized under the laws  
26 of the United States or a state or foreign jurisdiction approved by  
27 the Securities Valuation Office of the National Association of

1 Insurance Commissioners as eligible for netting.

2 (e) Notwithstanding any other provision of this chapter, a  
3 receiver may not avoid a transfer of money or other property arising  
4 under or in connection with a netting agreement or qualified  
5 financial contract, or any pledge, security, or collateral or  
6 guarantee agreement or any other similar security arrangement or  
7 credit support document relating to a netting agreement or  
8 qualified financial contract, that is made before the commencement  
9 of a formal delinquency proceeding under this chapter. However, a  
10 transfer may be avoided under Section 443.205(a) [~~21A.205(a)~~] if  
11 the transfer was made with actual intent to hinder, delay, or  
12 defraud the insurer, a receiver appointed for the insurer, or  
13 existing or future creditors.

14 (jj) Section 21A.301, Insurance Code, redesignated as  
15 Section 443.301, Insurance Code, by Subsection (a)(1)(G) of this  
16 section, is amended to conform to the additional changes made by  
17 Subsection (a)(1) of this section and to the recodification and  
18 repeal of Section 2(3), Article 21.28-C, and Section 12, Article  
19 21.28-D, Insurance Code, by Chapter 727, Acts of the 79th  
20 Legislature, Regular Session, 2005, to read as follows:

21 Sec. 443.301 [~~21A.301~~]. PRIORITY OF DISTRIBUTION. The  
22 priority of payment of distributions on unsecured claims must be in  
23 accordance with the order in which each class of claims is set forth  
24 in this section. Every claim in each class shall be paid in full, or  
25 adequate funds retained for their payment, before the members of  
26 the next class receive payment, and all claims within a class must  
27 be paid substantially the same percentage of the amount of the

1 claim. Except as provided by Subsections (a)(2), (a)(3), (i), and  
2 (k), subclasses may not be established within a class. No claim by  
3 a shareholder, policyholder, or other creditor shall be permitted  
4 to circumvent the priority classes through the use of equitable  
5 remedies. The order of distribution of claims shall be:

6 (a) Class 1. (1) The costs and expenses of administration  
7 expressly approved or ratified by the liquidator, including the  
8 following:

9 (A) the actual and necessary costs of preserving  
10 or recovering the property of the insurer;

11 (B) reasonable compensation for all services  
12 rendered on behalf of the administrative supervisor or receiver;

13 (C) any necessary filing fees;

14 (D) the fees and mileage payable to witnesses;

15 (E) unsecured loans obtained by the receiver; and

16 (F) expenses, if any, approved by the  
17 rehabilitator of the insurer and incurred in the course of the  
18 rehabilitation that are unpaid at the time of the entry of the order  
19 of liquidation.

20 (2) The reasonable expenses of a guaranty association,  
21 including overhead, salaries and other general administrative  
22 expenses allocable to the receivership to include administrative  
23 and claims handling expenses and expenses in connection with  
24 arrangements for ongoing coverage, other than expenses incurred in  
25 the performance of duties under Section 462.002(3), 463.108,  
26 463.111, 463.113, 463.353, or 2602.113~~[, Section 2(3) of Article~~  
27 ~~21.28-C, and Section 12 of Article 21.28-D]~~ or similar duties under

1 the statute governing a similar organization in another state. In  
2 the case of the Texas Property and Casualty Insurance Guaranty  
3 Association and other property and casualty guaranty associations,  
4 the expenses shall include loss adjustment expenses, including  
5 adjusting and other expenses and defense and cost containment  
6 expenses. In the event that there are insufficient assets to pay  
7 all of the costs and expenses of administration under Subsection  
8 (a)(1) and the expenses of a guaranty association, the costs and  
9 expenses under Subsection (a)(1) shall have priority over the  
10 expenses of a guaranty association. In this event, the expenses of  
11 a guaranty association shall be paid on a pro rata basis after the  
12 payment of costs and expenses under Subsection (a)(1) in full.

13 (3) For purposes of Subsection (a)(1)(E), any  
14 unsecured loan obtained by the receiver, unless by its terms it  
15 otherwise provides, has priority over all other costs of  
16 administration. Absent agreement to the contrary, all claims in  
17 this subclass share pro rata.

18 (4) Except as expressly approved by the receiver, any  
19 expenses arising from a duty to indemnify the directors, officers,  
20 or employees of the insurer are excluded from this class and, if  
21 allowed, are Class 5 claims.

22 (b) Class 2. All claims under policies of insurance,  
23 including third-party claims, claims under nonassessable policies  
24 for unearned premium, claims of obligees and, subject to the  
25 discretion of the receiver, completion contractors under surety  
26 bonds and surety undertakings other than bail bonds, mortgage or  
27 financial guaranties, or other forms of insurance offering



1 protection against investment risk, claims by principals under  
2 surety bonds and surety undertakings for wrongful dissipation of  
3 collateral by the insurer or its agents, and claims incurred during  
4 the extension of coverage provided for in Section 443.152  
5 [~~21A.152~~]. All other claims incurred in fulfilling the statutory  
6 obligations of a guaranty association not included in Class 1,  
7 including indemnity payments on covered claims and, in the case of  
8 the Life, Accident, Health, and Hospital Service Insurance Guaranty  
9 Association or another life and health guaranty association, all  
10 claims as a creditor of the impaired or insolvent insurer for all  
11 payments of and liabilities incurred on behalf of covered claims or  
12 covered obligations of the insurer and for the funds needed to  
13 reinsure those obligations with a solvent insurer. Notwithstanding  
14 any provision of this chapter, the following claims are excluded  
15 from Class 2 priority:

16 (1) obligations of the insolvent insurer arising out  
17 of reinsurance contracts;

18 (2) obligations, excluding unearned premium claims on  
19 policies other than reinsurance agreements, incurred after:

20 (A) the expiration date of the insurance policy;

21 (B) the policy has been replaced by the insured  
22 or canceled at the insured's request; or

23 (C) the policy has been canceled as provided by  
24 this chapter;

25 (3) obligations to insurers, insurance pools, or  
26 underwriting associations and their claims for contribution,  
27 indemnity, or subrogation, equitable or otherwise;

1           (4) any claim that is in excess of any applicable  
2 limits provided in the insurance policy issued by the insurer;

3           (5) any amount accrued as punitive or exemplary  
4 damages unless expressly covered under the terms of the policy;

5           (6) tort claims of any kind against the insurer and  
6 claims against the insurer for bad faith or wrongful settlement  
7 practices; and

8           (7) claims of the guaranty associations for  
9 assessments not paid by the insurer, which must be paid as claims in  
10 Class 5.

11           (c) Class 3. Claims of the federal government not included  
12 in Class 3.

13           (d) Class 4. Debts due employees for services or benefits  
14 to the extent that the debts do not exceed \$5,000 or two months  
15 salary, whichever is the lesser, and represent payment for services  
16 performed within one year before the entry of the initial order of  
17 receivership. This priority is in lieu of any other similar  
18 priority that may be authorized by law as to wages or compensation  
19 of employees.

20           (e) Class 5. Claims of other unsecured creditors not  
21 included in Classes 1 through 4, including claims under reinsurance  
22 contracts, claims of guaranty associations for assessments not paid  
23 by the insurer, and other claims excluded from Class 2.

24           (f) Class 6. Claims of any state or local governments,  
25 except those specifically classified elsewhere in this section.  
26 Claims of attorneys for fees and expenses owed them by an insurer  
27 for services rendered in opposing a formal delinquency proceeding.

1 In order to prove the claim, the claimant must show that the insurer  
2 that is the subject of the delinquency proceeding incurred the fees  
3 and expenses based on its best knowledge, information, and belief,  
4 formed after reasonable inquiry, indicating opposition was in the  
5 best interests of the insurer, was well grounded in fact, and was  
6 warranted by existing law or a good faith argument for the  
7 extension, modification, or reversal of existing law, and that  
8 opposition was not pursued for any improper purpose, such as to  
9 harass or to cause unnecessary delay or needless increase in the  
10 cost of the litigation.

11 (g) Class 7. Claims of any state or local government for a  
12 penalty or forfeiture, but only to the extent of the pecuniary loss  
13 sustained from the act, transaction, or proceeding out of which the  
14 penalty or forfeiture arose, with reasonable and actual costs  
15 occasioned thereby. The balance of the claims must be treated as  
16 Class 9 claims under Subsection (i).

17 (h) Class 8. Except as provided in Sections 443.251(b)  
18 [~~21A.251(b)~~] and (d), late filed claims that would otherwise be  
19 classified in Classes 2 through 7.

20 (i) Class 9. Surplus notes, capital notes or contribution  
21 notes or similar obligations, premium refunds on assessable  
22 policies, and any other claims specifically assigned to this class.  
23 Claims in this class are subject to any subordination agreements  
24 related to other claims in this class that existed before the entry  
25 of the liquidation order.

26 (j) Class 10. Interest on allowed claims of Classes 1  
27 through 9, according to the terms of a plan proposed by the

1 liquidator and approved by the receivership court.

2 (k) Class 11. Claims of shareholders or other owners  
3 arising out of their capacity as shareholders or other owners, or  
4 any other capacity, except as they may be qualified in Class 2, 5,  
5 or 10. Claims in this class are subject to any subordination  
6 agreements related to other claims in this class that existed  
7 before the entry of the liquidation order.

8 (kk) Section 21A.302(f), Insurance Code, redesignated as  
9 Section 443.302(f), Insurance Code, by Subsection (a)(1)(G) of this  
10 section, is amended to conform to the additional changes made by  
11 Subsection (a)(1) of this section to read as follows:

12 (f) Any claim payments made under Subsection (d) and any  
13 related expenses must be treated as early access payments under  
14 Section 443.303 [~~21A.303~~] to the guaranty association responsible  
15 for the claims.

16 (ll) Sections 21A.303(a), (b), (c), (e), (f), and (g),  
17 Insurance Code, redesignated as Sections 443.303(a), (b), (c), (e),  
18 (f), and (g), Insurance Code, respectively, by Subsection (a)(1)(G)  
19 of this section, are amended to conform to the additional changes  
20 made by Subsection (a)(1) of this section to read as follows:

21 (a) For purposes of this section, "distributable assets"  
22 means all general assets of the liquidation estate less:

23 (1) amounts reserved, to the extent necessary and  
24 appropriate, for the entire Section 443.301(a) [~~21A.301(a)~~]  
25 expenses of the liquidation through and after its closure; and

26 (2) to the extent necessary and appropriate, reserves  
27 for distributions on claims other than those of the guaranty

1 associations falling within the priority classes of claims  
2 established in Section 443.301(c) [~~21A.301(c)~~].

3 (b) Early access payments to guaranty associations must be  
4 made as soon as possible after the entry of a liquidation order and  
5 as frequently as possible after the entry of the order, but at least  
6 annually if distributable assets are available to be distributed to  
7 the guaranty associations, and must be in amounts consistent with  
8 this section. Amounts advanced to an affected guaranty association  
9 pursuant to this section shall be accounted for as advances against  
10 distributions to be made under Section 443.302 [~~21A.302~~]. Where  
11 sufficient distributable assets are available, amounts advanced  
12 are not limited to the claims and expenses paid to date by the  
13 guaranty associations; however, the liquidator may not distribute  
14 distributable assets to the guaranty associations in excess of the  
15 anticipated entire claims of the guaranty associations falling  
16 within the priority classes of claims established in Sections  
17 443.301(b) [~~21A.301(b)~~] and (c).

18 (c) Within 120 days after the entry of an order of  
19 liquidation by the receivership court, and at least annually after  
20 the entry of the order, the liquidator shall apply to the  
21 receivership court for approval to make early access payments out  
22 of the general assets of the insurer to any guaranty associations  
23 having obligations arising in connection with the liquidation or  
24 shall report that there are no distributable assets at that time  
25 based on financial reporting as required in Section 443.016  
26 [~~21A.016~~]. The liquidator may apply to the receivership court for  
27 approval to make early access payments more frequently than

1 annually based on additional information or the recovery of  
2 material assets.

3 (e) Notice of each application for early access payments, or  
4 of any report required pursuant to this section, must be given in  
5 accordance with Section 443.007 [~~21A.007~~] to the guaranty  
6 associations that may have obligations arising from the  
7 liquidation. Notwithstanding the provisions of Section 443.007  
8 [~~21A.007~~], the liquidator shall provide these guaranty  
9 associations with at least 30 days' actual notice of the filing of  
10 the application and with a complete copy of the application prior to  
11 any action by the receivership court. Any guaranty association  
12 that may have obligations arising in connection with the  
13 liquidation has:

14 (1) the right to request additional information from  
15 the liquidator, who may not unreasonably deny such request; and

16 (2) the right to object as provided by Section 443.007  
17 [~~21A.007~~] to any part of each application or to any report filed by  
18 the liquidator pursuant to this section.

19 (f) In each application regarding early access payments,  
20 the liquidator shall, based on the best information available to  
21 the liquidator at the time, provide, at a minimum, the following:

22 (1) to the extent necessary and appropriate, the  
23 amount reserved for the entire expenses of the liquidation through  
24 and after its closure and for distributions on claims falling  
25 within the priority classes of claims established in Sections  
26 443.301(b) [~~21A.301(b)~~] and (c);

27 (2) the computation of distributable assets and the

1 amount and method of equitable allocation of early access payments  
2 to each of the guaranty associations; and

3 (3) the most recent financial information filed with  
4 the National Association of Insurance Commissioners by the  
5 liquidator.

6 (g) Each guaranty association that receives any payments  
7 pursuant to this section agrees, upon depositing the payment in any  
8 account to its benefit, to return to the liquidator any amount of  
9 these payments that may be required to pay claims of secured  
10 creditors and claims falling within the priority classes of claims  
11 established in Section 443.301(a) [~~21A.301(a)~~], (b), or (c). No  
12 bond may be required of any guaranty association.

13 (mm) Sections 21A.304(a), (b), and (d), Insurance Code,  
14 redesignated as Sections 443.304(a), (b), and (d), Insurance Code,  
15 respectively, by Subsection (a)(1)(G) of this section, are amended  
16 to conform to the additional changes made by Subsection (a)(1) of  
17 this section to read as follows:

18 (a) If any funds of the receivership estate remain unclaimed  
19 after the final distribution under Section 443.302 [~~21A.302~~], the  
20 funds must be placed in a segregated unclaimed funds account held by  
21 the commissioner. If the owner of any of the unclaimed funds  
22 presents proof of ownership satisfactory to the commissioner before  
23 the second anniversary of the date of the termination of the  
24 delinquency proceeding, the commissioner shall remit the funds to  
25 the owner. The interest earned on funds held in the unclaimed funds  
26 account may be used to pay any administrative costs related to the  
27 handling or return of unclaimed funds.

1 (b) If any amounts held in the unclaimed funds account  
2 remain unclaimed on or after the second anniversary of the date of  
3 the termination of the delinquency proceeding, the commissioner may  
4 file a motion for an order directing the disposition of the funds in  
5 the court in which the delinquency proceeding was pending. Any  
6 costs incurred in connection with the motion may be paid from the  
7 unclaimed funds account. The motion shall identify the name of the  
8 insurer, the names and last known addresses of the persons entitled  
9 to the unclaimed funds, if known, and the amount of the funds.  
10 Notice of the motion shall be given as directed by the court. Upon a  
11 finding by the court that the funds have not been claimed before the  
12 second anniversary of the date of the termination of the  
13 delinquency proceeding, the court shall order that any claims for  
14 unclaimed funds and any interest earned on the unclaimed funds that  
15 has not been expended under Subsection (a) are abandoned and that  
16 the funds must be disbursed under one of the following methods:

17 (1) the amounts may be deposited in the general  
18 receivership expense account under Subsection (c);

19 (2) the amounts may be transferred to the comptroller,  
20 and deposited into the general revenue fund; or

21 (3) the amounts may be used to reopen the receivership  
22 in accordance with Section 443.353 [~~21A.353~~] and be distributed to  
23 the known claimants with approved claims.

24 (d) Any advance to a receivership under Subsection (c)(2)  
25 may be treated as a claim under Section 443.301 [~~21A.301~~] as agreed  
26 at the time the advance is made or, in the absence of an agreement,  
27 in the priority determined to be appropriate by the court.



1 (nn) Section 21A.352, Insurance Code, redesignated as  
2 Section 443.352, Insurance Code, by Subsection (a)(1)(H) of this  
3 section, is amended to conform to the additional changes made by  
4 Subsection (a)(1) of this section to read as follows:

5 Sec. 443.352 [~~21A.352~~]. TERMINATION OF LIQUIDATION  
6 PROCEEDINGS. When all property justifying the expense of  
7 collection and distribution has been collected and distributed  
8 under this chapter, the liquidator shall apply to the receivership  
9 court for an order discharging the liquidator and terminating the  
10 proceeding. The receivership court may grant the application and  
11 make any other orders, including orders to transfer any remaining  
12 funds that are uneconomic to distribute, or pursuant to Section  
13 443.302(c) [~~21A.302(c)~~], assign any assets that remain  
14 unliquidated, including claims and causes of action, as may be  
15 deemed appropriate.

16 (oo) Section 21A.354(b), Insurance Code, redesignated as  
17 Section 443.354(b), Insurance Code, by Subsection (a)(1)(H) of this  
18 section, is amended to conform to the additional changes made by  
19 Subsection (a)(1) of this section to read as follows:

20 (b) If the receiver determines that any records should be  
21 maintained after the closing of the delinquency proceeding, the  
22 receiver may reserve property from the receivership estate for the  
23 maintenance of the records, and any amounts so retained are  
24 administrative expenses of the estate under Section 443.301(a)  
25 [~~21A.301(a)~~]. Any records retained pursuant to this subsection  
26 must be transferred to the custody of the commissioner, and the  
27 commissioner may retain or dispose of the records as appropriate,

1 at the commissioner's discretion. Any records of a delinquent  
2 insurer that are transferred to the commissioner may not be  
3 considered records of the department for any purposes, and Chapter  
4 552, Government Code, does not apply to those records.

5 (pp) Sections 21A.401(a) and (d), Insurance Code,  
6 redesignated as Sections 443.401(a) and (d), Insurance Code,  
7 respectively, by Subsection (a)(1)(I) of this section, are amended  
8 to conform to the changes made by Subsection (a)(1) of this section  
9 and to the recodification and repeal of Section 17, Article  
10 21.28-C, and Section 18, Article 21.28-D, Insurance Code, by  
11 Chapter 727, Acts of the 79th Legislature, Regular Session, 2005,  
12 to read as follows:

13 (a) The commissioner may initiate an action against a  
14 foreign insurer pursuant to Section 443.051 [~~21A.051~~] on any of the  
15 grounds stated in that section or on the basis that:

16 (1) any of the foreign insurer's property has been  
17 sequestered, garnished, or seized by official action in its  
18 domiciliary state or in any other state;

19 (2) the foreign insurer's certificate of authority to  
20 do business in this state has been revoked or was never issued and  
21 there are residents of this state with unpaid claims or in-force  
22 policies; or

23 (3) initiation of the action is necessary to enforce a  
24 stay under Section 462.309, 463.404, or [~~17, Article 21.28-C,~~  
25 ~~Section 18, Article 21.28-D, or Section~~] 2602.259.

26 (d) Notwithstanding Section 443.201(c) [~~21A.201(c)~~], the  
27 conservator shall hold and conserve the assets located in this

1 state until the commissioner in the insurer's domiciliary state is  
2 appointed its receiver or until an order terminating conservation  
3 is entered under Subsection (g). Once a domiciliary receiver is  
4 appointed, the conservator shall turn over to the domiciliary  
5 receiver all property subject to an order under this section.

6 (qq) Sections 21A.402(a) and (c), Insurance Code,  
7 redesignated as Sections 443.402(a) and (c), Insurance Code,  
8 respectively, by Subsection (a)(1)(I) of this section, are amended  
9 to conform to the additional changes made by Subsection (a)(1) of  
10 this section to read as follows:

11 (a) A domiciliary receiver appointed in another state is  
12 vested by operation of law with title to, and may summarily take  
13 possession of, all property and records of the insurer in this  
14 state. Notwithstanding any other provision of law regarding  
15 special deposits, special deposits held in this state shall be,  
16 upon the entry of an order of liquidation with a finding of  
17 insolvency, distributed to the guaranty associations in this state  
18 as early access payments subject to Section 443.303 [~~21A.303~~], in  
19 relation to the lines of business for which the special deposits  
20 were made. The holder of any special deposit shall account to the  
21 domiciliary receiver for all distributions from the special deposit  
22 at the time of the distribution. The statutory provisions of  
23 another state and all orders entered by courts of competent  
24 jurisdiction in relation to the appointment of a domiciliary  
25 receiver of an insurer and any related proceedings in another state  
26 must be given full faith and credit in this state. For purposes of  
27 this section, "another state" means any state other than this

1 state. This state shall treat any other state than this state as a  
2 reciprocal state.

3 (c) Except as provided in Subsection (a), the domiciliary  
4 receiver shall handle special deposits and special deposit claims  
5 in accordance with federal law and the statutes pursuant to which  
6 the special deposits are required. All amounts in excess of the  
7 estimated amount necessary to administer the special deposit and  
8 pay the unpaid special deposit claims are deemed general assets of  
9 the estate. If there is a deficiency in any special deposit so that  
10 the claims secured by the special deposit are not fully discharged  
11 from the deposit, the claimants may share in the general assets of  
12 the insurer to the extent of the deficiency at the same priority as  
13 other claimants in their class of priority under Section 443.301  
14 [~~21A.301~~], but the sharing must be deferred until the other  
15 claimants of their class have been paid percentages of their claims  
16 equal to the percentage paid from the special deposit. The intent  
17 of this provision is to equalize to this extent the advantage gained  
18 by the security provided by the special deposits.

