

By: Brimer

S.B. No. 1136

A BILL TO BE ENTITLED

AN ACT

1
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9 (3) eliminating repealed, duplicative,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 Insurance Code, is amended by adding Section 542.105 to read as
2 follows:

3 Sec. 542.105. REQUEST BY CERTAIN OFFICIALS ENGAGED IN
4 CRIMINAL INVESTIGATION. (a) This section applies only to a claim
5 for a burglary or robbery loss or a death claim seeking life
6 insurance proceeds that is filed with an insurance company on or
7 after September 1, 2001.

8 (b) In the course of a criminal investigation and subject to
9 Subsection (c), the state fire marshal, the fire marshal of a
10 political subdivision of this state, the chief of a fire department
11 in this state, a chief of police of a municipality in this state, or
12 a sheriff in this state may request in writing that an insurance
13 company investigating a claimed burglary or robbery loss or a death
14 claim seeking life insurance proceeds release information in the
15 company's possession that relates to that claimed loss. The
16 company shall release the information to any official authorized to
17 request the information under this subsection if the company has
18 reason to believe that the insurance claim is false or fraudulent.

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

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

23 (2) policy premium payment records;

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

25 (4) material relating to the investigation of the
26 insurance claim, including:

27 (A) statements of any person;

1 (B) proof of loss; or

2 (C) other relevant evidence.

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

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

12 (f) An official or department employee receiving
13 information under this section shall maintain the confidentiality
14 of the information until the information is required to be released
15 during a criminal or civil proceeding.

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

20 SECTION 1D.004. ADDITION. Subtitle C, Title 5, Insurance
21 Code, is amended by adding Chapter 560 to read as follows:

22 CHAPTER 560. PROHIBITED RATES

23 Sec. 560.001. DEFINITION OF INSURER. In this chapter,
24 "insurer" means an insurance company, reciprocal or interinsurance
25 exchange, mutual insurance company, farm mutual insurance company,
26 capital stock insurance company, county mutual insurance company,
27 Lloyd's plan, surplus lines insurer, or other legal entity engaged

1 in the business of insurance in this state. The term includes:

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

3 (2) the Texas Windstorm Insurance Association
4 established under Chapter 2210;

5 (3) the FAIR Plan Association established under
6 Chapter 2211; and

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

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

12 (b) A rate used under this code:

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

14 (2) may not be:

15 (A) confiscatory;

16 (B) excessive for the risks to which the rate
17 applies; or

18 (C) unfairly discriminatory.

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

20 (1) inadequate if the rate is insufficient to sustain
21 projected losses and expenses to which the rate applies, and
22 continued use of the rate:

23 (A) endangers the solvency of an insurer using
24 the rate; or

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

27 (2) excessive if the rate is likely to produce a

1 long-term profit that is unreasonably high in relation to the
2 insurance coverage provided; or

3 (3) unfairly discriminatory if the rate:

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

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

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

10 PART E. ADDITIONS TO TITLE 6, INSURANCE CODE

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

13 CHAPTER 963. AUTOMOBILE CLUBS

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

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

20 (b) An automobile club may provide accidental injury and
21 death benefit insurance coverage to a member through purchase of a
22 group policy of insurance issued to the automobile club for the
23 benefit of its members. The coverage must be purchased from an
24 insurance company authorized to engage in the business of that type
25 of coverage in this state. (V.T.I.C. Art. 21.80, Secs. (a) (part),
26 (b) (part).)

27 Sec. 963.003. CERTIFICATE OF PARTICIPATION. (a) The

1 automobile club shall provide each member covered by insurance
2 described by Section 963.002 a certificate of participation.

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

8 Sec. 963.004. CERTAIN ACTIVITIES PROHIBITED. An automobile
9 club may endorse insurance products and refer members to agents or
10 insurers authorized to provide the insurance products in this
11 state. The automobile club or an agent of the automobile club may
12 not receive consideration for the referral. (V.T.I.C. Art. 21.80,
13 Sec. (c).)

14 Sec. 963.005. CERTAIN TRANSPORTATION-RELATED SERVICES. In
15 addition to reimbursement services described by Section
16 722.002(2), Transportation Code, an automobile club may contract
17 with a member to:

18 (1) reimburse the member for expenses the member
19 incurs for towing, emergency road service, and lockout or lost key
20 services; and

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

23 Sec. 963.006. APPLICABILITY OF INSURANCE LAWS. (a) Except
24 as provided by Subsection (b), an automobile club performing
25 services permitted by this chapter is not subject to regulation
26 under the insurance laws of this state because of the performance of
27 those services.

1 (b) An automobile club may sell insurance products to a
2 member for a consideration separate from the amount that the member
3 pays for membership in the automobile club if the automobile club is
4 properly licensed as an agent under the applicable provisions of
5 this code.