19 (rr) Section 442.801, Insurance Code, redesignated as  
20 Section 444.001, Insurance Code, by Subsection (a)(2) of this  
21 section, is amended to conform to the repeal of Article 21.28,  
22 Insurance Code, and the enactment of Chapter 21A, Insurance Code,  
23 by Chapter 995, Acts of the 79th Legislature, Regular Session,  
24 2005, and to the changes made by Subsection (a)(1) of this section  
25 to read as follows:

26 Sec. 444.001 [~~442.801~~]. REQUIRED CONTRACT PROVISION. An  
27 agency contract entered into on or after August 27, 1973, by an

1 insurer writing fire and casualty insurance in this state must  
2 contain, or shall be construed to contain, the following provision:

3       Notwithstanding any other provision of this contract, the  
4 obligation of the agent to remit written premiums to the insurer  
5 shall be changed on the commencement of a delinquency proceeding as  
6 defined by Chapter 443 [~~442~~], Insurance Code, as amended. After the  
7 commencement of the delinquency proceeding, the obligation of the  
8 agent to remit premiums is limited to premiums earned before the  
9 cancellation date of insurance policies stated in the order of a  
10 court of competent jurisdiction under Chapter 443 [~~442~~], Insurance  
11 Code, canceling the policies. The agent does not owe and may not be  
12 required to remit to the insurer or to the receiver any premiums  
13 that are unearned as of the cancellation date stated in the order.

14       (ss) Section 442.803, Insurance Code, redesignated as  
15 Section 444.003, Insurance Code, by Subsection (a)(2) of this  
16 section, is amended to conform to the additional changes made by  
17 Subsection (a)(2) of this section to read as follows:

18       Sec. 444.003 [~~442.803~~]. EFFECT OF CHAPTER [~~SUBCHAPTER~~] ON  
19 ACTION BY RECEIVER AGAINST AGENT. This chapter [~~subchapter~~] does  
20 not prejudice a cause of action by the receiver against an agent to  
21 recover:

22           (1) unearned premiums that were not returned to  
23 policyholders; or

24           (2) earned premiums that were not promptly remitted to  
25 the receiver.

26       (tt) Section 442.804, Insurance Code, redesignated as  
27 Section 444.004, Insurance Code, by Subsection (a)(2) of this

1 section, is amended to conform to the additional changes made by  
2 Subsection (a)(2) of this section to read as follows:

3 Sec. 444.004 [~~442.804~~]. AGENT NOT RECEIVER'S AGENT. This  
4 chapter [~~subchapter~~] does not render the agent an agent of the  
5 receiver for earned or unearned premiums.

6 SECTION 3B.005. (a) Section 462.007(b), Insurance Code,  
7 is amended to conform to Section 2, Chapter 995, Acts of the 79th  
8 Legislature, Regular Session, 2005, to read as follows:

9 (b) Except as provided by Subchapter F, this chapter does  
10 not apply to:

- 11 (1) life, annuity, health, or disability insurance;
- 12 (2) mortgage guaranty, financial guaranty, or other  
13 kinds of insurance offering protection against investment risks;
- 14 (3) a fidelity or surety bond, or any other bonding  
15 obligation;
- 16 (4) credit insurance, vendors' single-interest  
17 insurance, collateral protection insurance, or similar insurance  
18 protecting a creditor's interest arising out of a creditor-debtor  
19 transaction;
- 20 (5) insurance of warranties or service contracts;
- 21 (6) title insurance;
- 22 (7) ocean marine insurance;
- 23 (8) a transaction or combination of transactions  
24 between a person, including an affiliate of the person, and an  
25 insurer, including an affiliate of the insurer, that involves the  
26 transfer of investment or credit risk unaccompanied by the transfer  
27 of insurance risk, including transactions, except for workers'

1 compensation insurance, involving captive insurers, policies in  
2 which deductible or self-insured retention is substantially equal  
3 in amount to the limit of the liability under the policy, and  
4 transactions in which the insured retains a substantial portion of  
5 the risk; or

6 (9) insurance provided by or guaranteed by government.

7 (b) Section 2, Chapter 995, Acts of the 79th Legislature,  
8 Regular Session, 2005, which amended former Subsection (a),  
9 Section 3, Article 21.28-C, Insurance Code, is repealed.

10 SECTION 3B.006. (a) Section 462.207, Insurance Code, is  
11 amended to conform to Section 3, Chapter 995, Acts of the 79th  
12 Legislature, Regular Session, 2005, to read as follows:

13 Sec. 462.207. CLAIMS NOT COVERED: AMOUNTS DUE CERTAIN  
14 ENTITIES. (a) Any amount directly or indirectly due any  
15 reinsurer, insurer, self-insurer, insurance pool, or underwriting  
16 association, as a subrogation recovery, reinsurance recovery,  
17 contribution, or indemnification, or otherwise, is not a covered  
18 claim.

19 (b) An impaired insurer's insured is not liable, and the  
20 reinsurer, insurer, self-insurer, insurance pool, or underwriting  
21 association is not entitled to sue or continue a suit against the  
22 insured, for a subrogation recovery, reinsurance recovery,  
23 contribution, ~~or~~ indemnification, or any other claim asserted  
24 directly or indirectly by a reinsurer, insurer, insurance pool, or  
25 underwriting association to the extent of the applicable liability  
26 limits of the insurance policy written and issued to the insured by  
27 the insolvent insurer.

1 (b) Section 3, Chapter 995, Acts of the 79th Legislature,  
2 Regular Session, 2005, which amended former Subdivision (8),  
3 Section 5, Article 21.28-C, Insurance Code, is repealed.

4 SECTION 3B.007. (a) Section 462.211, Insurance Code, is  
5 amended to conform to Section 4, Chapter 995, Acts of the 79th  
6 Legislature, Regular Session, 2005, and Section 6.070, Chapter 265,  
7 Acts of the 79th Legislature, Regular Session, 2005, to read as  
8 follows:

9 Sec. 462.211. CLAIMS NOT COVERED: LATE FILED CLAIMS. (a)  
10 Notwithstanding any other provision of this chapter or any other  
11 law to the contrary, and subject to [~~except as provided by~~]  
12 Subsection (b), a claim that is filed with the association on a date  
13 that is later than 18 months after the date of the order of  
14 liquidation or that is unknown and unreported as of the date is not  
15 a covered claim.

16 (b) This section does not apply to a claim for workers'  
17 compensation benefits governed by Title 5, Labor Code, and the  
18 applicable rules of the commissioner of workers' compensation  
19 [~~Texas Workers' Compensation Commission~~].

20 (b) Subchapter C, Chapter 462, Insurance Code, is amended to  
21 conform to Section 4, Chapter 995, Acts of the 79th Legislature,  
22 Regular Session, 2005, by adding Section 462.1121 to read as  
23 follows:

24 Sec. 462.1121. ACTION TO OBTAIN INFORMATION CONCERNING  
25 INSURER IN RECEIVERSHIP AUTHORIZED. (a) The association may bring  
26 an action against any third-party administrator, agent, attorney,  
27 or other representative of an insurer for which a receiver has been



1 appointed to obtain custody and control of all information,  
2 including files, records, and electronic data, related to the  
3 insurer that is appropriate or necessary for the association, or a  
4 similar association in other states, to carry out its duties under  
5 this chapter or a similar law of another state. The association has  
6 the absolute right to obtain information under this section through  
7 emergency equitable relief, regardless of where the information is  
8 physically located.

9 (b) In bringing an action under this section, the  
10 association is not subject to any defense, possessory lien or other  
11 type of lien, or other legal or equitable ground for refusal to  
12 surrender the information that may be asserted against the receiver  
13 of the insurer.

14 (c) The association is entitled to an award of reasonable  
15 attorney's fees and costs incurred by the association in any action  
16 to obtain information under this section.

17 (d) The rights granted to the association under this section  
18 do not affect the receiver's title to information, and information  
19 obtained under this section remains the property of the receiver  
20 while in the custody of the association.

21 (c) The following are repealed:

22 (1) Section 4, Chapter 995, Acts of the 79th  
23 Legislature, Regular Session, 2005, which amended former Section 8,  
24 Article 21.28-C, Insurance Code, by amending Subsection (d) and  
25 adding Subsection (i); and

26 (2) Section 6.070, Chapter 265, Acts of the 79th  
27 Legislature, Regular Session, 2005, which amended former

1 Subsection (d), Section 8, Article 21.28-C, Insurance Code.

2 SECTION 3B.008. (a) Section 462.017(b), Insurance Code,  
3 is amended to conform to Section 5, Chapter 995, Acts of the 79th  
4 Legislature, Regular Session, 2005, to read as follows:

5 (b) Venue in a suit by or against the commissioner or  
6 association relating to an action or ruling of the commissioner or  
7 association under this chapter is in Travis County. The  
8 commissioner or association is not required to give an appeal bond  
9 in an appeal of a cause of action arising under this chapter.

10 (b) Section 5, Chapter 995, Acts of the 79th Legislature,  
11 Regular Session, 2005, which amended former Subsection (g), Section  
12 10, Article 21.28-C, Insurance Code, is repealed.

13 SECTION 3B.009. (a) Sections 462.308(a) and (c),  
14 Insurance Code, are amended to conform to Section 6, Chapter 995,  
15 Acts of the 79th Legislature, Regular Session, 2005, to read as  
16 follows:

17 (a) The association is entitled to recover:

18 (1) the amount of a covered claim and the cost of  
19 defense paid on behalf of [~~under this chapter from the person on~~  
20 ~~whose behalf the payment was made if the person is:~~

21 [~~(1)~~] a person:

22 (A) who is an affiliate of the impaired insurer;

23 and

24 (B) whose liability obligations to other persons  
25 are satisfied wholly or partly by payment made under this chapter;  
26 and [~~or~~]

27 (2) the amount of a covered claim for workers'

1 compensation insurance benefits and the costs of administration and  
2 defense of the claim paid under this chapter from an insured  
3 employer[+]

4 [~~(A)~~] whose net worth on December 31 of the year  
5 preceding the date the insurer becomes an impaired insurer exceeds  
6 \$50 million[~~, and~~

7 [~~(B) whose obligations under a liability policy~~  
8 ~~or contract of insurance written, issued, and placed in force after~~  
9 ~~January 1, 1992, are satisfied wholly or partly by payment made~~  
10 ~~under this chapter~~].

11 (c) For purposes of Subsection (a)(2), an insured's net  
12 worth is deemed to include [~~includes~~] the aggregate net worth of the  
13 insured and of the insured's parent, subsidiary, and affiliated  
14 companies[~~,~~] computed on a consolidated basis.

15 (b) Section 6, Chapter 995, Acts of the 79th Legislature,  
16 Regular Session, 2005, which amended former Subsection (b), Section  
17 11, Article 21.28-C, Insurance Code, is repealed.

18 SECTION 3B.010. (a) Section 462.212, Insurance Code, is  
19 amended to conform to Section 7, Chapter 995, Acts of the 79th  
20 Legislature, Regular Session, 2005, to read as follows:

21 Sec. 462.212. NET WORTH EXCLUSION. (a) Except for a  
22 workers' compensation claim governed by Title 5, Labor Code, a  
23 covered claim does not include, and the association is not liable  
24 for, any claim arising from an insurance policy of any [~~The~~  
25 ~~association is not liable to pay a first-party claim of an~~] insured  
26 whose net worth on December 31 of the year preceding the date the  
27 insurer becomes an impaired insurer exceeds \$50 million.

1 (b) For purposes of this section, an insured's net worth  
2 includes the aggregate net worth of the insured and of the insured's  
3 parent, subsidiary, and affiliated companies~~[7]~~ computed on a  
4 consolidated basis.

5 (c) This section does not apply:

6 (1) to third-party claims against an insured that has:

7 (A) applied for or consented to the appointment  
8 of a receiver, trustee, or liquidator for all or a substantial part  
9 of the insurer's assets;

10 (B) filed a voluntary petition in bankruptcy; or

11 (C) filed a petition or an answer seeking a  
12 reorganization or arrangement with creditors or to take advantage  
13 of any insolvency law; or

14 (2) if an order, judgment, or decree is entered by a  
15 court of competent jurisdiction, on the application of a creditor,  
16 adjudicating the insured bankrupt or insolvent or approving a  
17 petition seeking reorganization of the insured or of all or a  
18 substantial part of its assets.

19 (d) In an instance described by Subsection (c), the  
20 association is entitled to assert a claim in the bankruptcy or  
21 receivership proceeding to recover the amount of any covered claim  
22 and costs of defense paid on behalf of the insured.

23 (e) The association may establish procedures for requesting  
24 financial information from an insured or claimant on a confidential  
25 basis for the purpose of applying sections concerning the net worth  
26 of first-party and third-party claimants, subject to any  
27 information requested under this subsection being shared with any

1 other association similar to the association and with the  
2 liquidator for the impaired insurer on the same confidential basis.  
3 If the insured or claimant refuses to provide the requested  
4 financial information, the association requests an auditor's  
5 certification of that information, and the auditor's certification  
6 is available but not provided, the association may deem the net  
7 worth of the insured or claimant to be in excess of \$50 million at  
8 the relevant time.

9 (f) In any lawsuit contesting the applicability of Section  
10 462.308 or this section when the insured or claimant has declined to  
11 provide financial information under the procedure provided in the  
12 plan of operation under Section 462.103, the insured or claimant  
13 bears the burden of proof concerning its net worth at the relevant  
14 time. If the insured or claimant fails to prove that its net worth  
15 at the relevant time was less than the applicable amount, the court  
16 shall award the association its full costs, expenses, and  
17 reasonable attorney's fees in contesting the claim [~~This section~~  
18 ~~does not exclude the payment of a covered claim for workers'~~  
19 ~~compensation benefits otherwise payable under this chapter].~~

20 (b) Section 7, Chapter 995, Acts of the 79th Legislature,  
21 Regular Session, 2005, which amended former Section 11A, Article  
22 21.28-C, Insurance Code, is repealed.

23 SECTION 3B.011. (a) Sections 462.309(c) and (e),  
24 Insurance Code, are amended to conform to Section 8, Chapter 995,  
25 Acts of the 79th Legislature, Regular Session, 2005, to read as  
26 follows:

27 (c) A deadline imposed under the Texas Rules of Civil

1 Procedure or the Texas Rules of Appellate Procedure is tolled  
2 during the stay. Statutes of limitation or repose are not tolled  
3 during the stay, and any action filed during the stay is stayed upon  
4 the filing of the action.

5 (e) The commissioner may bring an ancillary conservation  
6 [~~delinquency~~] proceeding under Section 443.401 [~~Sections 442.751,~~  
7 ~~442.752, and 442.754~~] for the [~~limited~~] purpose of determining the  
8 application, enforcement, and extension of the stay to an impaired  
9 insurer that is not domiciled in this state.

10 (b) Section 8, Chapter 995, Acts of the 79th Legislature,  
11 Regular Session, 2005, which amended former Subsection (a), Section  
12 17, Article 21.28-C, Insurance Code, is repealed.

13 SECTION 3B.012. (a) The heading to Chapter 463, Insurance  
14 Code, is amended to conform to Section 9, Chapter 753, Acts of the  
15 79th Legislature, Regular Session, 2005, to read as follows:

16 CHAPTER 463. TEXAS LIFE, ACCIDENT, HEALTH, AND HOSPITAL SERVICE  
17 INSURANCE GUARANTY ASSOCIATION

18 (b) Section 463.001, Insurance Code, is amended to conform  
19 to Section 9, Chapter 753, Acts of the 79th Legislature, Regular  
20 Session, 2005, to read as follows:

21 Sec. 463.001. SHORT TITLE. This chapter may be cited as  
22 the Texas Life, Accident, Health, and Hospital Service Insurance  
23 Guaranty Association Act.

24 SECTION 3B.013. (a) Section 463.003, Insurance Code, is  
25 amended to conform to Sections 2 and 3, Chapter 753, Acts of the  
26 79th Legislature, Regular Session, 2005, and to more closely  
27 conform to the source law from which the section was derived, to

1 read as follows:

2 Sec. 463.003. GENERAL DEFINITIONS. In this chapter:

3 (1) "Association" means the Texas Life, Accident,  
4 Health, and Hospital Service Insurance Guaranty Association.

5 (1-a) "Benefit plan" means a specific employee, union,  
6 or association of natural persons benefit plan.

7 (2) "Board" means the board of directors of the  
8 association.

9 (3) "Contractual obligation" means an obligation  
10 under a policy or contract or certificate under a group policy or  
11 contract, or part of a policy or contract or certificate, for which  
12 coverage is provided under Subchapter E.

13 (4) "Covered policy" means a policy or contract, or  
14 portion of a policy or contract, with respect to which this chapter  
15 provides coverage as determined under Subchapter E.

16 (5) "Impaired insurer" means a member insurer that is  
17 designated an "impaired insurer" by the commissioner and is:

18 (A) [is] placed by a court in this state or  
19 another state under an order of supervision, liquidation,  
20 rehabilitation, or conservation ~~[under Chapter 441 or 442 and is~~  
21 ~~designated by the commissioner as an impaired insurer]; [or]~~

22 (B) placed under an order of liquidation or  
23 rehabilitation under Chapter 443; or

24 (C) placed under an order of supervision or  
25 conservation by the commissioner under Chapter 441 ~~[is determined~~  
26 ~~in good faith by the commissioner to be unable or potentially unable~~  
27 ~~to fulfill the insurer's contractual obligations].~~

1           (6) "Insolvent insurer" means a member insurer that[+  
2           [~~(A)~~] has been placed under an order of  
3 liquidation with a finding of insolvency by a court in this state or  
4 another state [~~a minimum free surplus, if a mutual insurance~~  
5 ~~company, or required capital, if a stock insurance company, that is~~  
6 ~~impaired to an extent prohibited by law; and~~  
7           [~~(B) the commissioner designates as an insolvent~~  
8 ~~insurer~~].

9           (7) "Member insurer" means an insurer that is required  
10 to participate in the association under Section 463.052.

11           (7-a) "Owner" means the owner of a policy or contract  
12 and "policy owner" and "contract owner" mean the person who is  
13 identified as the legal owner under the terms of the policy or  
14 contract or who is otherwise vested with legal title to the policy  
15 or contract through a valid assignment completed in accordance with  
16 the terms of the policy or contract and is properly recorded as the  
17 owner on the books of the insurer. The terms "owner," "contract  
18 owner," and "policy owner" do not include persons with a mere  
19 beneficial interest in a policy or contract.

20           (8) "Person" means an individual, corporation,  
21 limited liability company, partnership, association, governmental  
22 body or entity, or voluntary organization.

23           (8-a) "Plan sponsor" means:

24                   (A) the employer in the case of a benefit plan  
25 established or maintained by a single employer;

26                   (B) the employee organization in the case of a  
27 benefit plan established or maintained by an employee organization;



1 or

2 (C) in a case of a benefit plan established or  
3 maintained by two or more employers or jointly by one or more  
4 employers and one or more employee organizations, the association,  
5 committee, joint board of trustees, or other similar group of  
6 representatives of the parties who establish or maintain the  
7 benefit plan.

8 (9) "Premium" means an amount received on a covered  
9 policy, less any premium, consideration, or deposit returned on the  
10 policy, and any dividend or experience credit on the policy. The  
11 term does not include:

12 (A) an amount received for a policy or contract  
13 or part of a policy or contract for which coverage is not provided  
14 under Section 463.202, except that assessable premiums may not be  
15 reduced because of:

16 (i) an interest limitation provided by  
17 Section 463.203(b)(3); or

18 (ii) a limitation provided by Section  
19 463.204 with respect to a single individual, participant,  
20 annuitant, or contract owner [~~holder~~];

21 (B) premiums in excess of \$5 million on an  
22 unallocated annuity contract not issued under a governmental  
23 benefit [~~retirement~~] plan established under Section 401, 403(b),  
24 or 457, Internal Revenue Code of 1986; [~~or~~]

25 (C) premiums received from the state treasury or  
26 the United States treasury for insurance for which this state or the  
27 United States contracts to:

1 (i) provide welfare benefits to designated  
2 welfare recipients; or

3 (ii) implement Title 2, Human Resources  
4 Code, or the Social Security Act (42 U.S.C. Section 301 et seq.); or

5 (D) premiums in excess of \$5 million with respect  
6 to multiple nongroup policies of life insurance owned by one owner,  
7 regardless of whether the policy owner is an individual, firm,  
8 corporation, or other person and regardless of whether the persons  
9 insured are officers, managers, employees, or other persons,  
10 regardless of the number of policies or contracts held by the owner.

11 (10) "Resident" means a person who resides in this  
12 state on the earlier of the date a member insurer becomes an  
13 impaired insurer or the date of entry of a court order that  
14 determines a member insurer to be an impaired insurer or the date of  
15 entry of a court order that determines a member insurer to be an  
16 insolvent insurer and to whom the [at the time a] member insurer  
17 [that] owes a contractual obligation [to the person is determined  
18 to be impaired or insolvent]. For the purposes of this subdivision:

19 (A) a person is considered to be a resident of  
20 only one state; ~~and~~

21 (B) a person other than an individual is  
22 considered to be a resident of the state in which the person's  
23 principal place of business is located; and

24 (C) a United States citizen who is either a  
25 resident of a foreign country or a resident of a United States  
26 possession, territory, or protectorate that does not have an  
27 association similar to the association created by this chapter is

1 considered a resident of the state of domicile of the insurer that  
2 issued the policy or contract.

3 (10-a) "Structured settlement annuity" means an  
4 annuity purchased to fund periodic payments for a plaintiff or  
5 other claimant in payment for or with respect to personal injury  
6 suffered by the plaintiff or other claimant.

7 (11) "Supplemental contract" means a written ~~[an]~~  
8 agreement for the distribution of policy or contract proceeds.

9 (12) "Unallocated annuity contract" means an annuity  
10 contract or group annuity certificate that is not issued to and  
11 owned by an individual, except to the extent of any annuity benefits  
12 guaranteed to an individual by an insurer under the contract or  
13 certificate.

14 (b) Subchapter A, Chapter 463, Insurance Code, is amended to  
15 conform to Section 3, Chapter 753, Acts of the 79th Legislature,  
16 Regular Session, 2005, by adding Section 463.0031 to read as  
17 follows:

18 Sec. 463.0031. DEFINITION OF PRINCIPAL PLACE OF BUSINESS OF  
19 PLAN SPONSOR OR OTHER PERSON. (a) Except as otherwise provided by  
20 this section, in this chapter, the "principal place of business" of  
21 a plan sponsor or a person other than an individual means the single  
22 state in which the individuals who establish policy for the  
23 direction, control, and coordination of the operations of the plan  
24 sponsor or person as a whole primarily exercise that function, as  
25 determined by the association in its reasonable judgment by  
26 considering the following factors:

27 (1) the state in which the primary executive and

1 administrative headquarters of the plan sponsor or person is  
2 located;

3 (2) the state in which the principal office of the  
4 chief executive officer of the plan sponsor or person is located;

5 (3) the state in which the board of directors, or  
6 similar governing person or persons, of the plan sponsor or person  
7 conduct the majority of their meetings;

8 (4) the state in which the executive or management  
9 committee of the board of directors, or similar governing person or  
10 persons, of the plan sponsor or person conduct the majority of their  
11 meetings;

12 (5) the state from which the management of the overall  
13 operations of the plan sponsor or person is directed; and

14 (6) in the case of a benefit plan sponsored by  
15 affiliated companies comprising a consolidated corporation, the  
16 state in which the holding company or controlling affiliate has its  
17 principal place of business as determined using the factors  
18 described by Subdivisions (1)-(5).

19 (b) In the case of a plan sponsor, if more than 50 percent of  
20 the participants in the benefit plan are employed in a single state,  
21 that state is the principal place of business of the plan sponsor.

22 (c) The principal place of business of a plan sponsor of a  
23 benefit plan described in Section 463.003(8-a)(C) is the principal  
24 place of business of the association, committee, joint board of  
25 trustees, or other similar group of representatives of the parties  
26 who establish or maintain the benefit plan that, in lieu of a  
27 specific or clear designation of a principal place of business,

1 shall be deemed to be the principal place of business of the  
2 employer or employee organization that has the largest investment  
3 in that benefit plan.

4 (c) Section 463.052(b), Insurance Code, is amended to  
5 conform to Section 2, Chapter 753, Acts of the 79th Legislature,  
6 Regular Session, 2005, to read as follows:

7 (b) The following do not participate as member insurers:

8 (1) a health maintenance organization;

9 (2) a fraternal benefit society;

10 (3) a mandatory state pooling plan;

11 (4) a reciprocal or interinsurance exchange; ~~and~~

12 (5) an organization which has a certificate of  
13 authority or license limited to the issuance of charitable gift  
14 annuities, as defined by this code or rules adopted by the  
15 commissioner; and

16 (6) an entity similar to an entity described by  
17 Subdivision (1), (2), (3), ~~or~~ (4), or (5).

18 (d) Section 463.204, Insurance Code, is amended to conform  
19 to Section 2, Chapter 753, Acts of the 79th Legislature, Regular  
20 Session, 2005, to read as follows:

21 Sec. 463.204. OBLIGATIONS EXCLUDED. A contractual  
22 obligation does not include:

23 (1) death benefits in an amount in excess of \$300,000  
24 or a net cash surrender or net cash withdrawal value in an amount in  
25 excess of \$100,000 ~~[in the aggregate]~~ under one or more policies on  
26 a single life;

27 (2) an amount in excess of:

1 (A) \$100,000 in the present value [~~aggregate~~]  
2 under one or more annuity contracts issued with respect to a single  
3 life under [~~to the same holder of~~] individual annuity policies or  
4 [~~to the same annuitant or participant under~~] group annuity  
5 policies; or

6 (B) \$5 million in unallocated annuity contract  
7 benefits with respect to a single contract owner [~~holder~~]  
8 regardless of the number of those contracts;

9 (3) an amount in excess of the following amounts,  
10 including any net cash surrender or cash withdrawal values,  
11 [~~\$200,000 in the aggregate~~] under one or more accident, health,  
12 [~~or~~] accident and health, or long-term care insurance policies on a  
13 single life;

14 (A) \$500,000 for basic hospital,  
15 medical-surgical, or major medical insurance, as those terms are  
16 defined by this code or rules adopted by the commissioner;

17 (B) \$300,000 for disability and long-term care  
18 insurance, as those terms are defined by this code or rules adopted  
19 by the commissioner; or

20 (C) \$200,000 for coverages that are not defined  
21 as basic hospital, medical-surgical, major medical, disability, or  
22 long-term care insurance;

23 (4) an amount in excess of \$100,000 in present value  
24 annuity benefits, in the aggregate, including any net cash  
25 surrender and net cash withdrawal values, with respect to each  
26 individual participating in a governmental retirement benefit plan  
27 established under Section 401, 403(b), or 457, Internal Revenue

1 Code of 1986 (26 U.S.C. Sections 401, 403(b), and 457), covered by  
2 an unallocated annuity contract or the beneficiary or beneficiaries  
3 of the individual if the individual is deceased;

4 (5) an amount in excess of \$100,000 in present value  
5 annuity benefits, in the aggregate, including any net cash  
6 surrender and net cash withdrawal values, with respect to each  
7 payee of a structured settlement annuity or the beneficiary or  
8 beneficiaries of the payee if the payee is deceased;

9 (6) aggregate benefits in an amount in excess of  
10 \$300,000 with respect to a single life, except with respect to:

11 (A) benefits paid under basic hospital,  
12 medical-surgical, or major medical insurance policies, described  
13 by Subdivision (3)(A), in which case the aggregate benefits are  
14 \$500,000; and

15 (B) benefits paid to one owner of multiple  
16 nongroup policies of life insurance, whether the policy owner is an  
17 individual, firm, corporation, or other person, and whether the  
18 persons insured are officers, managers, employees, or other  
19 persons, in which case the maximum benefits are \$5 million  
20 regardless of the number of policies and contracts held by the  
21 owner;

22 (7) an amount in excess of \$5 million in benefits, with  
23 respect to either one plan sponsor whose plans own directly or in  
24 trust one or more unallocated annuity contracts not included in  
25 Subdivision (4) irrespective of the number of contracts with  
26 respect to the contract owner or plan sponsor or one contract owner  
27 provided coverage under Section 463.201(a)(3)(B), except that, if

1 one or more unallocated annuity contracts are covered contracts  
2 under this chapter and are owned by a trust or other entity for the  
3 benefit of two or more plan sponsors, coverage shall be afforded by  
4 the association if the largest interest in the trust or entity  
5 owning the contract or contracts is held by a plan sponsor whose  
6 principal place of business is in this state, and in no event shall  
7 the association be obligated to cover more than \$5 million in  
8 benefits with respect to all these unallocated contracts;

9 (8) any contractual obligations of the insolvent or  
10 impaired insurer under a covered policy or contract that do not  
11 materially affect the economic value of economic benefits of the  
12 covered policy or contract; or

13 (9) [~~4~~] punitive, exemplary, extracontractual, or  
14 bad faith damages, regardless of whether the damages are:

15 (A) agreed to or assumed by an insurer or  
16 insured; or

17 (B) imposed by a court.

18 (e) The following are repealed:

19 (1) Section 2, Chapter 753, Acts of the 79th  
20 Legislature, Regular Session, 2005, which amended former Section 5,  
21 Article 21.28-D, Insurance Code, by amending Subdivisions (2), (3),  
22 (4), (5), (6), (7), (9), (10), (11), and (12) and adding  
23 Subdivisions (2-a), (8-a), (9-a), and (11-a); and

24 (2) Section 3, Chapter 753, Acts of the 79th  
25 Legislature, Regular Session, 2005, which added Section 5A to  
26 former Article 21.28-D, Insurance Code.

27 SECTION 3B.014. (a) Section 463.051(a), Insurance Code,



1 is amended to conform to Section 4, Chapter 753, Acts of the 79th  
2 Legislature, Regular Session, 2005, to read as follows:

3 (a) The Texas Life, Accident, Health, and Hospital Service  
4 Insurance Guaranty Association is a nonprofit legal entity existing  
5 to pay benefits and continue coverage as provided by this chapter.

6 (b) Section 4, Chapter 753, Acts of the 79th Legislature,  
7 Regular Session, 2005, which amended former Subsection (a), Section  
8 6, Article 21.28-D, Insurance Code, is repealed.

9 SECTION 3B.015. (a) Section 463.101(a), Insurance Code,  
10 is amended to conform to Section 5, Chapter 753, Acts of the 79th  
11 Legislature, Regular Session, 2005, to read as follows:

12 (a) The association may:

13 (1) enter into contracts as necessary or proper to  
14 carry out this chapter and the purposes of this chapter;

15 (2) sue or be sued, including taking:

16 (A) necessary or proper legal action to:

17 (i) recover an unpaid assessment under  
18 Subchapter D; or

19 (ii) settle a claim or potential claim  
20 against the association; or

21 (B) necessary legal action to avoid payment of an  
22 improper claim;

23 (3) borrow money to effect the purposes of this  
24 chapter;

25 (4) exercise, for the purposes of this chapter and to  
26 the extent approved by the commissioner, the powers of a domestic  
27 life, accident, or health insurance company or a group hospital

1 service corporation, except that the association may not issue an  
2 insurance policy or annuity contract other than to perform the  
3 association's obligations under this chapter; ~~and~~

4 (5) to further the association's purposes, exercise  
5 the association's powers, and perform the association's duties,  
6 join an organization of one or more state associations that have  
7 similar purposes;

8 (6) request information from a person seeking coverage  
9 from the association in determining its obligations under this  
10 chapter with respect to the person, and the person shall promptly  
11 comply with the request; and

12 (7) take any other necessary or appropriate action to  
13 discharge the association's duties and obligations under this  
14 chapter or to exercise the association's powers under this chapter.

15 (b) Subchapter E, Chapter 463, Insurance Code, is amended to  
16 conform to Section 5, Chapter 753, Acts of the 79th Legislature,  
17 Regular Session, 2005, by adding Section 463.206 to read as  
18 follows:

19 Sec. 463.206. ASSOCIATION DISCRETION IN MANNER OF PROVIDING  
20 BENEFITS. (a) The board shall have discretion and may exercise  
21 reasonable business judgment to determine the means by which the  
22 association is to provide the benefits of this chapter in an  
23 economical and efficient manner.

24 (b) If the association arranges or offers to provide the  
25 benefits of this chapter to a covered person under a plan or  
26 arrangement that fulfills the association's obligations under this  
27 chapter, the person is not entitled to benefits from the

1 association in addition to or other than those provided under the  
2 plan or arrangement.

3 (c) Section 463.259, Insurance Code, is amended to conform  
4 to Section 5, Chapter 753, Acts of the 79th Legislature, Regular  
5 Session, 2005, to read as follows:

6 Sec. 463.259. PREMIUM DUE DURING RECEIVERSHIP. After a  
7 court enters an order of receivership with respect to an impaired or  
8 insolvent insurer, a premium due for coverage issued by the insurer  
9 is owned by and is payable at the direction of the association. The  
10 association is liable for an unearned premium owed to a policy or  
11 contract owner that arises after the court enters the order.

12 (d) Section 463.261, Insurance Code, is amended to conform  
13 to Section 5, Chapter 753, Acts of the 79th Legislature, Regular  
14 Session, 2005, by adding Subsections (d) and (e) to read as follows:

15 (d) The rights of the association under Subsection (c)  
16 include, in the case of a structured settlement annuity, any rights  
17 of the owner, beneficiary, or payee of the annuity, to the extent of  
18 benefits received under this chapter, against any person originally  
19 or by succession responsible for the losses arising from the  
20 personal injury relating to the annuity or payment for the annuity,  
21 other than a person responsible solely by reason of serving as an  
22 assignee in respect of a qualified assignment under Section 130,  
23 Internal Revenue Code of 1986 (26 U.S.C. Section 130).

24 (e) If a provision of this section is invalid or ineffective  
25 with respect to any person or claim for any reason, the amount  
26 payable by the association with respect to the related covered  
27 obligations is reduced by the amount realized by any other person

1 with respect to the person or claim that is attributable to the  
2 policies, or portion of the policies, covered by the association.  
3 If the association has provided benefits with respect to a covered  
4 obligation and a person recovers amounts as to which the  
5 association has rights described in this section, the person shall  
6 pay to the association the portion of the recovery attributable to  
7 the policies, or portion of the policies, covered by the  
8 association.

9 (e) Subchapter F, Chapter 463, Insurance Code, is amended to  
10 conform to Section 5, Chapter 753, Acts of the 79th Legislature,  
11 Regular Session, 2005, by adding Section 463.263 to read as  
12 follows:

13 Sec. 463.263. DEPOSIT TO BE PAID TO ASSOCIATION. (a) A  
14 deposit in this state, held under law or required by the  
15 commissioner for the benefit of creditors, including policy owners,  
16 that is not turned over to the domiciliary receiver on the entry of  
17 a final order of liquidation or order approving a rehabilitation  
18 plan of an insurer domiciled in this state or a reciprocal state in  
19 accordance with Section 443.402 shall be promptly paid to the  
20 association.

21 (b) The association is entitled to retain a portion of any  
22 amount paid to the association under this section equal to the  
23 percentage determined by dividing the aggregate amount of policy  
24 owners' claims related to that insolvency for which the association  
25 has provided statutory benefits by the aggregate amount of all  
26 policy owners' claims in this state related to that insolvency and  
27 shall remit to the domiciliary receiver the amount paid to the

1 association and retained under this section.

2 (c) The amount paid to the association under this section,  
3 less the amount retained by the association under this section, is  
4 treated as a distribution of estate assets under Section 443.303 or  
5 the similar law of the state of domicile of the impaired or  
6 insolvent insurer.

7 (f) Section 5, Chapter 753, Acts of the 79th Legislature,  
8 Regular Session, 2005, which amended former Section 8, Article  
9 21.28-D, Insurance Code, by amending Subsections (e), (n), and (v)  
10 and adding Subsections (u-1), (u-2), (u-3), (x), and (y), is  
11 repealed.

12 SECTION 3B.016. (a) Section 463.151, Insurance Code, is  
13 amended to conform to Section 6, Chapter 753, Acts of the 79th  
14 Legislature, Regular Session, 2005, by amending Subsection (a) and  
15 adding Subsection (a-1) to read as follows:

16 (a) The association shall assess member insurers,  
17 separately for each account under Section 463.105, in the amounts  
18 and at the times the board determines necessary to provide money for  
19 the association to exercise the association's powers, perform the  
20 association's duties, and carry out the purposes of this chapter.  
21 The association may not authorize and call ~~make~~ an assessment to  
22 meet the requirements of the association with respect to an  
23 impaired or insolvent insurer until the assessment is necessary to  
24 carry out the purposes of this chapter. The board shall classify  
25 assessments under Section 463.152 and determine the amount of  
26 assessments with reasonable accuracy, recognizing that exact  
27 determinations may not always be possible.

1        (a-1) The association shall notify each member insurer of  
2 its anticipated pro rata share of an authorized assessment not yet  
3 called not later than the 180th day after the date the assessment is  
4 authorized.

5        (b) Section 463.152, Insurance Code, is amended to conform  
6 to Section 6, Chapter 753, Acts of the 79th Legislature, Regular  
7 Session, 2005, by amending Subsections (b) and (c) and adding  
8 Subsection (d) to read as follows:

9        (b) Class A assessments are authorized and called ~~made~~ to  
10 pay:

11            (1) the association's administrative costs;

12            (2) administrative expenses that:

13                    (A) are properly incurred under this chapter; and

14                    (B) relate to an unauthorized insurer or to an  
15 entity that is not a member insurer; and

16            (3) other general expenses not related to a particular  
17 impaired or insolvent insurer.

18        (c) Class B assessments are authorized and called ~~made~~ to  
19 the extent necessary for the association to carry out the  
20 association's powers and duties under Sections 463.101, 463.103,  
21 463.109, and 463.111(c) and Subchapter F with regard to an impaired  
22 or insolvent insurer.

23        (d) For purposes of this section, an assessment is  
24 authorized at the time a resolution by the board is passed under  
25 which an assessment will be called immediately or in the future from  
26 member insurers for a specified amount and an assessment is called  
27 at the time a notice has been issued by the association to member

1 insurers requiring that an authorized assessment be paid within a  
2 period stated in the notice. An authorized assessment becomes a  
3 called assessment at the time notice is mailed by the association to  
4 member insurers.

5 (c) Sections 463.153(b) and (c), Insurance Code, are  
6 amended to conform to Section 6, Chapter 753, Acts of the 79th  
7 Legislature, Regular Session, 2005, to read as follows:

8 (b) Class B assessments against a member insurer for each  
9 account under Section 463.105 shall be authorized and called ~~[made]~~  
10 in the proportion that the premiums received on ~~[all]~~ business in  
11 this state by the insurer on policies or contracts covered by each  
12 account for the three most recent calendar years for which  
13 information is available preceding the year in which the insurer  
14 became impaired or insolvent bear to ~~[the]~~ premiums received on  
15 ~~[all]~~ business in this state for those calendar years by all  
16 assessed member insurers. The amount of a Class B assessment shall  
17 be allocated ~~[divided]~~ among the separate accounts in accordance  
18 with an allocation formula that may be based on:

19 (1) the premiums or reserves of the impaired or  
20 insolvent insurer; or

21 (2) any other standard deemed by the board in the  
22 board's sole discretion as being fair and reasonable under the  
23 circumstances ~~[the proportion that the premiums on the policies~~  
24 ~~covered by each account were received by the impaired or insolvent~~  
25 ~~insurer from all covered policies during the year preceding the~~  
26 ~~date of the impairment, as shown in the annual statements for the~~  
27 ~~year preceding the date of the assessment].~~

1 (c) The total amount of assessments on a member insurer for  
2 each account under Section 463.105 may not exceed two [~~one~~] percent  
3 of the insurer's premiums on the policies covered by the account  
4 during the three [~~in a single~~] calendar years preceding the year in  
5 which the insurer became an impaired or insolvent insurer. If two  
6 or more assessments are authorized in a calendar year with respect  
7 to insurers that become impaired or insolvent in different calendar  
8 years, the average annual premiums for purposes of the aggregate  
9 assessment percentage limitation described by this subsection  
10 shall be equal to the higher of the three-year average annual  
11 premiums for the applicable subaccount or account as computed in  
12 accordance with this section [~~year~~]. If the maximum assessment and  
13 the other assets of the association do not provide in a year an  
14 amount sufficient to carry out the association's responsibilities,  
15 the association shall make necessary additional assessments as soon  
16 as this chapter permits.

17 (d) Section 6, Chapter 753, Acts of the 79th Legislature,  
18 Regular Session, 2005, which amended former Section 9, Article  
19 21.28-D, Insurance Code, by amending Subsections (b), (d), (f),  
20 (g), and (h) and adding Subsection (b-1), is repealed.

21 SECTION 3B.017. (a) Section 463.161(a), Insurance Code, is  
22 amended to conform to Section 7, Chapter 753, Acts of the 79th  
23 Legislature, Regular Session, 2005, to read as follows:

24 (a) A member insurer is entitled to show as an admitted  
25 asset a certificate of contribution in the form the commissioner  
26 approves under Section 463.156. Unless the commissioner requires a  
27 longer period, the certificate may be shown at:



1 (1) for the calendar year of issuance, an amount equal  
2 to the certificate's original face value approved by the  
3 commissioner; and

4 (2) beginning with the year following the calendar  
5 year of issuance, an amount equal to the certificate's original  
6 face value, reduced by 20 [~~10~~] percent a year for each year after  
7 the year of issuance, for a period of five [~~10~~] years.

8 (b) Section 7, Chapter 753, Acts of the 79th Legislature,  
9 Regular Session, 2005, which amended former Subsection (a), Section  
10 (13), Article 21.28-D, Insurance Code, is repealed.

11 SECTION 3B.018. (a) Section 463.201, Insurance Code, is  
12 amended to conform to Section 1, Chapter 753, Acts of the 79th  
13 Legislature, Regular Session, 2005, and to conform more closely to  
14 the source law from which the section was derived to read as  
15 follows:

16 Sec. 463.201. INSUREDS COVERED. (a) Subject to Subsections  
17 (b) and (c), this [~~This~~] chapter provides coverage for a policy or  
18 contract described by Section 463.202 to a person who is:

19 (1) a person, other than a certificate holder under a  
20 group policy or contract who is not a resident, who is a  
21 beneficiary, assignee, or payee of a person described by  
22 Subdivision (2);

23 (2) a person who is [~~subject to Subsection (b),~~] an  
24 owner of or certificate holder under a policy or contract specified  
25 by Section 463.202, other than [~~or a contract holder under~~] an  
26 unallocated annuity contract or structured settlement annuity, and  
27 who is:

1           (A) a resident; or

2           (B) not a resident, but only under all of the  
3 following conditions:

4                   (i) the insurers that issued the policies  
5 or contracts are domiciled in this state;

6                   (ii) the state in which the person resides  
7 has an association similar to the association; and

8                   (iii) the person is not eligible for  
9 coverage by an association in any other state because the insurer  
10 was not licensed in the state at the time specified in that state's  
11 guaranty association law;

12           (3) a person who is the owner of an unallocated annuity  
13 contract issued to or in connection with:

14                   (A) a benefit plan whose plan sponsor has the  
15 sponsor's principal place of business in this state; or

16                   (B) a government lottery, if the owner is a  
17 resident; or

18           (4) a person who is the payee under a structured  
19 settlement annuity, or beneficiary of the payee if the payee is  
20 deceased, if:

21                   (A) the payee is a resident, regardless of where  
22 the contract owner resides;

23                   (B) the payee is not a resident, the contract  
24 owner of the structured settlement annuity is a resident, and the  
25 payee is not eligible for coverage by the association in the state  
26 in which the payee resides; or

27                   (C) the payee and the contract owner are not

1 residents, the insurer that issued the structured settlement  
2 annuity is domiciled in this state, the state in which the contract  
3 owner resides has an association similar to the association, and  
4 neither the payee or, if applicable, the payee's beneficiary, nor  
5 the contract owner is eligible for coverage by the association in  
6 the state in which the payee or contract owner resides [~~(2) a~~  
7 beneficiary, assignee, or payee, other than a certificate holder  
8 under a group policy or contract who is not a resident, of a person  
9 described by Subdivision (1)].