6 (c) The insurance laws of this state do not apply to
7 reimbursement provided under Section 963.005. (V.T.I.C. Art.
8 21.80, Secs. (d), (e), (f) (part).)

9 PART F. ADDITIONS TO TITLE 7, INSURANCE CODE

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

13 CHAPTER 1112. CERTAIN GUARANTEES IN LIFE INSURANCE POLICIES

14 Sec. 1112.001. CERTAIN GUARANTEES NOT PROHIBITED. Section
15 841.253 does not prohibit the issuance of a life insurance policy
16 that guarantees, by coupons or otherwise, definite payments or
17 reductions in premiums. (V.T.I.C. Art. 3.11 (part).)

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

24 (b) Except as provided by Subsection (c), for a policy or
25 coupon issued before the date determined under Section 1105.002(a)
26 or (b), as applicable to the company, a contract benefit described
27 by Subsection (a) shall be valued using the reserve valuation net

1 premium for the benefits that is a uniform percentage of the gross
2 premiums.

3 (c) A policy described by Subsection (b) that contains a
4 contract benefit described by Subsection (a) may be valued on a
5 basis that provides for not more than one year preliminary term
6 insurance.

7 (d) For a policy or coupon issued on or after the date
8 determined under Section 1105.002(a) or (b), as applicable to the
9 company, a contract benefit described by Subsection (a) shall be
10 valued using the commissioners reserve valuation method described
11 by Section 425.064.

12 (e) A provision of this section relating to reserves does
13 not apply to a policy issued before September 7, 1955. (V.T.I.C.
14 Art. 3.11 (part).)

15 CHAPTER 1113. MANAGEMENT, CONTROL, AND DISPOSITION OF CERTAIN LIFE
16 INSURANCE AND ANNUITY CONTRACTS

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

24 PART G. ADDITIONS TO TITLE 8, INSURANCE CODE

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

1 CHAPTER 1214. ADVERTISING FOR CERTAIN HEALTH BENEFITS

2 Sec. 1214.001. APPLICABILITY OF CHAPTER. This chapter
3 applies only to a health benefit plan that provides benefits for
4 medical or surgical expenses incurred as a result of a health
5 condition, accident, or sickness, including an individual, group,
6 blanket, or franchise insurance policy or agreement, a group
7 hospital service contract, or an individual or group evidence of
8 coverage issued by:

9 (1) an insurance company;

10 (2) a group hospital service corporation operating
11 under Chapter 842;

12 (3) a health maintenance organization operating under
13 Chapter 843; or

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

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

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

19 (A) only for a specified disease;

20 (B) only for accidental death or dismemberment;

21 or

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

25 (2) a long-term care insurance policy, including a
26 nursing home fixed indemnity policy, unless the commissioner
27 determines that the policy provides benefits so comprehensive that

1 the policy is a health benefit plan as described by Section
2 1214.001. (V.T.I.C. Art. 21.20-2, Sec. 1(b).)

3 Sec. 1214.003. RATE INFORMATION DISCLAIMERS. (a) Subject
4 to Chapter 541 and Section 543.001, an advertisement for a health
5 benefit plan may include rate information without including
6 information about each benefit exclusion or limitation if the
7 advertisement includes prominent disclaimers clearly indicating
8 that:

9 (1) the rates are illustrative;

10 (2) a person should not send money to the health
11 benefit plan issuer in response to the advertisement;

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

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

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

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

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

21 CHAPTER 1550. CERTAIN REQUIREMENTS FOR INSURERS CONTRACTING

22 WITH GOVERNMENTAL ENTITIES

23 SUBCHAPTER A. REPORTING REQUIREMENTS

24 Sec. 1550.001. DEFINITIONS. In this subchapter:

25 (1) "Governmental entity" means:

26 (A) a state agency; or

27 (B) a county, municipality, school district,

1 special purpose district, or other subdivision of state government
2 that has jurisdiction limited to a geographic portion of the state.

3 (2) "Insurer" means:

4 (A) an insurance company;

5 (B) a health maintenance organization operating
6 under Chapter 843; or

7 (C) an approved nonprofit health corporation
8 that holds a certificate of authority issued under Chapter 844.

9 (V.T.I.C. Art. 21.49-15, Sec. 1.)

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

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

17 (1) the claims experience of the governmental entity
18 during the preceding calendar year; and

19 (2) the dollar amount of each large claim, as defined
20 by the governmental entity, paid by the insurer under the contract
21 during the preceding calendar year. (V.T.I.C. Art. 21.49-15, Sec.
22 2(a).)

23 Sec. 1550.003. CLAIM INFORMATION. (a) An insurer
24 providing claim information to a governmental entity in the report
25 under Section 1550.002 shall provide the information in the
26 aggregate, without information through which a specific individual
27 covered by the health insurance or evidence of coverage may be

1 identified.