10 (b) This chapter does not provide coverage to:

11 (1) a person who is a payee or the beneficiary of a  
12 payee with respect to a contract the owner of which is a resident of  
13 this state, if the payee or the payee's beneficiary is afforded any  
14 coverage by the association of another state; or

15 (2) a person otherwise described by Subsection (a)(3),  
16 if any coverage is provided by the association of another state to  
17 that person.

18 (c) This chapter is intended to provide coverage to persons  
19 who are residents of this state, and in those limited circumstances  
20 as described in this chapter, to nonresidents. In order to avoid  
21 duplicate coverage, if a person who would otherwise receive  
22 coverage under this chapter is provided coverage under the laws of  
23 any other state, the person may not be provided coverage under this  
24 chapter. In determining the application of the provisions of this  
25 subsection in situations in which a person could be covered by the  
26 association of more than one state, whether as an owner, payee,  
27 beneficiary, or assignee, this chapter shall be construed in

1 conjunction with other state laws to result in coverage by only one  
2 association. [~~Coverage under Subsection (a)(1) applies to a person~~  
3 ~~who is not a resident, only if:~~

4 [~~(1) the insurer that issued the policy or contract is~~  
5 ~~domiciled in this state,~~

6 [~~(2) the insurer never held a certificate of authority~~  
7 ~~in the state in which the person resides,~~

8 [~~(3) the state in which the person resides has an~~  
9 ~~association similar to the association; and~~

10 [~~(4) the person is not eligible for coverage by the~~  
11 ~~association in the state in which the person resides.]~~

12 (b) Sections 463.202(a) and (c), Insurance Code, are  
13 amended to conform to Section 1, Chapter 753, Acts of the 79th  
14 Legislature, Regular Session, 2005, to read as follows:

15 (a) Except as limited by this chapter, the coverage provided  
16 by this chapter to a person specified by Section 463.201, subject to  
17 Sections 463.201(b) and (c), applies with respect to the following  
18 policies and contracts issued by a member insurer:

19 (1) a direct, nongroup life, health, accident,  
20 annuity, or supplemental policy or contract;

21 (2) a certificate under a direct group policy or  
22 contract;

23 (3) a group hospital service contract; and

24 (4) an unallocated annuity contract.

25 (c) For the purposes of this section, an annuity contract or  
26 a certificate under a group annuity contract includes:

27 (1) a guaranteed investment contract;

- 1           (2) a deposit administration contract;
- 2           (3) an allocated or unallocated funding agreement;
- 3           (4) a structured settlement annuity [~~agreement~~];
- 4           (5) an annuity issued to or in connection with a
- 5 government lottery [~~a lottery contract~~]; and
- 6           (6) an immediate or deferred annuity contract.

7           (c) Section 463.203, Insurance Code, is amended to conform

8 to Section 1, Chapter 753, Acts of the 79th Legislature, Regular

9 Session, 2005, by amending Subsection (b) and adding Subsection (c)

10 to read as follows:

11           (b) This chapter does not provide coverage for:

12           (1) any part of a policy or contract not guaranteed by

13 the insurer or under which the risk is borne by the policy or

14 contract owner [~~holder~~];

15           (2) a policy or contract of reinsurance, unless an

16 assumption certificate has been issued;

17           (3) any part of a policy or contract to the extent that

18 the rate of interest on which that part is based:

19           (A) as averaged over the period of four years

20 before the date the member insurer becomes impaired or insolvent

21 under this chapter, whichever is earlier [~~association became~~

22 ~~obligated with respect to the policy or contract~~], exceeds a rate of

23 interest determined by subtracting two percentage points from

24 Moody's Corporate Bond Yield Average averaged for the same

25 four-year period or for a lesser period if the policy or contract

26 was issued less than four years before the date the member insurer

27 becomes impaired or insolvent under this chapter, whichever is

1 earlier [~~association became obligated~~]; and

2 (B) on and after the date the member insurer  
3 becomes impaired or insolvent under this chapter, whichever is  
4 earlier [~~association became obligated with respect to the policy or~~  
5 ~~contract~~], exceeds the rate of interest determined by subtracting  
6 three percentage points from Moody's Corporate Bond Yield Average  
7 as most recently available;

8 (4) a portion of a policy or contract issued to a plan  
9 or program of an employer, association, [~~or~~] similar entity, or  
10 other person to provide life, health, or annuity benefits to the  
11 entity's employees, [~~or~~] members, or others, to the extent that the  
12 plan or program is self-funded or uninsured, including benefits  
13 payable by an employer, association, or similar entity under:

14 (A) a multiple employer welfare arrangement as  
15 defined by Section 3, Employee Retirement Income Security Act of  
16 1974 (29 U.S.C. Section 1002);

17 (B) a minimum premium group insurance plan;

18 (C) a stop-loss group insurance plan; or

19 (D) an administrative services-only contract;

20 (5) any part of a policy or contract to the extent that  
21 the part provides dividends, [~~or~~] experience rating credits, or  
22 voting rights, or provides that fees or allowances be paid to any  
23 person, including the policy or contract owner [~~holder~~], in  
24 connection with the service to or administration of the policy or  
25 contract;

26 (6) a policy or contract issued in this state by a  
27 member insurer at a time the insurer was not authorized to issue the

1 policy or contract in this state;

2 (7) an unallocated annuity contract issued to or in  
3 connection with a [an employee] benefit plan protected under the  
4 federal Pension Benefit Guaranty Corporation, regardless of  
5 whether the Pension Benefit Guaranty Corporation has not yet become  
6 liable to make any payments with respect to the benefit plan;

7 (8) any part of an unallocated annuity contract that  
8 is not issued to or in connection with a specific employee, a  
9 benefit plan for a union or association of individuals, or a  
10 governmental lottery; ~~or~~

11 (9) any part of a financial guarantee, funding  
12 agreement, or guaranteed investment contract that:

13 (A) does not contain a mortality guarantee; and

14 (B) is not issued to or in connection with a  
15 specific employee, a benefit plan, or a governmental lottery;

16 (10) a part of a policy or contract to the extent that  
17 the assessments required by Subchapter D with respect to the policy  
18 or contract are preempted by federal or state law;

19 (11) a contractual agreement that established the  
20 member insurer's obligations to provide a book value accounting  
21 guaranty for defined contribution benefit plan participants by  
22 reference to a portfolio of assets that is owned by the benefit plan  
23 or the plan's trustee in a case in which neither the benefit plan  
24 sponsor nor its trustee is an affiliate of the member insurer; or

25 (12) a part of a policy or contract to the extent the  
26 policy or contract provides for interest or other changes in value  
27 that are to be determined by the use of an index or external

1 reference stated in the policy or contract, but that have not been  
2 credited to the policy or contract, or as to which the policy or  
3 contract owner's rights are subject to forfeiture, as of the date  
4 the member insurer becomes an impaired or insolvent insurer under  
5 this chapter, whichever date is earlier, subject to Subsection (c).

6 (c) For purposes of determining the values that have been  
7 credited and are not subject to forfeiture as described by  
8 Subsection (b)(12), if a policy's or contract's interest or changes  
9 in value are credited less frequently than annually, the interest  
10 or change in value determined by using the procedures defined in the  
11 policy or contract is credited as if the contractual date of  
12 crediting interest or changing values is the earlier of the date of  
13 impairment or the date of insolvency, and is not subject to  
14 forfeiture.

15 (d) Section 463.260(a), Insurance Code, is amended to  
16 conform to Section 1, Chapter 753, Acts of the 79th Legislature,  
17 Regular Session, 2005, to read as follows:

18 (a) The association is not liable for benefits that exceed  
19 the contractual obligations for which the insurer is liable or  
20 would have been liable if not impaired or insolvent. The  
21 association has no obligation to provide benefits outside the  
22 express written terms of the policy or contract, including:

23 (1) claims based on marketing materials;

24 (2) claims based on side letters, riders, or other  
25 documents that were issued without meeting applicable policy form  
26 filing or approval requirements;

27 (3) claims based on misrepresentation of or regarding



1 policy benefits;

2 (4) extracontractual claims; or

3 (5) claims for penalties or consequential or  
4 incidental damages.

5 (e) Subchapter F, Chapter 463, Insurance Code, is amended to  
6 conform to Section 1, Chapter 753, Acts of the 79th Legislature,  
7 Regular Session, 2005, by adding Section 463.262 to read as  
8 follows:

9 Sec. 463.262. EFFECT OF SUBROGATION AND ASSIGNMENT OF  
10 RIGHTS AND AVAILABLE ASSETS ON ASSOCIATION OBLIGATION. (a) The  
11 limitations set forth in this chapter are limitations on the  
12 benefits for which the association is obligated before taking into  
13 account either the association's subrogation and assignment rights  
14 or the extent to which those benefits could be provided out of the  
15 assets of the impaired or insolvent insurer attributable to covered  
16 policies.

17 (b) The costs of the association's obligations under this  
18 chapter may be met by the use of assets attributable to covered  
19 policies or reimbursed to the association pursuant to the  
20 association's subrogation and assignment rights.

21 (f) Section 1, Chapter 753, Acts of the 79th Legislature,  
22 Regular Session, 2005, which amended former Section 3, Article  
23 21.28-D, Insurance Code, is repealed.

24 SECTION 3B.019. (a) Section 463.302(d), Insurance Code,  
25 is amended to conform to Section 8, Chapter 753, Acts of the 79th  
26 Legislature, Regular Session, 2005, to read as follows:

27 (d) The maximum amount recoverable under Subsections (b)

1 and (c) is the amount needed in excess of all other available assets  
2 of the impaired or insolvent insurer to pay the insurer's  
3 contractual obligations.

4 (b) Section 463.304, Insurance Code, is amended to conform  
5 to Section 8, Chapter 753, Acts of the 79th Legislature, Regular  
6 Session, 2005, to read as follows:

7 Sec. 463.304. DISTRIBUTION OF OWNERSHIP RIGHTS OF IMPAIRED  
8 OR INSOLVENT INSURER. In making an equitable distribution of the  
9 ownership rights of an impaired or insolvent insurer before the  
10 termination of a receivership, the court:

11 (1) shall consider the welfare of the policyholders of  
12 the continuing or successor insurer; and

13 (2) may consider the contributions of the respective  
14 parties, including the association, the shareholders and  
15 policyholders of the impaired or insolvent insurer, and any other  
16 party with a bona fide interest.

17 (c) Section 8, Chapter 753, Acts of the 79th Legislature,  
18 Regular Session, 2005, which amended former Subsections (d) and  
19 (i), Section 14, Article 21.28-D, Insurance Code, is repealed.

20 SECTION 3B.020. (a) Article 21.79H, Insurance Code, is  
21 transferred to Chapter 542, Insurance Code, redesignated as  
22 Subchapter G of that chapter, and amended to read as follows:

23 SUBCHAPTER G. INSURER'S RECOVERY FROM UNINSURED THIRD PARTY

24 Sec. 542.301. APPLICABILITY OF SUBCHAPTER [~~Art. 21.79H.~~  
25 ~~RECOVERY OF CERTAIN COSTS FROM THIRD PARTY~~]. [~~(a)~~] This subchapter  
26 [~~article~~] applies to any insurer that delivers, issues for  
27 delivery, or renews a private passenger automobile insurance policy

1 in this state, including a county mutual, a reciprocal or  
2 interinsurance exchange, or a Lloyd's plan.

3 Sec. 542.302. RECOVERY IN SUIT OR OTHER ACTION. [~~(b)~~] An  
4 insurer that brings suit or takes other action described by Section  
5 542.202 [~~of this code~~] against a responsible third party relating  
6 to a loss that is covered under a private passenger automobile  
7 insurance policy issued by the insurer and for which the  
8 responsible third party is uninsured is entitled to recover, in  
9 addition to payments made by the insurer or insured, the costs of  
10 bringing the suit or taking the action, including reasonable  
11 attorney's fees and court costs.

12 (b) For organizational purposes, the heading to Subchapter  
13 E, Chapter 542, Insurance Code, is amended to read as follows:

14 SUBCHAPTER E. RECOVERY OF DEDUCTIBLE [~~COLLECTION~~] FROM THIRD  
15 PARTIES UNDER CERTAIN AUTOMOBILE INSURANCE POLICIES

16 SECTION 3B.021. (a) Section 544.303, Insurance Code, is  
17 amended to conform to Section 1, Chapter 149, Acts of the 79th  
18 Legislature, Regular Session, 2005, to read as follows:

19 Sec. 544.303. PROHIBITION OF CERTAIN UNDERWRITING  
20 DECISIONS BASED ON PREVIOUS MOLD CLAIM OR DAMAGE. An insurer may  
21 not make an underwriting decision regarding a residential property  
22 insurance policy based on previous mold damage or a claim for mold  
23 damage if:

24 (1) the applicant for insurance coverage has property  
25 eligible for coverage under a residential property policy;

26 (2) the property has had mold damage;

27 (3) mold remediation has been performed on the

1 property; and

2 (4) the property was:

3 (A) remediated, as evidenced by a certificate of  
4 mold remediation issued to the property owner under Section  
5 1958.154, Occupations Code, that establishes with reasonable  
6 certainty that the underlying cause of the mold at the property has  
7 been remediated; or

8 (B) inspected by an independent assessor or  
9 adjustor who determined, based on the inspection, that the property  
10 does not contain evidence of mold damage.

11 (b) Section 1, Chapter 149, Acts of the 79th Legislature,  
12 Regular Session, 2005, which amended former Section 3, Article  
13 21.21-11, Insurance Code, is repealed.

14 SECTION 3B.022. (a) Section 544.352, Insurance Code, is  
15 amended to conform to Section 1, Chapter 528, Acts of the 79th  
16 Legislature, Regular Session, 2005, and further amended to read as  
17 follows:

18 Sec. 544.352. DEFINITIONS. In this subchapter:

19 (1) "Appliance" means a household device operated by  
20 gas or electric current, including hoses directly attached to the  
21 device. The term includes air conditioning units, heating units,  
22 refrigerators, dishwashers, icemakers, clothes washers, water  
23 heaters, and disposals.

24 (2) "Insurer" means an insurance company, reciprocal  
25 or interinsurance exchange, mutual insurance company, capital  
26 stock company, county mutual insurance company, farm mutual  
27 insurance company, association, Lloyd's plan, or other entity

1 writing residential property insurance in this state. The term  
2 includes an affiliate, as described by Section 823.003(a), if that  
3 affiliate is authorized to write and is writing residential  
4 property insurance in this state. The term does not include:

5 (A) the Texas Windstorm Insurance Association  
6 created and operated under Chapter 2210 [~~Article 21.49~~]; or

7 (B) the FAIR Plan created and operated under  
8 Chapter 2211 [~~Article 21.49A~~].

9 (3) [~~(2)~~] "Residential property insurance" means  
10 insurance against loss to residential real property at a fixed  
11 location or tangible personal property provided in a homeowners  
12 policy, which includes a tenant policy, a condominium owners  
13 policy, or a residential fire and allied lines policy.

14 (4) [~~(3)~~] "Underwriting guideline" means a rule,  
15 standard, guideline, or practice, whether written, oral, or  
16 electronic, that is used by an insurer or an agent of an insurer to:

17 (A) decide whether to accept or reject an  
18 application for a residential property insurance policy; or

19 (B) determine how to classify the risks that are  
20 accepted for the purpose of determining a rate.

21 (b) Section 1, Chapter 528, Acts of the 79th Legislature,  
22 Regular Session, 2005, which added Subdivision (4) to former  
23 Section 2, Article 5.35-4, Insurance Code, is repealed.

24 SECTION 3B.023. (a) Chapter 544, Insurance Code, is  
25 amended to codify Article 21.53X, Insurance Code, as added by  
26 Section 8, Chapter 97, Acts of the 79th Legislature, Regular  
27 Session, 2005, by adding Subchapter J and is further amended to read

1 as follows:

2 SUBCHAPTER J. PROHIBITED PRACTICES RELATING TO EXPOSURE TO  
3 ASBESTOS OR SILICA

4 Sec. 544.451. DEFINITION. In this subchapter, "health  
5 benefit plan" means a plan that provides benefits for medical,  
6 surgical, or other treatment expenses incurred as a result of a  
7 health condition, a mental health condition, an accident, sickness,  
8 or substance abuse, including an individual, group, blanket, or  
9 franchise insurance policy or insurance agreement, a group hospital  
10 service contract, or an individual or group evidence of coverage or  
11 similar coverage document. The term includes:

12 (1) a small employer health benefit plan or a health  
13 benefit plan written to provide coverage with a cooperative under  
14 Chapter 1501;

15 (2) a standard health benefit plan offered under  
16 Subchapter A or Subchapter B, Chapter 1507; and

17 (3) a health benefit plan offered under Chapter 1551,  
18 1575, 1579, or 1601.

19 Sec. 544.452. APPLICABILITY OF SUBCHAPTER. This subchapter  
20 applies to any entity that offers a health benefit plan or an  
21 annuity or life insurance policy or contract in this state,  
22 including:

23 (1) a stock or mutual life, health, or accident  
24 insurance company;

25 (2) a group hospital service corporation operating  
26 under Chapter 842;

27 (3) a fraternal benefit society operating under

1 Chapter 885;

2 (4) a stipulated premium insurance company operating  
3 under Chapter 884;

4 (5) a Lloyd's plan operating under Chapter 941;

5 (6) an exchange operating under Chapter 942;

6 (7) a health maintenance organization operating under  
7 Chapter 843;

8 (8) a multiple employer welfare arrangement that holds  
9 a certificate of authority under Chapter 846;

10 (9) an approved nonprofit health corporation that  
11 holds a certificate of authority under Chapter 844;

12 (10) a statewide mutual assessment company operating  
13 under Chapter 881;

14 (11) a local mutual aid association operating under  
15 Chapter 886; and

16 (12) a local mutual burial association operating under  
17 Chapter 888.

18 Sec. 544.453. PROHIBITION. An entity that offers a health  
19 benefit plan or an annuity or life insurance policy or contract may  
20 not use the fact that a person has been exposed to asbestos fibers  
21 or silica or has filed a claim governed by Chapter 90, Civil  
22 Practice and Remedies Code, to reject, deny, limit, cancel, refuse  
23 to renew, increase the premiums for, or otherwise adversely affect  
24 the person's eligibility for or coverage under the policy or  
25 contract.

26 (b) Article 21.53X, Insurance Code, as added by Section 8,  
27 Chapter 97, Acts of the 79th Legislature, Regular Session, 2005, is

1 repealed.

2 SECTION 3B.024. Section 551.004, Insurance Code, is amended  
3 to correct references to read as follows:

4 Sec. 551.004. TRANSFER NOT CONSIDERED A REFUSAL TO RENEW.  
5 For purposes of this chapter and Subchapters C and D, Chapter 1952  
6 [Articles 5.06-1 and 5.06-3 of this code], the transfer of a  
7 policyholder between admitted companies within the same insurance  
8 group is not considered a refusal to renew.

9 SECTION 3B.0245. (a) Subchapter A, Chapter 551, Insurance  
10 Code, is amended to conform to the enactment of Article 21.49-2V,  
11 Insurance Code, by Section 8.02, Chapter 206, Acts of the 78th  
12 Legislature, Regular Session, 2003, by adding Section 551.005 to  
13 read as follows:

14 Sec. 551.005. MEMBERSHIP DUES. (a) In this section,  
15 "insurer" includes a county mutual insurance company, a Lloyd's  
16 plan, and a reciprocal or interinsurance exchange.

17 (b) Except as otherwise provided by law, an insurer may  
18 require that membership dues in its sponsoring organization be paid  
19 as a condition for issuance or renewal of a policy.

20 (b) Article 21.49-2V, Insurance Code, as added by Section  
21 8.02, Chapter 206, Acts of the 78th Legislature, Regular Session,  
22 2003, is repealed.

23 SECTION 3B.025. Section 843.318(a), Insurance Code, is  
24 amended to conform more closely to the source law from which the  
25 section was derived to read as follows:

26 (a) This chapter and this code do not prohibit a physician  
27 or provider who is participating in a health maintenance



1 organization delivery network, whether by contracting with a health  
2 maintenance organization under Section 843.101 or by  
3 subcontracting with a physician or provider in the health  
4 maintenance organization delivery network, from entering into a  
5 contractual arrangement [~~authorized by this section~~] within a  
6 health maintenance organization delivery network described by  
7 Subsections (b)-(e).

8 SECTION 3B.026. Section 941.003(b), Insurance Code, as  
9 amended by Chapters 631 and 1295, Acts of the 79th Legislature,  
10 Regular Session, 2005, is reenacted and is amended to correct  
11 references to read as follows:

12 (b) A Lloyd's plan is subject to:

13 (1) Subchapter [Section 5, Article 1.10,

14 [~~(2) Article 1.15A,~~

15 [~~(3) Subchapters] A, [Q, T, and U,~~ Chapter 5, Chapter

16 254, Subchapters A and B, Chapter 1806, and Subtitle C, Title 10;

17 (2) [~~(4)]~~ Articles [5.207] 5.35, [5.387] 5.39, and  
18 5.40;

19 (3) [~~(5) Article 21.49-8,~~

20 [~~(6) Sections 822.203, 822.205, 822.210, and 822.212,~~

21 [~~(7)]~~ Article 5.13-2, as provided by that article,  
22 Chapter 2251, as provided by that chapter, and Chapter 2301, as  
23 provided by that chapter;

24 (4) [~~(8)]~~ Chapters 251, 252, 402, [and] 541, and 2253;

25 (5) Subchapter A, Chapter 401;

26 (6) Subchapter B, Chapter 404;

27 (7) Subchapter C, Chapter 1806; and

1           (8) Sections [~~(9) Section~~] 38.001, 501.159, 822.203,  
2 822.205, 822.210, 822.212, 2002.005, 2002.051, and 2002.052.

3           SECTION 3B.027. Section 942.003(b), Insurance Code, as  
4 amended by Chapters 631 and 1295, Acts of the 79th Legislature,  
5 Regular Session, 2005, is reenacted and is amended to correct  
6 references to read as follows:

7           (b) An exchange is subject to:

8           (1) Subchapter [~~Section 5, Article 1.10;~~  
9           ~~(2) Articles 1.15, 1.15A, and 1.16;~~  
10           ~~(3) Subchapters~~] A, [~~Q, T, and U,~~] Chapter 5, Chapter  
11 254, Subchapters A and B, Chapter 1806, and Subtitle C, Title 10;

12           (2) [~~(4)~~] Articles [~~5.20,~~] 5.35, [~~5.37, 5.38,~~] 5.39,  
13 and 5.40;

14           (3) [~~(5) Article 21.49-8;~~  
15           ~~(6) Sections 822.203, 822.205, 822.210, 822.212,~~  
16 861.254(a)-(f), 861.255, 862.001(b), and 862.003;

17           ~~(7)~~] Article 5.13-2, as provided by that article,  
18 Chapter 2251, as provided by that chapter, and Chapter 2301, as  
19 provided by that chapter;

20           (4) Chapters 402, [~~(8) Chapter~~] 541, and 2253;

21           (5) Subchapter A, Chapter 401, and Sections 401.051,  
22 401.052, 401.054, 401.055, 401.056, 401.057, 401.058, 401.059,  
23 401.060, 401.061, 401.062, 401.151, 401.152, 401.155, and 401.156;

24           (6) Subchapter B, Chapter 404;

25           (7) Subchapter C, Chapter 1806; and

26           (8) Sections [~~(9) Section~~] 38.001, 501.159, 822.203,  
27 822.205, 822.210, 822.212, 861.254(a)-(f), 861.255, 862.001(b),

1 862.003, 2002.002, 2002.005, 2002.051, and 2002.052.

2 SECTION 3B.02701. Sections 1272.001(a)(1), (3), and (4),  
3 Insurance Code, are amended to conform more closely to the source  
4 law from which they were derived to read as follows:

5 (1) "Delegated entity" means an entity, other than a  
6 health maintenance organization authorized to engage in business  
7 under Chapter 843, that by itself, or through subcontracts with one  
8 or more entities, undertakes to arrange for or provide medical care  
9 or health care to an enrollee in exchange for a predetermined  
10 payment on a prospective basis and that accepts responsibility for  
11 performing on behalf of the health maintenance organization a  
12 function regulated by this chapter, Chapter 222, 251, or 258, as  
13 applicable to a health maintenance organization, Chapter 843 or [7]  
14 1271, Section 1367.053 [~~or 1367~~], Subchapter A, Chapter 1452, or  
15 Subchapter B, Chapter 1507. The term does not include:

16 (A) an individual physician; or

17 (B) a group of employed physicians, practicing  
18 medicine under one federal tax identification number, whose total  
19 claims paid to providers not employed by the group constitute less  
20 than 20 percent of the group's total collected revenue computed on a  
21 calendar year basis.

22 (3) "Delegated third party" means a third party other  
23 than a delegated entity that contracts with a delegated entity,  
24 either directly or through another third party, to:

25 (A) accept responsibility for performing a  
26 function regulated by this chapter, Chapter 222, 251, or 258, as  
27 applicable to a health maintenance organization, Chapter 843 or [7]

1 1271, Section 1367.053 [~~or 1367~~], Subchapter A, Chapter 1452, or  
2 Subchapter B, Chapter 1507; or

3 (B) receive, handle, or administer funds, if the  
4 receipt, handling, or administration is directly or indirectly  
5 related to a function regulated by this chapter, Chapter 222, 251,  
6 or 258, as applicable to a health maintenance organization, Chapter  
7 843 or [~~7~~] 1271, Section 1367.053 [~~or 1367~~], Subchapter A, Chapter  
8 1452, or Subchapter B, Chapter 1507.

9 (4) "Delegation agreement" means an agreement by which  
10 a health maintenance organization assigns the responsibility for a  
11 function regulated by this chapter, Chapter 222, 251, or 258, as  
12 applicable to a health maintenance organization, Chapter 843 or [~~7~~]  
13 1271, Section 1367.053 [~~or 1367~~], Subchapter A, Chapter 1452, or  
14 Subchapter B, Chapter 1507.

15 SECTION 3B.0271. (a) Section 1301.004, Insurance Code, to  
16 conform more closely to the source law from which it was derived, is  
17 transferred to Section 1301.061, Insurance Code, redesignated as  
18 Subsection (c) of that section, and amended to read as follows:

19 (c) [~~Sec. 1301.004. COMPLIANCE WITH CHAPTER~~  
20 ~~REQUIRED.~~] Each preferred provider benefit plan offered in this  
21 state must comply with this chapter.

22 (b) Subchapter A, Chapter 1301, Insurance Code, is amended  
23 to conform more closely to the source law from which Chapter 1301  
24 was derived by adding Section 1301.0041 to read as follows:

25 Sec. 1301.0041. APPLICABILITY. This chapter applies to any  
26 preferred provider benefit plan in which an insurer provides,  
27 through the insurer's health insurance policy, for the payment of a

1 level of coverage that is different from the basic level of coverage  
2 provided by the health insurance policy if the insured uses a  
3 preferred provider.

4 SECTION 3B.028. Section 1365.004, Insurance Code, is  
5 amended to conform more closely to the source law from which the  
6 section was derived to read as follows:

7 Sec. 1365.004. RIGHT TO REJECT COVERAGE OR SELECT  
8 ALTERNATIVE BENEFITS [~~COVERAGE~~]. An offer of coverage required  
9 under Section 1365.003 is subject to the right of the group contract  
10 holder to reject the coverage or to select an alternative level of  
11 benefits [~~coverage~~] that is offered by or negotiated with the group  
12 health benefit plan issuer.

13 SECTION 3B.0281. Section 1367.053(c), Insurance Code, is  
14 amended to conform more closely to the source law from which the  
15 section was derived to read as follows:

16 (c) In addition to the immunizations required under  
17 Subsection (a), a health maintenance organization that issues a  
18 health benefit plan shall provide under the plan coverage for  
19 immunization against rotovirus and any other immunization required  
20 for a child by law.

21 SECTION 3B.029. (a) Section 1507.003(b), Insurance Code,  
22 is amended to conform to Section 2, Chapter 577, Acts of the 79th  
23 Legislature, Regular Session, 2005, to read as follows:

24 (b) For purposes of this subchapter, "state-mandated health  
25 benefits" does not include benefits that are mandated by federal  
26 law or standard provisions or rights required under this code or  
27 other laws of this state to be provided in an individual, blanket,

1 or group policy for accident and health insurance that are  
2 unrelated to a specific health illness, injury, or condition of an  
3 insured, including provisions related to:

4 (1) continuation of coverage under:

5 (A) Subchapters F and G, Chapter 1251;

6 (B) Section 1201.059; and

7 (C) Subchapter B, Chapter 1253;

8 (2) termination of coverage under Sections 1202.051  
9 and 1501.108;

10 (3) preexisting conditions under Subchapter D,  
11 Chapter 1201, and Sections 1501.102-1501.105;

12 (4) coverage of children, including newborn or adopted  
13 children, under:

14 (A) Subchapter D, Chapter 1251;

15 (B) Sections 1201.053, 1201.061,  
16 1201.063-1201.065, and Subchapter A, Chapter 1367;

17 (C) Chapter 1504;

18 (D) Chapter 1503;

19 (E) Section 1501.157;

20 (F) Section 1501.158; and

21 (G) Sections 1501.607-1501.609;

22 (5) services of practitioners under:

23 (A) Subchapters A, B, and C, Chapter 1451; or

24 (B) Section 1301.052;

25 (6) supplies and services associated with the  
26 treatment of diabetes under Subchapter B, Chapter 1358;

27 (7) coverage for serious mental illness under

1 Subchapter A, Chapter 1355 [~~, if the standard health benefit plan is~~  
2 ~~issued to a large employer as defined by Section 1501.002~~];

3 (8) coverage for childhood immunizations and hearing  
4 screening as required by Subchapters B and C, Chapter 1367, other  
5 than Section 1367.053(c) and Chapter 1353;

6 (9) coverage for reconstructive surgery for certain  
7 craniofacial abnormalities of children as required by Subchapter D,  
8 Chapter 1367;

9 (10) coverage for the dietary treatment of  
10 phenylketonuria as required by Chapter 1359;

11 (11) coverage for referral to a non-network physician  
12 or provider when medically necessary covered services are not  
13 available through network physicians or providers, as required by  
14 Section 1271.055; and

15 (12) coverage for cancer screenings under:

16 (A) Chapter 1356;

17 (B) Chapter 1362; [~~and~~]

18 (C) Chapter 1363; and

19 (D) Chapter 1370.

20 (b) Section 2, Chapter 577, Acts of the 79th Legislature,  
21 Regular Session, 2005, which amended former Subsection (b), Section  
22 3, Article 3.80, Insurance Code, is repealed.

23 SECTION 3B.030. (a) Section 1507.053(b), Insurance Code,  
24 is amended to conform to Section 3, Chapter 577, Acts of the 79th  
25 Legislature, Regular Session, 2005, to read as follows:

26 (b) For purposes of this subchapter, "state-mandated health  
27 benefits" does not include coverage that is mandated by federal law

1 or standard provisions or rights required under this code or other  
2 laws of this state to be provided in an evidence of coverage that  
3 are unrelated to a specific health illness, injury, or condition of  
4 an enrollee, including provisions related to:

5 (1) continuation of coverage under Subchapter G,  
6 Chapter 1251;

7 (2) termination of coverage under Sections 1202.051  
8 and 1501.108;

9 (3) preexisting conditions under Subchapter D,  
10 Chapter 1201, and Sections 1501.102-1501.105;

11 (4) coverage of children, including newborn or adopted  
12 children, under:

13 (A) Chapter 1504;

14 (B) Chapter 1503;

15 (C) Section 1501.157;

16 (D) Section 1501.158; and

17 (E) Sections 1501.607-1501.609;

18 (5) services of providers under Section 843.304;

19 (6) coverage for serious mental health illness under  
20 Subchapter A, Chapter 1355 [~~if the standard health benefit plan is~~  
21 ~~issued to a large employer as defined by Section 1501.002~~]; and

22 (7) coverage for cancer screenings under:

23 (A) Chapter 1356;

24 (B) Chapter 1362; ~~and~~

25 (C) Chapter 1363; and

26 (D) Chapter 1370.

27 (b) Section 3, Chapter 577, Acts of the 79th Legislature,



1 Regular Session, 2005, which amended former Subsection (d), Article  
2 20A.09N, Insurance Code, is repealed.

3 SECTION 3B.031. Section 1801.002, Insurance Code, is  
4 repealed to conform to Section 5.01(4), Chapter 1227, Acts of the  
5 79th Legislature, Regular Session, 2005.

6 SECTION 3B.032. (a) Section 1806.101, Insurance Code, is  
7 amended to conform to Section 2, Chapter 631, Acts of the 79th  
8 Legislature, Regular Session, 2005, to read as follows:

9 Sec. 1806.101. DEFINITIONS. In this subchapter:

10 (1) "Insurance" includes a suretyship.

11 (2) "Insurer" means an insurance company or other  
12 legal entity described by Sections 1806.102(a) and (b).

13 (3) "Policy" includes a bond.

14 (b) Sections 1806.104(a) and (b), Insurance Code, are  
15 amended to conform to Section 2, Chapter 631, Acts of the 79th  
16 Legislature, Regular Session, 2005, to read as follows:

17 (a) Except as otherwise provided by this subchapter, an  
18 insurer, an insurer's employee, or a broker or agent may not  
19 knowingly:

20 (1) issue an insurance policy that is not in  
21 accordance with an applicable filing [~~that is filed and in effect~~  
22 ~~under Chapter 2251 or 2301 or Article 5.13-2~~]; or

23 (2) charge, demand, or receive a premium on an  
24 insurance policy that is not in accordance with an applicable  
25 filing [~~that is filed and in effect under Chapter 2251 or 2301 or~~  
26 ~~Article 5.13-2~~].

27 (b) Except as provided in an applicable filing [~~that is~~

1 ~~filed and in effect under Chapter 2251 or 2301 or Article 5.13-2]~~,  
2 an insurer, an insurer's employee, or a broker or agent may not  
3 directly or indirectly pay, allow, or give, or offer to pay, allow,  
4 or give, as an inducement to insurance, or after insurance has been  
5 written, a rebate, discount, abatement, credit or reduction of the  
6 premium stated in an insurance policy, or a special favor or  
7 advantage in the dividends or other benefits to accrue on the  
8 policy, or any valuable consideration or inducement, not specified  
9 in the policy.

10 (c) Section 2, Chapter 631, Acts of the 79th Legislature,  
11 Regular Session, 2005, which amended former Subsections (a) and  
12 (d), Article 5.20, Insurance Code, is repealed.

13 SECTION 3B.033. Section 1806.102, Insurance Code, is  
14 amended to conform to Section 1, Chapter 631, Acts of the 79th  
15 Legislature, Regular Session, 2005, to read as follows:

16 Sec. 1806.102. APPLICABILITY OF SUBCHAPTER. (a) This  
17 ~~[Except as provided by Subsections (b) and (c), this]~~ subchapter  
18 applies to an insurer, including a corporation, reciprocal or  
19 interinsurance exchange, mutual insurance company, association,  
20 Lloyd's plan, or other organization, writing casualty insurance or  
21 writing fidelity, surety, or guaranty bonds, on risks or operations  
22 in this state.

23 (b) This subchapter applies ~~[does not apply]~~ to:

24 (1) a farm mutual insurance company with respect to  
25 each line of insurance that a farm mutual insurance company is  
26 authorized to write under Section 911.151 ~~[or association regulated~~  
27 ~~under Chapter 911]; and ~~[or]~~~~

1           (2) a county mutual insurance company with respect to  
2 each line of insurance that a county mutual insurance company is  
3 authorized to write under Section 912.151 [~~regulated under Chapter~~  
4 ~~912~~].

5           (c) Except as otherwise provided by this subchapter, this  
6 [~~This~~] subchapter does not apply to the writing of:

- 7           (1) automobile insurance;
- 8           (2) life, health, or accident insurance;
- 9           (3) professional liability insurance;
- 10          (4) reinsurance;
- 11          (5) aircraft insurance;
- 12          (6) fraternal benefit insurance;
- 13          (7) fire insurance;
- 14          (8) workers' compensation insurance;
- 15          (9) marine insurance, including noncommercial inland  
16 marine insurance and ocean marine insurance;
- 17          (10) title insurance;
- 18          (11) explosion insurance, except insurance against  
19 loss from personal injury or property damage resulting accidentally  
20 from:

- 21                   (A) a steam boiler;
- 22                   (B) a heater or pressure vessel;
- 23                   (C) an electrical device;
- 24                   (D) an engine; or
- 25                   (E) all machinery and appliances used in  
26 connection with or in the operation of a boiler, heater, vessel,  
27 electrical device, or engine described by Paragraphs (A)-(D); or

1           (12) insurance coverage for any of the following  
2 conditions or risks:

3           (A) weather or climatic conditions, including  
4 lightning, tornado, windstorm, hail, cyclone, rain, or frost and  
5 freeze;

6           (B) earthquake or volcanic eruption;

7           (C) smoke or smudge;

8           (D) excess or deficiency of moisture;

9           (E) flood;

10          (F) the rising water of an ocean or an ocean's  
11 tributary;

12          (G) bombardment, invasion, insurrection, riot,  
13 civil war or commotion, military or usurped power, or any order of a  
14 civil authority made to prevent the spread of a conflagration,  
15 epidemic or catastrophe;

16          (H) vandalism or malicious mischief;

17          (I) strike or lockout;

18          (J) water or other fluid or substance resulting  
19 from:

20               (i) the breakage or leakage of a sprinkler,  
21 pump, or other apparatus erected for extinguishing fire, or a water  
22 pipe or other conduit or container; or

23               (ii) casual water entering a building  
24 through a leak or opening in the building or by seepage through  
25 building walls; or

26          (K) accidental damage to a sprinkler, pump, fire  
27 apparatus, pipe, or other conduit or container described by

1 Paragraph (J)(i).

2 SECTION 3B.034. (a) Section 1901.054(b), Insurance Code,  
3 is amended to conform to Section 1, Chapter 1135, Acts of the 79th  
4 Legislature, Regular Session, 2005, to read as follows:

5 (b) A rate is not excessive unless[+]

6 [~~(1)~~] the rate is unreasonably high for the insurance  
7 coverage provided[~~, and~~

8 [~~(2) a reasonable degree of competition does not exist~~  
9 ~~in the area with respect to the classification to which the rate~~  
10 ~~applies].~~

11 (b) Section 1901.057, Insurance Code, is amended to conform  
12 to Section 1, Chapter 1135, Acts of the 79th Legislature, Regular  
13 Session, 2005, to read as follows:

14 Sec. 1901.057. CONSIDERATIONS IN APPROVING RATES. In  
15 approving rates under this chapter, the department [~~commissioner~~]  
16 shall consider the impact of risk management courses taken by  
17 physicians and health care providers in this state.

18 (c) Section 1, Chapter 1135, Acts of the 79th Legislature,  
19 Regular Session, 2005, which amended former Section 3, Article  
20 5.15-1, Insurance Code, is repealed.

21 SECTION 3B.035. (a) Subchapter B, Chapter 1901, Insurance  
22 Code, is amended by adding Section 1901.0541 to conform to Section  
23 2, Chapter 1135, Acts of the 79th Legislature, Regular Session,  
24 2005, to read as follows:

25 Sec. 1901.0541. USE IN UNDERWRITING OF CERTAIN INFORMATION  
26 RELATED TO LAWSUITS; REFUND. (a) Notwithstanding any other  
27 provision of this code, an insurer may not consider for the purpose

1 of setting premiums or reducing a claims-free discount for a  
2 particular insured physician's professional liability insurance a  
3 lawsuit filed against the physician if:

4 (1) before trial, the lawsuit was dismissed by the  
5 claimant or nonsuited; and

6 (2) no payment was made to the claimant under a  
7 settlement agreement.

8 (b) An insurer that, in setting premiums or reducing a  
9 claims-free discount for a physician's professional liability  
10 insurance, considers a lawsuit filed against the physician shall  
11 refund to the physician any increase in premiums paid by the  
12 physician that is attributable to that lawsuit or reinstate the  
13 claims-free discount if the lawsuit is dismissed by the claimant or  
14 nonsuited without payment to the claimant under a settlement  
15 agreement. The insurer shall issue the refund or reinstate the  
16 discount on or before the 30th day after the date the insurer  
17 receives written evidence that the lawsuit was dismissed or  
18 nonsuited without payment to the claimant under a settlement  
19 agreement.

20 (c) This section does not prohibit an insurer from  
21 considering and using aggregate historical loss and expense  
22 experience applicable generally to a classification of physicians'  
23 professional liability insurance to set rates for that  
24 classification to the extent authorized by Chapter 2251 and Article  
25 5.13-2. Notwithstanding Section 2251.052(c), an insurer may not  
26 assign a physician to a particular classification based on a factor  
27 described by Subsection (a).

1 (b) Subchapter F, Chapter 1901, Insurance Code, is amended  
2 by adding Section 1901.254 to conform to Section 2, Chapter 1135,  
3 Acts of the 79th Legislature, Regular Session, 2005, to read as  
4 follows:

5 Sec. 1901.254. PROHIBITION OF USE OF CERTAIN INFORMATION  
6 FOR PHYSICIAN OR HEALTH CARE PROVIDER. (a) For the purpose of  
7 writing professional liability insurance for physicians and health  
8 care providers, an insurer may not consider whether, or the extent  
9 to which, a physician or health care provider provides services in  
10 this state to individuals who are recipients of Medicaid or covered  
11 by the state child health plan program established by Chapter 62,  
12 Health and Safety Code, including any consideration resulting in:

- 13 (1) denial of coverage;  
14 (2) refusal to renew coverage;  
15 (3) cancellation of coverage;  
16 (4) limitation of the amount, extent, or kind of  
17 coverage available; or  
18 (5) a determination of the rate or premium to be paid.

19 (b) The commissioner may adopt rules as necessary to  
20 implement this section.

21 (c) Section 2, Chapter 1135, Acts of the 79th Legislature,  
22 Regular Session, 2005, which added Sections 12 and 13 to former  
23 Article 5.15-1, Insurance Code, is repealed.

24 SECTION 3B.036. (a) Subchapter F, Chapter 1901, Insurance  
25 Code, is amended by adding Section 1901.255 to conform to Section 1,  
26 Chapter 184, Acts of the 79th Legislature, Regular Session, 2005,  
27 to read as follows:

1           Sec. 1901.255. COVERAGE FOR VOLUNTEER HEALTH CARE  
2 PROVIDERS. (a) In this section:

3                   (1) "Charitable organization" has the meaning  
4 assigned by Section 84.003, Civil Practice and Remedies Code.

5                   (2) "Volunteer health care provider" has the meaning  
6 assigned by Section 84.003, Civil Practice and Remedies Code.

7           (b) An insurer may make available professional liability  
8 insurance covering a volunteer health care provider for an act or  
9 omission resulting in death, damage, or injury to a patient while  
10 the person is acting in the course and scope of the person's duties  
11 as a volunteer health care provider as described by Chapter 84,  
12 Civil Practice and Remedies Code.

13           (c) This section does not affect the liability of a  
14 volunteer health care provider who is serving as a direct service  
15 volunteer of a charitable organization. Section 84.004(c), Civil  
16 Practice and Remedies Code, applies to the volunteer health care  
17 provider without regard to whether the volunteer health care  
18 provider obtains liability insurance under this section.

19           (d) An insurer may make professional liability insurance  
20 available under this section to a volunteer health care provider  
21 without regard to whether the volunteer health care provider is a  
22 "health care provider" as defined by Section 1901.001.

23           (b) Section 1, Chapter 184, Acts of the 79th Legislature,  
24 Regular Session, 2005, which added Section 12 to former Article  
25 5.15-1, Insurance Code, is repealed.

26           SECTION 3B.037. (a) Section 1952.101(c), Insurance Code,  
27 is amended to conform to Section 3, Chapter 1159, Acts of the 79th



1 Legislature, Regular Session, 2005, to read as follows:

2 (c) The coverage required by this subchapter does not apply  
3 if any insured named in the insurance policy rejects the coverage in  
4 writing. Unless the named insured requests in writing the coverage  
5 required by this subchapter, the insurer is not required to provide  
6 that coverage in or supplemental to a reinstated insurance policy  
7 or renewal insurance policy if the named insured rejected the  
8 coverage in connection with that insurance policy or an insurance  
9 policy previously issued to the insured by the same insurer or by an  
10 affiliated insurer.

11 (b) Section 3, Chapter 1159, Acts of the 79th Legislature,  
12 Regular Session, 2005, which amended former Section (1), Article  
13 5.06-1, Insurance Code, is repealed.

14 SECTION 3B.038. (a) Section 1952.152(b), Insurance Code,  
15 is amended to conform to Section 4, Chapter 1159, Acts of the 79th  
16 Legislature, Regular Session, 2005, to read as follows:

17 (b) The coverage required by this subchapter does not apply  
18 if any insured named in the insurance policy rejects the coverage in  
19 writing. Unless the named insured requests in writing the coverage  
20 required by this subchapter, the insurer is not required to provide  
21 that coverage in or supplemental to a reinstated insurance policy  
22 or renewal insurance policy if the named insured rejected the  
23 coverage in connection with that insurance policy or an insurance  
24 policy previously issued to the insured by the same insurer or by an  
25 affiliated insurer.

26 (b) Section 4, Chapter 1159, Acts of the 79th Legislature,  
27 Regular Session, 2005, which amended former Subsection (a), Article

1 5.06-3, Insurance Code, is repealed.

2 SECTION 3B.039. (a) Section 1952.155, Insurance Code, is  
3 amended by amending Subsection (b) and adding Subsection (c) to  
4 conform to Section 2, Chapter 1074, Acts of the 79th Legislature,  
5 Regular Session, 2005, to read as follows:

6 (b) Except as provided by Subsection (c), an [An] insurer  
7 paying benefits under coverage required by this subchapter does not  
8 have a right of subrogation or claim against any other person or  
9 insurer to recover any benefits by reason of the alleged fault of  
10 the other person in causing or contributing to the accident.

11 (c) An insurer paying benefits pursuant to this subchapter,  
12 including a county mutual insurance company, shall have a right of  
13 subrogation and a claim against a person causing or contributing to  
14 the accident if, on the date of loss, financial responsibility as  
15 required by Chapter 601, Transportation Code, has not been  
16 established for a motor vehicle involved in the accident and  
17 operated by that person.

18 (b) Section 2, Chapter 1074, Acts of the 79th Legislature,  
19 Regular Session, 2005, which amended former Article 5.06-3,  
20 Insurance Code, by amending Subsection (c) and adding Subsection  
21 (i), is repealed.

22 SECTION 3B.040. (a) Section 2006.052, Insurance Code, is  
23 amended to conform to Sections 4 and 6, Chapter 291, Acts of the  
24 79th Legislature, Regular Session, 2005, by amending Subsection (b)  
25 and adding Subsection (c) to read as follows:

26 (b) This section applies to an insurer that uses a tier  
27 classification or discount program that has a premium consequence

1 based in whole or in part on claims experience, regardless of  
2 whether any of the policies that continuously covered the  
3 policyholder was a different kind of residential property insurance  
4 policy from the policy eligible for the premium discount.

5 (c) A residential property insurance claim under this  
6 section does not include a claim:

7 (1) resulting from a loss caused by natural causes;

8 (2) that is filed but is not paid or payable under the  
9 policy; or

10 (3) that an insurer is prohibited from using under  
11 Section 544.353.

12 (b) Subchapter B, Chapter 2006, Insurance Code, is amended  
13 to conform to Section 4, Chapter 291, Acts of the 79th Legislature,  
14 Regular Session, 2005, by adding Section 2006.0521 to read as  
15 follows:

16 Sec. 2006.0521. COMPLIANCE WITH OTHER LAW REQUIRED. Any  
17 change in the amount of a premium discount provided under this  
18 subchapter must comply with the requirements of Section 551.107.

19 (c) Sections 4 and 6, Chapter 291, Acts of the 79th  
20 Legislature, Regular Session, 2005, which amended former Article  
21 5.43, Insurance Code, by amending Subsection (d) and adding  
22 Subsections (a-1) and (f), are repealed.

23 SECTION 3B.041. (a) Section 2051.151(a), Insurance Code,  
24 is amended to conform to Section 6.062, Chapter 265, Acts of the  
25 79th Legislature, Regular Session, 2005, to read as follows:

26 (a) Except as otherwise provided by Subsection (b), an  
27 insurance company that writes workers' compensation insurance in

1 this state shall notify a policyholder of a claim that is filed  
2 against the policyholder's policy and, after the initial notice,  
3 the company shall notify the policyholder of:

4 (1) any proposal to settle the claim; or

5 (2) on receipt of a written request from the  
6 policyholder, any administrative or judicial proceeding relating  
7 to the resolution of the claim[~~, including a benefit review  
8 conference conducted by the Texas Workers' Compensation  
9 Commission~~].

10 (b) Section 6.062, Chapter 265, Acts of the 79th  
11 Legislature, Regular Session, 2005, which amended former Section  
12 (a), Article 5.65A, Insurance Code, is repealed.

13 SECTION 3B.042. (a) Section 2053.001, Insurance Code, is  
14 amended to conform to Section 5.01, Chapter 265, Acts of the 79th  
15 Legislature, Regular Session, 2005, by amending Subdivision (2) and  
16 adding Subdivision (2-a) to read as follows:

17 (2) "Insurance company" means a person authorized to  
18 engage in the business of workers' compensation insurance in this  
19 state. The term includes:

20 (A) the Texas Mutual Insurance Company;

21 (B) a Lloyd's plan under Chapter 941; and

22 (C) a reciprocal and interinsurance exchange  
23 under Chapter 942.

24 (2-a) "Premium" means the amount charged for a  
25 workers' compensation insurance policy, including any  
26 endorsements, after the application of individual risk variations  
27 based on loss or expense considerations.

1 (b) Section 5.01, Chapter 265, Acts of the 79th Legislature,  
2 Regular Session, 2005, which amended former Section 1, Article  
3 5.55, Insurance Code, by amending Subdivision (2) and adding  
4 Subdivision (2-a), is repealed.

5 SECTION 3B.043. (a) Sections 2053.002(a) and (b),  
6 Insurance Code, are amended to conform to Section 5.02, Chapter  
7 265, Acts of the 79th Legislature, Regular Session, 2005, to read as  
8 follows:

- 9 (a) In setting rates, an insurance company shall consider:
- 10 (1) past and prospective loss cost experience;
  - 11 (2) operation expenses;
  - 12 (3) investment income;
  - 13 (4) a reasonable margin for profit and contingencies;
  - 14 [~~and~~
  - 15 (5) the effect on premiums of individual risk  
16 variations based on loss or expense considerations; and
  - 17 (6) any other relevant factor.

18 (b) A rate or premium established under this subchapter may  
19 not be excessive, inadequate, or unfairly discriminatory.

20 (b) Section 5.02, Chapter 265, Acts of the 79th Legislature,  
21 Regular Session, 2005, which amended former Subsections (b) and  
22 (d), Section 2, Article 5.55, Insurance Code, is repealed.

23 SECTION 3B.044. Section 2053.007(c), Insurance Code, is  
24 repealed to conform to Section 5.04, Chapter 265, Acts of the 79th  
25 Legislature, Regular Session, 2005.

26 SECTION 3B.045. (a) Section 2053.010, Insurance Code, is  
27 amended to conform to Section 5.05, Chapter 265, Acts of the 79th

1 Legislature, Regular Session, 2005, to read as follows:

2           Sec. 2053.010. PENALTIES [~~ADMINISTRATIVE PENALTY~~]. If a  
3 workers' compensation insurance policy is issued and the  
4 commissioner subsequently disapproves the rate or filing on which  
5 the premium is based, the commissioner, after notice and the  
6 opportunity for a hearing, may:

- 7                   (1) impose sanctions under Chapter 82;  
8                   (2) issue a cease and desist order under Chapter 83;  
9                   (3) impose administrative penalties under Chapter 84;

10 or

11                   (4) take any combination of these actions. [~~(a) The~~  
12 ~~commissioner may assess an administrative penalty against an~~  
13 ~~insurance company if the commissioner determines, based on a~~  
14 ~~pattern of charges for premiums, that the company is consistently~~  
15 ~~overcharging or undercharging the company's policyholders for~~  
16 ~~workers' compensation insurance.~~

17                   ~~[(b) An administrative penalty under this section must be:~~

18                           ~~[(1) assessed in accordance with Section 415.021,~~  
19 ~~Labor Code, and~~

20                           ~~[(2) set by the commissioner in an amount reasonable~~  
21 ~~and necessary to deter overcharging or undercharging of~~  
22 ~~policyholders.]~~

23           (b) Section 5.05, Chapter 265, Acts of the 79th Legislature,  
24 Regular Session, 2005, which amended former Section 7, Article  
25 5.55, Insurance Code, is repealed.

26           SECTION 3B.046. (a) Subchapter A, Chapter 2053, Insurance  
27 Code, is amended to conform to Section 5.055, Chapter 265, Acts of

1 the 79th Legislature, Regular Session, 2005, by adding Section  
2 2053.011 to read as follows:

3 Sec. 2053.011. EXCLUSIVE JURISDICTION. The department has  
4 exclusive jurisdiction over all rates and premiums subject to this  
5 subchapter.

6 (b) Section 5.055, Chapter 265, Acts of the 79th  
7 Legislature, Regular Session, 2005, which added Section 8 to former  
8 Article 5.55, Insurance Code, is repealed.

9 SECTION 3B.047. (a) Subchapter A, Chapter 2053, Insurance  
10 Code, is amended to conform to Section 5.03, Chapter 265, Acts of  
11 the 79th Legislature, Regular Session, 2005, by adding Sections  
12 2053.012 and 2053.013 to read as follows:

13 Sec. 2053.012. REPORT ON LEGISLATIVE REFORMS REQUIRED. (a)  
14 Not later than December 1 of each even-numbered year, the  
15 commissioner shall report to the governor, lieutenant governor, and  
16 speaker of the house of representatives regarding the impact that  
17 legislation enacted during the regular session of the 79th  
18 Legislature reforming the workers' compensation system of this  
19 state has had on the affordability and availability of workers'  
20 compensation insurance for the employers of this state. The report  
21 must include an analysis of:

22 (1) the projected workers' compensation premium  
23 savings realized by employers as a result of the reforms;

24 (2) the impact of the reforms on:

25 (A) the percentage of employers who provide  
26 workers' compensation insurance coverage for their employees; and

27 (B) to the extent possible, economic development

1 and job creation;

2 (3) the effects of the reforms on market competition  
3 and carrier financial solvency, including an analysis of how  
4 carrier loss ratios, combined ratios, and use of individual risk  
5 variations have changed since implementation of the reforms; and

6 (4) the extent of participation in workers'  
7 compensation health care networks by small and medium-sized  
8 employers.

9 (b) If the commissioner determines that workers'  
10 compensation rate filings or premium levels analyzed by the  
11 department do not appropriately reflect the savings associated with  
12 the reforms described by Subsection (a), the commissioner shall  
13 include in the report required under Subsection (a) any  
14 recommendations, including any recommended legislative changes,  
15 necessary to identify the tools needed by the department to more  
16 effectively regulate workers' compensation rates.

17 (c) At the request of the department, each insurance company  
18 shall submit to the department all data and other information  
19 considered necessary by the commissioner to generate the report  
20 required under Subsection (a). Failure by an insurance company to  
21 submit the data and information in a timely fashion, as determined  
22 by commissioner rule, constitutes grounds for sanctions under  
23 Chapter 82.

24 Sec. 2053.013. REVIEW OF RATES; CONSIDERATION OF OTHER LAW.  
25 In reviewing rates under this subchapter, the commissioner shall  
26 consider any state or federal legislation that has been enacted and  
27 that may impact rates and premiums for workers' compensation



1 insurance coverage in this state.

2 (b) Section 5.03, Chapter 265, Acts of the 79th Legislature,  
3 Regular Session, 2005, which added Subsections (e) through (h) to  
4 former Section 3, Article 5.55, Insurance Code, is repealed.

5 SECTION 3B.048. (a) Chapter 2053, Insurance Code, is  
6 amended to conform to Section 5.06, Chapter 265, Acts of the 79th  
7 Legislature, Regular Session, 2005, by adding Subchapter A-1 to  
8 read as follows:

9 SUBCHAPTER A-1. UNDERWRITING GUIDELINES

10 Sec. 2053.031. DEFINITIONS. In this subchapter:

11 (1) "Insurance company" has the meaning assigned by  
12 Section 2053.001.

13 (2) "Underwriting guideline" means a rule, standard,  
14 guideline, or practice, whether written, oral, or electronic, that  
15 is used by an insurance company or its agent to decide whether to  
16 accept or reject an application for coverage under a workers'  
17 compensation insurance policy or to determine how to classify those  
18 risks that are accepted for the purpose of determining a rate.

19 Sec. 2053.032. UNDERWRITING GUIDELINES. Each underwriting  
20 guideline used by an insurance company in writing workers'  
21 compensation insurance must be sound, actuarially justified, or  
22 otherwise substantially commensurate with the contemplated risk.  
23 An underwriting guideline may not be unfairly discriminatory.

24 Sec. 2053.033. ENFORCEMENT. This subchapter may be  
25 enforced in the manner provided by Section 38.003(g).

26 Sec. 2053.034. FILING REQUIREMENTS. Each insurance company  
27 shall file with the department a copy of the insurance company's

1 underwriting guidelines. The insurance company shall update its  
2 filing each time the underwriting guidelines are changed. If a  
3 group of insurance companies files one set of underwriting  
4 guidelines for the group, the group shall identify which  
5 underwriting guidelines apply to each insurance company in the  
6 group.

7 Sec. 2053.035. APPLICABILITY OF SECTION 38.003. Section  
8 38.003 applies to this subchapter to the extent consistent with  
9 this subchapter.

10 (b) Section 5.06, Chapter 265, Acts of the 79th Legislature,  
11 Regular Session, 2005, which added Article 5.55A to former  
12 Subchapter D, Chapter 5, Insurance Code, is repealed.

13 SECTION 3B.049. (a) Subchapter B, Chapter 2053, Insurance  
14 Code, is amended to conform to Section 5.08, Chapter 265, Acts of  
15 the 79th Legislature, Regular Session, 2005, by adding Section  
16 2053.056 to read as follows:

17 Sec. 2053.056. RATE HEARINGS. (a) The commissioner shall  
18 conduct a public hearing each biennium, beginning not later than  
19 December 1, 2008, to review rates to be charged for workers'  
20 compensation insurance written in this state. A public hearing  
21 under this section is not a contested case as defined by Section  
22 2001.003, Government Code.

23 (b) Not later than the 30th day before the date of the public  
24 hearing required under Subsection (a), each insurance company  
25 subject to this subtitle and Article 5.66 shall file the insurance  
26 company's rates, supporting information, and supplementary rating  
27 information with the commissioner.

1       (c) The commissioner shall review the information submitted  
2 under Subsection (b) to determine the positive or negative impact  
3 of the enactment of workers' compensation reform legislation  
4 enacted by the 79th Legislature, Regular Session, 2005, on workers'  
5 compensation rates and premiums. The commissioner may consider  
6 other factors, including relativities under Section 2053.051, in  
7 determining whether a change in rates has impacted the premium  
8 charged to policyholders.

9       (d) The commissioner shall implement rules as necessary to  
10 mandate rate reductions or to modify the use of individual risk  
11 variations if the commissioner determines that the rates or  
12 premiums charged by insurance companies do not meet the rating  
13 standards as defined in this code.

14       (e) The commissioner shall adopt rules as necessary to  
15 mandate rate or premium reductions by insurance companies for the  
16 use of cost-containment strategies that result in savings to the  
17 workers' compensation system, including use of a workers'  
18 compensation health care network health care delivery system, as  
19 described by Chapter 1305.

20       (b) Section 5.08, Chapter 265, Acts of the 79th Legislature,  
21 Regular Session, 2005, which amended former Article 5.60A,  
22 Insurance Code, is repealed.

23       SECTION 3B.050. (a) Section 2053.151(b), Insurance Code,  
24 is amended to conform to Section 5.07, Chapter 265, Acts of the 79th  
25 Legislature, Regular Session, 2005, to read as follows:

26       (b) For purposes of Subsection (a), the commissioner shall  
27 establish standards and procedures for categorizing insurance and

1 medical benefits required to be reported on each workers'  
2 compensation claim. In establishing the standards, the  
3 commissioner shall consult with the commissioner of workers'  
4 compensation [~~Texas Workers' Compensation Commission~~] to ensure  
5 that the data collection methodology will yield data necessary for  
6 research and medical cost containment efforts.

7 (b) Section 5.07, Chapter 265, Acts of the 79th Legislature,  
8 Regular Session, 2005, which amended former Subsection (b), Article  
9 5.58, Insurance Code, is repealed.

10 SECTION 3B.051. (a) Section 2054.008(d), Insurance Code,  
11 is amended to conform to Section 6.065, Chapter 265, Acts of the  
12 79th Legislature, Regular Session, 2005, to read as follows:

13 (d) Except as provided by Subsection (e), a company  
14 investigation file:

15 (1) is confidential and not subject to required  
16 disclosure under Chapter 552, Government Code; and

17 (2) may be disclosed only:

18 (A) in a criminal proceeding;

19 (B) in a hearing conducted by the division of  
20 workers' compensation of the department [~~commission~~];

21 (C) on a judicial determination of good cause; or

22 (D) to a governmental agency, political  
23 subdivision, or regulatory body if the disclosure is necessary or  
24 proper for the enforcement of a law of this state, another state, or  
25 the United States.

26 (b) Section 6.065, Chapter 265, Acts of the 79th  
27 Legislature, Regular Session, 2005, which amended former

1 Subsection (a), Section 10, Article 5.76-3, Insurance Code, is  
2 repealed.

3 SECTION 3B.052. (a) Section 2054.204(a), Insurance Code,  
4 is amended to conform to Section 6.066, Chapter 265, Acts of the  
5 79th Legislature, Regular Session, 2005, to read as follows:

6 (a) The company shall file annual statements with the  
7 department [~~and commission~~] in the same manner as is required of  
8 other workers' compensation insurance companies.

9 (b) Section 6.066, Chapter 265, Acts of the 79th  
10 Legislature, Regular Session, 2005, which amended former  
11 Subsection (e), Section 12, Article 5.76-3, Insurance Code, is  
12 repealed.

13 SECTION 3B.053. (a) Section 2054.206, Insurance Code, is  
14 amended to conform to Section 6.067, Chapter 265, Acts of the 79th  
15 Legislature, Regular Session, 2005, to read as follows:

16 Sec. 2054.206. ADDITIONAL REPORTS. The company shall file  
17 with the department [~~and the commission~~] all reports required of  
18 other workers' compensation insurance companies.

19 (b) Section 6.067, Chapter 265, Acts of the 79th  
20 Legislature, Regular Session, 2005, which amended former  
21 Subsection (b), Section 16, Article 5.76-3, Insurance Code, is  
22 repealed.

23 SECTION 3B.0531. Section 2054.253(b), Insurance Code, is  
24 amended to conform more closely to the source law from which the  
25 section was derived to read as follows:

26 (b) The systems may provide for a higher or lower premium  
27 payment by an insured based on[+]

1           ~~[(1)]~~ the company's evaluation of the underwriting  
2 characteristics of the individual risk~~[+]~~ and

3           ~~[(2)]~~ the appropriate premium to be charged for the  
4 policy coverages.

5           SECTION 3B.054. (a) Section 2054.451(b), Insurance Code,  
6 is amended to conform to Section 6.064, Chapter 265, Acts of the  
7 79th Legislature, Regular Session, 2005, to read as follows:

8           (b) The company shall cooperate with the division of  
9 workers' compensation of the department ~~[commission]~~ to compile and  
10 maintain information necessary to detect practices or patterns of  
11 conduct that violate this code relating to workers' compensation  
12 insurance or that violate Subtitle A, Title 5, Labor Code.

13           (b) Section 2054.452, Insurance Code, is amended to conform  
14 to Section 6.064, Chapter 265, Acts of the 79th Legislature,  
15 Regular Session, 2005, to read as follows:

16           Sec. 2054.452. INVESTIGATIONS;           COORDINATION           ~~[WITH~~  
17 ~~COMMISSION]~~. (a) The company may investigate cases of suspected  
18 fraud and violations of this code relating to workers' compensation  
19 insurance.

20           (b) The company may:

21           (1) coordinate the company's investigations with those  
22 conducted by the division of workers' compensation of the  
23 department ~~[commission]~~ to avoid duplication of efforts; and

24           (2) refer to the division of workers' compensation of  
25 the department ~~[commission]~~ a case that is not otherwise resolved  
26 by the company so that the division ~~[commission]~~ may:

27           (A) perform any further investigation necessary

1 under the circumstances;

2 (B) conduct administrative violation  
3 proceedings; and

4 (C) assess and collect penalties and  
5 restitution.

6 (c) Section 2054.454, Insurance Code, is amended to conform  
7 to Section 6.064, Chapter 265, Acts of the 79th Legislature,  
8 Regular Session, 2005, to read as follows:

9 Sec. 2054.454. DEPOSIT AND USE OF PENALTIES COLLECTED BY  
10 DIVISION [~~COMMISSION~~]. A penalty collected under Section  
11 2054.452(b):

12 (1) must be deposited in the Texas Department of  
13 Insurance operating account [~~general revenue fund to the credit of~~  
14 ~~the commission~~]; and

15 (2) may be appropriated only to the division of  
16 workers' compensation of the department [~~commission~~] to offset the  
17 costs of the program under Section 2054.451.

18 (d) Section 6.064, Chapter 265, Acts of the 79th  
19 Legislature, Regular Session, 2005, which amended former  
20 Subsections (a), (b), and (e), Section 9, Article 5.76-3, Insurance  
21 Code, is repealed.

22 SECTION 3B.055. (a) Section 2054.501, Insurance Code, is  
23 amended to conform to Section 6.063, Chapter 265, Acts of the 79th  
24 Legislature, Regular Session, 2005, to read as follows:

25 Sec. 2054.501. DEFINITION. In this subchapter, "division"  
26 means the [~~commission's~~] division of workers' compensation of the  
27 department [~~health and safety~~].

1 (b) Section 2054.502, Insurance Code, is amended to conform  
2 to Section 6.063, Chapter 265, Acts of the 79th Legislature,  
3 Regular Session, 2005, to read as follows:

4 Sec. 2054.502. REQUIREMENTS FOR PREVENTION OF INJURIES.  
5 The company may make and enforce requirements for the prevention of  
6 injuries to an employee of a policyholder or applicant for  
7 insurance under this chapter. On reasonable notice, a policyholder  
8 or applicant shall grant representatives of the company[~~the~~  
9 ~~commission,~~] or the department free access to the premises of the  
10 policyholder or applicant during regular working hours for purposes  
11 of this section.

12 (c) Section 2054.506, Insurance Code, is amended to conform  
13 to Section 6.063, Chapter 265, Acts of the 79th Legislature,  
14 Regular Session, 2005, to read as follows:

15 Sec. 2054.506. SAFETY CONSULTANT REPORT. A safety  
16 consultant acting under this subchapter shall file a written report  
17 with the division [~~commission~~] and the policyholder specifying any  
18 hazardous condition or practice identified in the safety  
19 consultation.

20 (d) Section 2054.509, Insurance Code, is amended to conform  
21 to Section 6.063, Chapter 265, Acts of the 79th Legislature,  
22 Regular Session, 2005, to read as follows:

23 Sec. 2054.509. FOLLOW-UP INSPECTION. (a) Not earlier than  
24 the 90th day after or later than the sixth month after the date an  
25 accident prevention plan is developed under Section 2054.507, the  
26 division shall conduct a follow-up inspection of the policyholder's  
27 premises in accordance with rules adopted by the commissioner of



1 workers' compensation [~~commission~~].

2 (b) The division [~~commission~~] may require the participation  
3 of the safety consultant who performed the initial consultation and  
4 developed the accident prevention plan.

5 (c) If the commissioner of workers' compensation [~~division~~]  
6 determines that a policyholder has complied with the terms of the  
7 accident prevention plan or has implemented other accepted  
8 corrective measures, the commissioner of workers' compensation  
9 [~~division~~] shall certify that determination.

10 (d) If the commissioner of workers' compensation [~~division~~]  
11 determines that a policyholder has failed or refuses to implement  
12 the accident prevention plan or other suitable hazard abatement  
13 measures, the policyholder may elect to cancel coverage not later  
14 than the 30th day after the date of the determination.

15 (e) Sections 2054.510(a), (c), and (d), Insurance Code, are  
16 amended to conform to Section 6.063, Chapter 265, Acts of the 79th  
17 Legislature, Regular Session, 2005, to read as follows:

18 (a) If a policyholder described by Section 2054.509(d) does  
19 not elect to cancel coverage as provided by that section:

20 (1) the company may cancel the coverage; or

21 (2) the commissioner of workers' compensation  
22 [~~commission~~] may impose an administrative penalty on the  
23 policyholder.

24 (c) In imposing an administrative penalty, the commissioner  
25 of workers' compensation [~~commission~~] may consider any matter that  
26 justice may require and shall consider:

27 (1) the seriousness of the violation, including the

1 nature, circumstances, consequences, extent, and gravity of the  
2 prohibited act;

3 (2) the history and extent of previous administrative  
4 violations;

5 (3) the demonstrated good faith of the violator,  
6 including actions taken to rectify the consequences of the  
7 prohibited act;

8 (4) any economic benefit resulting from the prohibited  
9 act; and

10 (5) the penalty necessary to deter future violations.

11 (d) A penalty collected under this section [~~must be~~]:

12 (1) must be deposited in the general revenue fund [~~to~~  
13 ~~the credit of the commission~~]; and [~~or~~]

14 (2) may be appropriated [~~reappropriated~~] to the  
15 division [~~commission~~] to offset the costs of implementing and  
16 administering this subchapter.

17 (f) Section 2054.512, Insurance Code, is amended to conform  
18 to Section 6.063, Chapter 265, Acts of the 79th Legislature,  
19 Regular Session, 2005, to read as follows:

20 Sec. 2054.512. FEES FOR SERVICES. The division  
21 [~~commission~~] shall:

22 (1) charge a policyholder for the reasonable cost of  
23 services provided to the policyholder under Sections 2054.505,  
24 2054.506, 2054.507, 2054.509, and 2054.510(a); and

25 (2) set the fees for the services at a  
26 cost-reimbursement level, including a reasonable allocation of the  
27 division's [~~commission's~~] administrative costs.

1 (g) Section 2054.513, Insurance Code, is amended to conform  
2 to Section 6.063, Chapter 265, Acts of the 79th Legislature,  
3 Regular Session, 2005, to read as follows:

4 Sec. 2054.513. ENFORCEMENT OF SUBCHAPTER. The [~~compliance~~  
5 ~~and practices~~] division [~~of the commission~~] shall enforce  
6 compliance with this subchapter through the administrative  
7 violation proceedings under Chapter 415, Labor Code.

8 (h) Section 6.063, Chapter 265, Acts of the 79th  
9 Legislature, Regular Session, 2005, which amended former  
10 Subsections (a), (e), (g), (h), (i), (k), and (l), Section 8,  
11 Article 5.76-3, Insurance Code, is repealed.

12 SECTION 3B.056. Section 2054.001(2), Insurance Code, is  
13 repealed to conform to Section 7.01, Chapter 265, Acts of the 79th  
14 Legislature, Regular Session, 2005.

15 SECTION 3B.057. Section 6.068, Chapter 265, Acts of the  
16 79th Legislature, Regular Session, 2005, which amended former  
17 Subsections (a) and (c), Section 10, Article 5.76-5, Insurance  
18 Code, is repealed.

19 SECTION 3B.058. Section 2151.154, Insurance Code, is  
20 amended to conform more closely to the source law from which the  
21 section was derived to read as follows:

22 Sec. 2151.154. ASSIGNMENT DISTRIBUTION PLAN. (a) The  
23 plan of operation must include a voluntary, competitive limited  
24 assignment distribution plan that allows an authorized insurer to  
25 contract directly with a servicing carrier [~~insurer~~] to accept  
26 assignments to the servicing carrier [~~insurer~~] by the association.

27 (b) A servicing carrier [~~insurer~~] must be authorized to

1 write automobile insurance in this state and must:

2 (1) have written automobile liability insurance in  
3 this state for at least five years; or

4 (2) be currently engaged as a servicing carrier  
5 [~~insurer~~] for assigned risk automobile business in at least one  
6 other state.

7 (c) After notice and hearing, the commissioner may prohibit  
8 an insurer from acting as a servicing carrier [~~insurer~~].

9 (d) An authorized insurer and a servicing carrier [~~insurer~~]  
10 shall determine through negotiation the terms of a contract  
11 described by this section, including the buy-out fee.

12 (e) The governing committee may:

13 (1) adopt reasonable rules for the conduct of business  
14 under a contract described by this section; and

15 (2) establish reasonable standards of eligibility for  
16 servicing carriers [~~insurers~~].

17 SECTION 3B.059. (a) Section 2154.005(a), Insurance Code,  
18 is amended to conform to Section 1, Chapter 217, Acts of the 79th  
19 Legislature, Regular Session, 2005, to read as follows:

20 (a) The fund is an account in a depository selected by the  
21 board of regents of The Texas A&M University System in the manner  
22 provided by Section 51.003, Education Code, for funds subject to  
23 the control of institutions of higher education under Section  
24 51.002, Education Code [~~the general revenue fund~~].

25 (b) Section 1, Chapter 217, Acts of the 79th Legislature,  
26 Regular Session, 2005, which amended former Subsections (a) and  
27 (c), Section 5, Article 21.61, Insurance Code, is repealed.

1 SECTION 3B.0591. (a) The following changes are made to  
2 Subtitle A, Title 5, Labor Code, and Subtitle E, Title 10, Insurance  
3 Code, for organizational purposes:

4 (1) Chapter 406A, Labor Code, is redesignated as  
5 Chapter 2055, Subtitle E, Title 10, Insurance Code; and

6 (2) Sections 406A.001, 406A.002, 406A.003, 406A.004,  
7 406A.005, 406A.006, 406A.007, and 406A.008 in the redesignated  
8 chapter are redesignated as Sections 2055.001, 2055.002, 2055.003,  
9 2055.004, 2055.005, 2055.006, 2055.007, and 2055.008, Insurance  
10 Code, respectively.

11 (b) Section 406A.001, Labor Code, redesignated as Section  
12 2055.001, Insurance Code, by Subsection (a)(2) of this section, is  
13 amended to conform to that redesignation to read as follows:

14 Sec. 2055.001 [~~406A.001~~]. DEFINITION [~~DEFINITIONS~~]. In  
15 this chapter, "business"

16 [~~(1) "Business~~] entity" means a business enterprise  
17 owned by a single person or a corporation, organization, business  
18 trust, trust, partnership, joint venture, association, or other  
19 business entity.

20 [~~(2) "Commissioner" means the commissioner of~~  
21 ~~insurance.~~

22 [~~(3) "Department" means the Texas Department of~~  
23 ~~Insurance.~~]

24 (c) Section 406A.008, Labor Code, redesignated as Section  
25 2055.008, Insurance Code, by Subsection (a)(2) of this section, is  
26 amended to conform to that redesignation to read as follows:

27 Sec. 2055.008 [~~406A.008~~]. APPLICABILITY OF OTHER LAW. (a)

1 A group established under this chapter is entitled to any deviation  
2 applicable under Section 2052.004, 2053.051, or 2053.052(a) or  
3 (b) [~~Insurance Code~~].

4 (b) A member of a group is not subject to the discounts and  
5 surcharges established under Subchapter F, Chapter 2053[~~7~~  
6 ~~Insurance Code~~].

7 (d) Section 36.002, Insurance Code, is amended to conform to  
8 the redesignation of Chapter 406A, Labor Code, as Chapter 2055,  
9 Insurance Code, by Subsection (a)(1) of this section to read as  
10 follows:

11 Sec. 36.002. ADDITIONAL RULEMAKING AUTHORITY. The  
12 commissioner may adopt reasonable rules that are:

13 (1) necessary to effect the purposes of a provision  
14 of:

15 (A) Subchapter B, Chapter 5;

16 (B) Subchapter C, Chapter 1806;

17 (C) Subchapter A, Chapter 2301;

18 (D) Chapter 251, as that chapter relates to  
19 casualty insurance and fidelity, guaranty, and surety bond  
20 insurance;

21 (E) Chapter 253;

22 (F) Chapter 2251 or 2252; or

23 (G) Subtitle B, Title 10; or

24 (2) appropriate to accomplish the purposes of a  
25 provision of:

26 (A) Section 37.051(a), 403.002, 492.051(b) or  
27 (c), 501.159, 941.003(b)(3) or (c), or 942.003(b)(3) or (c);

1 (B) Subchapter H, Chapter 544;

2 (C) Chapter 251, as that chapter relates to:

3 (i) automobile insurance;

4 (ii) casualty insurance and fidelity,  
5 guaranty, and surety bond insurance;

6 (iii) fire insurance and allied lines;

7 (iv) workers' compensation insurance; or

8 (v) aircraft insurance;

9 (D) Chapter 5, 252, 253, 254, 255, 256, 426, 493,  
10 494, 1804, 1805, 1806, or 2171;

11 (E) Subtitle B, C, D, E, F, H, or I, Title 10;

12 (F) Section 417.008, Government Code; or

13 (G) [~~Chapter 406A, Labor Code; or~~

14 [~~H~~] Chapter 2154, Occupations Code.

15 (e) Section 1805.001, Insurance Code, is amended to conform  
16 to the redesignation of Chapter 406A, Labor Code, as Chapter 2055,  
17 Insurance Code, by Subsection (a)(1) of this section to read as  
18 follows:

19 Sec. 1805.001. APPLICABILITY OF CHAPTER. This chapter  
20 applies to the kinds of insurance and insurers subject to:

21 (1) Section 403.002;

22 (2) Section 941.003 with respect to the application of  
23 a law described by Section 941.003(b)(3) or (c);

24 (3) Section 942.003 with respect to the application of  
25 a law described by Section 942.003(b)(3) or (c);

26 (4) Subchapter A, B, C, or D, Chapter 5;

27 (5) Subchapter H, Chapter 544;

1 (6) Subchapter A, Chapter 2301;

2 (7) Chapter 252, 253, 254, 255, 426, 1806, 1807, 2001,  
3 2002, 2003, 2004, 2005, 2006, 2051, 2052, 2053, 2055, 2171, 2251, or  
4 2252;

5 (8) Subtitle B or C, Title 10; or

6 (9) [~~Chapter 406A, Labor Code, or~~

7 [~~(10)~~] Chapter 2154, Occupations Code.

8 (f) Section 2051.002, Insurance Code, is amended to conform  
9 to the redesignation of Chapter 406A, Labor Code, as Chapter 2055,  
10 Insurance Code, by Subsection (a)(1) of this section to read as  
11 follows:

12 Sec. 2051.002. CONSTRUCTION OF CERTAIN LAWS. The following  
13 shall be construed and applied independently of any other law that  
14 relates to insurance rates and forms or prescribes the duties of the  
15 commissioner or the department:

16 (1) this chapter;

17 (2) Subchapter D, Chapter 5;

18 (3) Chapter 251, as that chapter relates to workers'  
19 compensation insurance; and

20 (4) Chapters 255, 426, 2052, [~~and~~] 2053, and 2055[~~+~~  
21 ~~and~~

22 [~~(5) Chapter 406A, Labor Code~~].

23 SECTION 3B.060. (a) Subchapter C, Chapter 2203, Insurance  
24 Code, is amended to conform to Section 1, Chapter 246, Acts of the  
25 79th Legislature, Regular Session, 2005, and Section 2, Chapter  
26 1136, Acts of the 79th Legislature, Regular Session, 2005, by  
27 adding Section 2203.1021 to read as follows:



1       Sec. 2203.1021. VOLUNTEER HEALTH CARE PROVIDERS. (a) In  
2 this section:

3           (1) "Charitable organization" has the meaning  
4 assigned by Section 84.003, Civil Practice and Remedies Code.

5           (2) "Volunteer health care provider" has the meaning  
6 assigned by Section 84.003, Civil Practice and Remedies Code.

7       (b) The association shall make available medical liability  
8 insurance or appropriate health care liability insurance covering a  
9 volunteer health care provider for the legal liability of the  
10 person against any loss, damage, or expense incident to a claim  
11 arising out of the death or injury of any person as the result of  
12 negligence in rendering or the failure to render professional  
13 service while acting in the course and scope of the person's duties  
14 as a volunteer health care provider as described by Chapter 84,  
15 Civil Practice and Remedies Code.

16       (c) A volunteer health care provider who is serving as a  
17 direct service volunteer of a charitable organization is eligible  
18 to obtain from the association the liability insurance made  
19 available under this section. A volunteer health care provider who  
20 obtains coverage under this section is subject to Section 2203.302  
21 and the other provisions of this chapter in the same manner as  
22 physicians who are eligible to obtain medical liability insurance  
23 from the association.

24       (d) This section does not affect the liability of a  
25 volunteer health care provider who is serving as a direct service  
26 volunteer of a charitable organization. Section 84.004(c), Civil  
27 Practice and Remedies Code, applies to the volunteer health care

1 provider without regard to whether the volunteer health care  
2 provider obtains liability insurance under this section.

3 (b) Section 1, Chapter 246, Acts of the 79th Legislature,  
4 Regular Session, 2005, and Section 2, Chapter 1136, Acts of the 79th  
5 Legislature, Regular Session, 2005, which added Section 3C to  
6 former Article 21.49-3, Insurance Code, are repealed.

7 SECTION 3B.061. (a) Sections 2210.004(a) and (g),  
8 Insurance Code, are amended to conform to Section 1, Chapter 1153,  
9 Acts of the 79th Legislature, Regular Session, 2005, to read as  
10 follows:

11 (a) For purposes of this chapter and subject to this  
12 section, "insurable property" means immovable property at a fixed  
13 location in a catastrophe area or corporeal movable property  
14 located in that immovable property, as designated in the plan of  
15 operation, that is determined by the association according to the  
16 criteria specified in the plan of operation to be in an insurable  
17 condition against windstorm and hail or fire and explosion, as  
18 appropriate, as determined by normal underwriting standards. The  
19 term includes property described by Section 2210.209.

20 (g) For purposes of this chapter, a residential structure is  
21 insurable property if:

22 (1) the residential structure is not:

23 (A) a condominium, apartment, duplex, or other  
24 multifamily residence; or

25 (B) a hotel or resort facility;

26 (2) the residential structure is located within an  
27 area designated as a unit under the Coastal Barrier Resources Act

1 (Pub. L. No. 97-348); and

2 (3) a building permit or plat for the residential  
3 structure was filed with the municipality, the county, or the  
4 United States Army Corps of Engineers before June 11, 2003 [~~January~~  
5 ~~1, 2004~~].

6 (b) Section 1, Chapter 1153, Acts of the 79th Legislature,  
7 Regular Session, 2005, which amended former Subsection (f), Section  
8 3, Article 21.49, Insurance Code, is repealed.

9 SECTION 3B.062. (a) Subchapter E, Chapter 2210, Insurance  
10 Code, is amended to conform to Section 2, Chapter 1153, Acts of the  
11 79th Legislature, Regular Session, 2005, by adding Section 2210.209  
12 to read as follows:

13 Sec. 2210.209. WINDSTORM AND HAIL INSURANCE: COVERAGE FOR  
14 CERTAIN PROPERTY LOCATED OVER WATER. (a) A windstorm and hail  
15 insurance policy issued by the association may include coverage  
16 for:

17 (1) a building or other structure located in the  
18 seacoast territory that is built wholly or partially over water;  
19 and

20 (2) the corporeal movable property contained in a  
21 building or structure described by Subdivision (1).

22 (b) The association may impose appropriate limits of  
23 coverage and deductibles for coverage described by Subsection (a).

24 (c) The board of directors of the association shall submit  
25 any proposed changes to the plan of operation necessary to  
26 implement Subsections (a) and (b) to the commissioner in the manner  
27 provided by Section 2210.153.

1       (d) The commissioner shall adopt rules as necessary to  
2 implement this section, including any rules necessary to implement  
3 changes in the plan of operation proposed under Subsection (c).

4       (b) Section 2, Chapter 1153, Acts of the 79th Legislature,  
5 Regular Session, 2005, which added Section 3A to former Article  
6 21.49, Insurance Code, is repealed.

7       SECTION 3B.063. (a) Section 2210.006(b), Insurance Code,  
8 is amended to conform to Section 1, Chapter 1251, Acts of the 79th  
9 Legislature, Regular Session, 2005, to read as follows:

10       (b) This chapter does not apply to:

11               (1) a farm mutual insurance company operating under  
12 Chapter 911;

13               (2) a nonaffiliated county mutual fire insurance  
14 company described by Section 912.310 that is writing exclusively  
15 industrial fire insurance policies as described by Section  
16 912.310(a)(2); or

17               (3) a mutual insurance company or a statewide mutual  
18 assessment company engaged in business under Chapter 12 or 13,  
19 Title 78, Revised Statutes, respectively, before those chapters'  
20 repeal by Section 18, Chapter 40, Acts of the 41st Legislature, 1st  
21 Called Session, 1929, as amended by Section 1, Chapter 60, General  
22 Laws, Acts of the 41st Legislature, 2nd Called Session, 1929, that  
23 retains the rights and privileges under the repealed law to the  
24 extent provided by those sections.

25       (b) Section 1, Chapter 1251, Acts of the 79th Legislature,  
26 Regular Session, 2005, which amended former Subsection (k), Section  
27 3, Article 21.49, Insurance Code, is repealed.

1 SECTION 3B.0631. Section 2210.359(a), Insurance Code, is  
2 amended to conform more closely to the source law from which it was  
3 derived to read as follows:

4 (a) Except as otherwise provided by this subsection, a [A]  
5 rate approved by the commissioner under this subchapter may not  
6 reflect an average rate change that is more than 10 percent higher  
7 or lower than the rate for commercial windstorm and hail insurance  
8 or 10 percent higher or lower than the rate for noncommercial  
9 windstorm and hail insurance in effect on the date the filing is  
10 made. The rate may not reflect a rate change for an individual  
11 rating class that is 15 percent higher or lower than the rate for  
12 that individual rating class in effect on the date the filing is  
13 made. This subsection does not apply to a rate filed under Sections  
14 2210.351(a)-(d).

15 SECTION 3B.064. Subchapter I, Chapter 2210, Insurance Code,  
16 is repealed to conform to Section 1, Chapter 222, Acts of the 79th  
17 Legislature, Regular Session, 2005.

18 SECTION 3B.065. (a) Section 2211.051, Insurance Code, is  
19 amended to conform to Section 1, Chapter 1082, Acts of the 79th  
20 Legislature, Regular Session, 2005, to read as follows:

21 Sec. 2211.051. ESTABLISHMENT OF FAIR PLAN. The  
22 commissioner may establish a Fair Access to Insurance Requirements  
23 Plan to deliver residential property insurance to residents of this  
24 state in underserved areas if the commissioner determines, after a  
25 public hearing, that:

26 (1) in all or any part of the state, residential  
27 property insurance is not reasonably available in the voluntary

1 market to a substantial number of insurable risks; or [~~and~~]

2 (2) at least 25 percent of the applicants to the  
3 residential property market assistance program who are qualified  
4 under that program's plan of operation have not been placed with an  
5 insurer in the preceding six months.

6 (b) Section 2211.052, Insurance Code, is amended to conform  
7 to Section 2, Chapter 1082, Acts of the 79th Legislature, Regular  
8 Session, 2005, by amending Subsections (b) and (d) and adding  
9 Subsection (e) to read as follows:

10 (b) The governing committee is composed of 11 members  
11 appointed by the commissioner as follows:

12 (1) five members who represent the interests of  
13 insurers;

14 (2) four public members who reside in this state; and

15 (3) two members who are general property and casualty  
16 agents.

17 (d) Each member of the governing committee who represents  
18 the interests of insurers must be a full-time employee of an insurer  
19 that is a member of the association.

20 (e) The commissioner may remove a member of the governing  
21 committee without cause and may replace the member in accordance  
22 with Subsection (b).

23 (c) Subchapter B, Chapter 2211, Insurance Code, is amended  
24 to conform to Section 2, Chapter 1082, Acts of the 79th Legislature,  
25 Regular Session, 2005, by adding Section 2211.0521 to read as  
26 follows:

27 Sec. 2211.0521. MEETINGS OF GOVERNING BODY. (a)

1 Notwithstanding Chapter 551, Government Code, or any other law,  
2 members of the governing committee may meet by telephone conference  
3 call, video conference, or other similar telecommunication method.  
4 The governing committee may use telephone conference call, video  
5 conference, or other similar telecommunication method for purposes  
6 of establishing a quorum or voting or for any other meeting purpose  
7 in accordance with this subsection and Subsection (b). This  
8 subsection applies without regard to the subject matter discussed  
9 or considered by the members of the governing committee at the  
10 meeting.

11 (b) A meeting held by telephone conference call, video  
12 conference, or other similar telecommunication method:

13 (1) is subject to the notice requirements applicable  
14 to other meetings of the governing committee;

15 (2) may not be held unless notice of the meeting  
16 specifies the location of the meeting at which at least one member  
17 of the governing committee is physically present;

18 (3) must be audible to the public at the location  
19 specified in the notice under Subdivision (2); and

20 (4) must provide two-way audio communication between  
21 all members of the governing committee attending the meeting during  
22 the entire meeting, and if the two-way audio communication link  
23 with members attending the meeting is disrupted so that a quorum of  
24 the governing committee is no longer participating in the meeting,  
25 the meeting may not continue until the two-way audio communication  
26 link is reestablished.

27 (d) Sections 2211.101(b) and (c), Insurance Code, are

1 amended to conform to Sections 1, 2, and 3, Chapter 1082, Acts of  
2 the 79th Legislature, Regular Session, 2005, to read as follows:

3 (b) Except as provided by this subsection, each ~~[Each]~~  
4 insurer, as a condition of the insurer's authority to engage in the  
5 business of residential property insurance in this state, shall  
6 participate in the association in accordance with this chapter,  
7 including participating in the association's assessments  
8 ~~[writings, expenses, and losses]~~ in the proportion that the  
9 insurer's net direct premiums written in this state during the  
10 preceding calendar year bear to the aggregate net direct premiums  
11 written in this state by all participating insurers. The Texas  
12 Windstorm Insurance Association established by Chapter 2210 may not  
13 participate in the association for any purpose.

14 (c) An insurer's participation under Subsection (b) in the  
15 association's assessments ~~[writings, expenses, and losses]~~ must be  
16 determined in accordance with the residential property statistical  
17 plan adopted by the commissioner.

18 (e) The following are repealed:

19 (1) Section 1, Chapter 1082, Acts of the 79th  
20 Legislature, Regular Session, 2005, which amended former  
21 Subsections (a) and (b), Section 1, Article 21.49A, Insurance Code;

22 (2) Section 2, Chapter 1082, Acts of the 79th  
23 Legislature, Regular Session, 2005, which amended former Section 3,  
24 Article 21.49A, Insurance Code, by amending Subsections (b), (d),  
25 and (e) and adding Subsections (f) and (g); and

26 (3) Section 3, Chapter 1082, Acts of the 79th  
27 Legislature, Regular Session, 2005, which amended former



1 Subsection (d), Section 5, Article 21.49A, Insurance Code.

2 SECTION 3B.066. (a) Section 2211.104, Insurance Code, is  
3 amended to conform to Section 4, Chapter 1082, Acts of the 79th  
4 Legislature, Regular Session, 2005, by amending Subsections (b),  
5 (c), and (d) and adding Subsection (e) to read as follows:

6 (b) As reimbursement for assessments paid under this  
7 section or service fees paid under Section 2211.209, each [~~If the~~  
8 ~~association assesses participating insurers under this section,~~  
9 ~~each~~] insurer may charge a premium surcharge on every property  
10 insurance policy insuring property in this state that the insurer  
11 issues, the effective date of which is within the three-year period  
12 beginning on the 90th day after the date of the assessment or the  
13 90th day after the date the service fee under Section 2211.209 is  
14 paid, as applicable.

15 (c) The insurer shall compute the amount of the surcharge  
16 under Subsection (b) as a uniform percentage of the premium on each  
17 policy described by Subsection (b). The percentage must be equal to  
18 one-third of the ratio of the amount of the participating insurer's  
19 assessment or service fee payment to the amount of the insurer's  
20 direct earned premiums, as reported to the department in the  
21 insurer's financial statement for the calendar year preceding the  
22 year in which the assessment or service fee payment is made so that,  
23 over the three-year period, the aggregate of all surcharges by the  
24 insurer under this section is at least equal to [~~equals~~] the amount  
25 of the assessment or service fee payment.

26 (d) The amount of any assessment paid and surcharged under  
27 this section may be carried by the insurer as an admitted asset of

1 the insurer for all purposes, including exhibition in annual  
2 statements under Section 862.001, until collected [~~The minimum~~  
3 ~~surcharge on a policy may be \$1. A surcharge may be rounded to the~~  
4 ~~nearest dollar~~].

5 (e) The commissioner shall adopt rules and procedures as  
6 necessary to implement this section.

7 (b) Section 4, Chapter 1082, Acts of the 79th Legislature,  
8 Regular Session, 2005, which amended former Section 11, Article  
9 21.49A, Insurance Code, is repealed.

10 SECTION 3B.067. (a) Subchapter B, Chapter 2211, Insurance  
11 Code, is amended to conform to Section 5, Chapter 1082, Acts of the  
12 79th Legislature, Regular Session, 2005, by adding Section 2211.059  
13 to read as follows:

14 Sec. 2211.059. ASSETS OF ASSOCIATION. On dissolution of  
15 the association, all assets of the association shall be deposited  
16 in the general revenue fund.

17 (b) Section 5, Chapter 1082, Acts of the 79th Legislature,  
18 Regular Session, 2005, which added Section 16 to former Article  
19 21.49A, Insurance Code, is repealed.

20 SECTION 3B.068. (a) Subchapter D, Chapter 2211, Insurance  
21 Code, is amended to conform to Section 3, Chapter 1153, Acts of the  
22 79th Legislature, Regular Session, 2005, by adding Section 2211.157  
23 to read as follows:

24 Sec. 2211.157. COVERAGE FOR CERTAIN WINDSTORM AND HAIL  
25 DAMAGE; COVERAGE FOR CERTAIN PROPERTY LOCATED OVER WATER. (a) A  
26 policy issued by the association may include coverage against loss  
27 or damage by windstorm or hail for:

1           (1) a building or other structure that is built wholly  
2 or partially over water; and

3           (2) the corporeal movable property contained in a  
4 building or structure described by Subdivision (1).

5           (b) The association may impose appropriate limits of  
6 coverage and deductibles for coverage described by Subsection (a).

7           (c) The governing committee of the association shall submit  
8 any proposed changes to the plan of operation necessary to  
9 implement Subsections (a) and (b) to the commissioner for the  
10 approval of the commissioner in the manner provided by Section  
11 2211.053.

12           (d) The commissioner shall adopt rules as necessary to  
13 implement this section, including any rules necessary to implement  
14 changes in the plan of operation proposed under Subsections (a) and  
15 (b).

16           (b) Section 3, Chapter 1153, Acts of the 79th Legislature,  
17 Regular Session, 2005, which added Section 5A to former Article  
18 21.49A, Insurance Code, is repealed.

19           SECTION 3B.069. (a) Section 2212.001, Insurance Code, is  
20 amended to conform to Section 2, Chapter 184, Acts of the 79th  
21 Legislature, Regular Session, 2005; Section 2, Chapter 246, Acts of  
22 the 79th Legislature, Regular Session, 2005; and Section 3, Chapter  
23 1136, Acts of the 79th Legislature, Regular Session, 2005, to read  
24 as follows:

25           Sec. 2212.001. DEFINITIONS. In this chapter:

26           (1) "Charitable organization" has the meaning  
27 assigned by Section 84.003, Civil Practice and Remedies Code.

1           (2) "Dentist" means a person licensed to practice  
2 dentistry in this state.

3           (3) [~~(2)~~] "Health care liability claim" means a cause  
4 of action against a physician or dentist for treatment, lack of  
5 treatment, or other claimed departure from accepted standards of  
6 health care or safety that proximately results in injury to or death  
7 of the patient, whether the patient's claim or cause of action  
8 sounds in tort or contract.

9           (4) [~~(3)~~] "Physician" means a person licensed to  
10 practice medicine in this state.

11           (5) [~~(4)~~] "Trust" means a self-insurance trust  
12 organized and operated under this chapter.

13           (6) "Volunteer health care provider" has the meaning  
14 assigned by Section 84.003, Civil Practice and Remedies Code.

15           (b) Section 2, Chapter 184, Acts of the 79th Legislature,  
16 Regular Session, 2005; Section 2, Chapter 246, Acts of the 79th  
17 Legislature, Regular Session, 2005; and Section 3, Chapter 1136,  
18 Acts of the 79th Legislature, Regular Session, 2005, all of which  
19 added Subdivisions (4) and (5) to former Subsection (a), Article  
20 21.49-4, Insurance Code, are repealed.

21           SECTION 3B.070. (a) Subchapter C, Chapter 2212, Insurance  
22 Code, is amended to conform to Section 3, Chapter 184, Acts of the  
23 79th Legislature, Regular Session, 2005; Section 3, Chapter 246,  
24 Acts of the 79th Legislature, Regular Session, 2005; and Section 4,  
25 Chapter 1136, Acts of the 79th Legislature, Regular Session, 2005,  
26 by adding Section 2212.102 to read as follows:

27           Sec. 2212.102. COVERAGE FOR VOLUNTEER HEALTH CARE

1 PROVIDERS. (a) The trust, in accordance with Section 2212.054, may  
2 make available professional liability insurance covering a  
3 volunteer health care provider for an act or omission resulting in  
4 death, damage, or injury to a patient while the person is acting in  
5 the course and scope of the person's duties as a volunteer health  
6 care provider as described by Chapter 84, Civil Practice and  
7 Remedies Code.

8 (b) This section does not affect the liability of a  
9 volunteer health care provider who is serving as a direct service  
10 volunteer of a charitable organization. Section 84.004(c), Civil  
11 Practice and Remedies Code, applies to the volunteer health care  
12 provider without regard to whether the volunteer health care  
13 provider obtains liability insurance under this section.

14 (c) The trust may make professional liability insurance  
15 available under this section to a volunteer health care provider  
16 without regard to whether the volunteer health care provider is a  
17 physician or dentist.

18 (b) Section 3, Chapter 184, Acts of the 79th Legislature,  
19 Regular Session, 2005; Section 3, Chapter 246, Acts of the 79th  
20 Legislature, Regular Session, 2005; and Section 4, Chapter 1136,  
21 Acts of the 79th Legislature, Regular Session, 2005, all of which  
22 added Subsection (c-1) to former Article 21.49-4, Insurance Code,  
23 are repealed.

24 SECTION 3B.071. (a) Section 2251.003(b), Insurance Code,  
25 is amended to conform to Section 1, Chapter 70, Acts of the 79th  
26 Legislature, Regular Session, 2005; Section 1, Chapter 71, Acts of  
27 the 79th Legislature, Regular Session, 2005; and Section 4, Chapter

1 102, Acts of the 79th Legislature, Regular Session, 2005, to read as  
2 follows:

3 (b) This subchapter and Subchapters B, C, D, and E apply to  
4 all lines of the following kinds of insurance written under an  
5 insurance policy or contract issued by an insurer authorized to  
6 engage in the business of insurance in this state:

7 (1) general liability insurance;

8 (2) residential and commercial property insurance,  
9 including farm and ranch insurance and farm and ranch owners  
10 insurance;

11 (3) personal and commercial casualty insurance,  
12 except as provided by Section 2251.004;

13 (4) medical professional liability insurance;

14 (5) fidelity, guaranty, and surety bonds other than  
15 criminal court appearance bonds;

16 (6) personal umbrella insurance;

17 (7) personal liability insurance;

18 (8) guaranteed auto protection (GAP) insurance;

19 (9) involuntary unemployment insurance;

20 (10) financial guaranty insurance;

21 (11) inland marine insurance;

22 (12) rain insurance;

23 (13) hail insurance on farm crops; ~~and~~

24 (14) personal and commercial automobile insurance;

25 (15) multi-peril insurance; and

26 (16) identity theft insurance issued under Chapter

27 706.

1           (b) Section 2301.003(b), Insurance Code, is amended to  
2 conform to Section 1, Chapter 70, Acts of the 79th Legislature,  
3 Regular Session, 2005; Section 1, Chapter 71, Acts of the 79th  
4 Legislature, Regular Session, 2005; and Section 4, Chapter 102,  
5 Acts of the 79th Legislature, Regular Session, 2005, to read as  
6 follows:

7           (b) This subchapter applies to all lines of the following  
8 kinds of insurance written under an insurance policy or contract  
9 issued by an insurer authorized to engage in the business of  
10 insurance in this state:

11                 (1) general liability insurance;

12                 (2) residential and commercial property insurance,  
13 including farm and ranch insurance and farm and ranch owners  
14 insurance;

15                 (3) personal and commercial casualty insurance,  
16 except as provided by Section 2301.005;

17                 (4) medical professional liability insurance;

18                 (5) fidelity, guaranty, and surety bonds other than  
19 criminal court appearance bonds;

20                 (6) personal umbrella insurance;

21                 (7) personal liability insurance;

22                 (8) guaranteed auto protection (GAP) insurance;

23                 (9) involuntary unemployment insurance;

24                 (10) financial guaranty insurance;

25                 (11) inland marine insurance;

26                 (12) rain insurance;

27                 (13) hail insurance on farm crops; [~~and~~]

- 1           (14) personal and commercial automobile insurance;  
2           (15) multi-peril insurance; and  
3           (16) identity theft insurance issued under Chapter  
4 706.

5           (c) Section 1, Chapter 70, Acts of the 79th Legislature,  
6 Regular Session, 2005; Section 1, Chapter 71, Acts of the 79th  
7 Legislature, Regular Session, 2005; and Section 4, Chapter 102,  
8 Acts of the 79th Legislature, Regular Session, 2005, all of which  
9 amended former Subsection (a), Section 2, Article 5.13-2, Insurance  
10 Code, are repealed.

11           SECTION 3B.072. (a) Subchapter E, Chapter 2251, Insurance  
12 Code, is amended by adding Section 2251.205 to conform to Section 1,  
13 Chapter 1118, Acts of the 79th Legislature, Regular Session, 2005,  
14 to read as follows:

15           Sec. 2251.205. APPLICATION OF FILING REQUIREMENTS TO OTHER  
16 INSURERS. An insurer is subject to the filing requirements  
17 determined by the commissioner by rule under Section 2251.204 if:

18           (1) the insurer, along with the insurer's affiliated  
19 companies or group, issues personal automobile liability insurance  
20 policies only below 101 percent of the minimum limits required by  
21 Chapter 601, Transportation Code; and

22           (2) the insurer, along with the insurer's affiliated  
23 companies or group, has a market share of less than 3.5 percent of  
24 the personal automobile insurance market in this state.

25           (b) Section 1, Chapter 1118, Acts of the 79th Legislature,  
26 Regular Session, 2005, which added Subsection (h) to former Section  
27 13, Article 5.13-2, Insurance Code, is repealed.



1 SECTION 3B.073. (a) Section 2253.001, Insurance Code, is  
2 amended to conform to Section 2, Chapter 291, Acts of the 79th  
3 Legislature, Regular Session, 2005, to read as follows:

4 Sec. 2253.001. RATING TERRITORIES. (a) Notwithstanding  
5 any other provision of this code, an insurer, in writing  
6 residential property or personal automobile insurance, may use  
7 rating territories that subdivide a county only if:

8 (1) the county is subdivided; and

9 (2) the rate for any subdivision in the county is not  
10 greater than 15 percent higher than the rate used in any other  
11 subdivision in the county by that insurer.

12 (b) The [~~For residential property insurance or personal~~  
13 ~~automobile insurance, the~~] commissioner by rule may allow a greater  
14 rate difference than the rate difference specified by Subsection  
15 (a).

16 (b) Section 2, Chapter 291, Acts of the 79th Legislature,  
17 Regular Session, 2005, which amended former Article 5.171,  
18 Insurance Code, is repealed.

19 SECTION 3B.074. Section 4151.206(a), Insurance Code, is  
20 amended to conform more closely to the source law from which the  
21 section was derived to read as follows:

22 (a) The commissioner shall collect and an applicant or  
23 administrator shall pay to the commissioner fees in an amount to be  
24 determined by the commissioner as follows:

25 (1) a filing fee not to exceed \$1,000 for processing an  
26 original application for a certificate of authority for an  
27 administrator;

1           (2) a fee not to exceed \$500 for an examination under  
2 Section 4151.201 [~~4201.201~~]; and

3           (3) a filing fee not to exceed \$200 for an annual  
4 report.

5           SECTION 3B.075. (a) Sections 4201.054(a) and (d),  
6 Insurance Code, are amended to conform to Section 6.072, Chapter  
7 265, Acts of the 79th Legislature, Regular Session, 2005, to read as  
8 follows:

9           (a) Except as provided by this section, this chapter applies  
10 to utilization review of a health care service provided to a person  
11 eligible for workers' compensation medical benefits under Title 5,  
12 Labor Code. The commissioner of workers' compensation shall  
13 regulate as provided by this chapter a person who performs  
14 utilization review of a medical benefit provided under Title 5  
15 [~~Chapter 408~~], Labor Code.

16           (d) The commissioner of workers' compensation [~~and the~~  
17 ~~Texas Workers' Compensation Commission~~] may adopt rules [~~and enter~~  
18 ~~into memoranda of understanding~~] as necessary to implement this  
19 section.

20           (b) Section 4201.054(b), Insurance Code, is repealed to  
21 conform to Section 6.072, Chapter 265, Acts of the 79th  
22 Legislature, Regular Session, 2005.

23           (c) Section 6.072, Chapter 265, Acts of the 79th  
24 Legislature, Regular Session, 2005, which amended former  
25 Subsection (c), Section 14, Article 21.58A, Insurance Code, is  
26 repealed.

27           SECTION 3B.076. (a) Section 4201.207(b), Insurance Code,

1 is amended to conform to Section 6.071, Chapter 265, Acts of the  
2 79th Legislature, Regular Session, 2005, to read as follows:

3 (b) A health care provider's charges for providing medical  
4 information to a utilization review agent may not:

5 (1) exceed the cost of copying records regarding a  
6 workers' compensation claim as set by rules adopted by the  
7 commissioner of workers' compensation [~~Texas Workers' Compensation~~  
8 ~~Commission~~]; or

9 (2) include any costs otherwise recouped as part of  
10 the charges for health care.

11 (b) Section 6.071, Chapter 265, Acts of the 79th  
12 Legislature, Regular Session, 2005, which amended former  
13 Subsection (1), Section 4, Article 21.58A, Insurance Code, is  
14 repealed.

15 SECTION 3B.077. This article takes effect September 1, 2007.