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

4 (1) may be viewed or used only for contract bidding
5 purposes; and

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

8 [Sections 1550.004-1550.050 reserved for expansion]

9 SUBCHAPTER B. CERTAIN CONTRACTS

10 WITH MUNICIPALITIES

11 Sec. 1550.051. DEFINITION OF INSURER. In this subchapter,
12 "insurer" means:

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

15 (2) a health maintenance organization operating under
16 Chapter 843;

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

19 (4) a third-party administrator that holds a
20 certificate of authority under Chapter 4151. (V.T.I.C. Art.
21 21.49-16, Sec. 1(1).)

22 Sec. 1550.052. BID REQUIREMENTS. (a) Except as provided by
23 Section 1550.054, an insurer that bids on a contract subject to the
24 competitive bidding and competitive proposal requirements adopted
25 under Section 252.021, Local Government Code, may not submit a bid
26 for a contract to provide stop-loss or other insurance coverage
27 that is subject to any qualification imposed by the insurer that

1 permits the insurer to modify or limit the terms of insurance
2 coverage to be provided after the contract has been made.

3 (b) An insurer's bid submitted under Section 252.021, Local
4 Government Code, must contain the insurer's entire offer.
5 (V.T.I.C. Art. 21.49-16, Sec. 2(a).)

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

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

13 (2) assign a higher deductible to the individual.
14 (V.T.I.C. Art. 21.49-16, Sec. 2(b).)

15 Sec. 1550.054. EXCEPTION FOR WRITTEN WAIVER. By executing
16 a written waiver in favor of the insurer, a municipality as defined
17 by Section 1.005, Local Government Code, may waive a requirement of
18 Section 1550.052 or 1550.053(2). (V.T.I.C. Art. 21.49-16, Secs.
19 1(2), 2(c).)

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

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

26 (b) A health coverage plan provided under this chapter that
27 uses a drug formulary in providing a prescription drug benefit must

1 require prior authorization for coverage of the following
2 categories of prescribed drugs if the specific drug prescribed is
3 not included in the formulary:

4 (1) a gastrointestinal drug;

5 (2) a cholesterol-lowering drug;

6 (3) an anti-inflammatory drug;

7 (4) an antihistamine drug; and

8 (5) an antidepressant drug.

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

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

21 (b) A health coverage plan provided under this chapter must
22 provide disease management services or coverage for disease
23 management services in the manner required by the trustee,
24 including:

25 (1) patient self-management education;

26 (2) provider education;

27 (3) evidence-based models and minimum standards of

1 care;

2 (4) standardized protocols and participation
3 criteria; and

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

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

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

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

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

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

16 (2) agrees to provide medical and health care services
17 under the plan subject to the same terms as other hospital providers
18 under the plan. (V.T.I.C. Art. 3.50-7A, Sec. (b), as added Acts
19 78th Leg., R.S., Ch. 201.)

20 PART H. ADDITIONS TO TITLE 10, INSURANCE CODE

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

23 CHAPTER 1953. RATE REGULATION AND RATEMAKING FOR AUTOMOBILE

24 INSURANCE

25 SUBCHAPTER A. RATE REGULATION

26 Sec. 1953.001. EXCLUSION OF CERTAIN TYPES OR CLASSES OF
27 INSURANCE FROM CERTAIN REGULATIONS. (a) This section applies only

1 to insurance against liability for damages arising out of the
2 ownership, operation, maintenance, or use of a motor vehicle
3 described by Article 5.01 or against loss of or damage to a motor
4 vehicle described by Article 5.01 that, in the judgment of the
5 commissioner, is a type or class of insurance that is also the
6 subject of or is more properly regulated under other insurance
7 rating laws that cover that type or class of insurance.

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

10 (1) Articles 5.01, 5.01B, 5.03, 5.04, 5.04-1, 5.06,
11 5.10, and 5.11;

12 (2) Chapters 251 and 254;

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

14 (4) Chapters 1951 and 1952.

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

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

21 (2) any motor vehicle equipment described by Article
22 5.01. (V.T.I.C. Art. 5.02.)

23 [Sections 1953.002-1953.050 reserved for expansion]

24 SUBCHAPTER B. RATEMAKING

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

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

4 (2) otherwise cause premiums for automobile insurance
5 to be increased because of a charge or conviction described by
6 Subdivision (1). (V.T.I.C. Art. 5.01-1.)

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

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

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

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

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

25 [Sections 1953.053-1953.100 reserved for expansion]

26 SUBCHAPTER C. LOSS AND EXPENSE EXPERIENCE

27 Sec. 1953.101. RECORDING AND REPORTING OF LOSS AND EXPENSE

1 EXPERIENCE AND OTHER DATA. (a) The commissioner shall adopt
2 reasonable rules and statistical plans for the recording and
3 reporting of loss experience and other required data by insurers.
4 The rules and plans must ensure that each insurer's total loss and
5 expense experience is made available at least as frequently as
6 annually in the form and with the detail necessary to aid in
7 determining whether rates and rating systems in use under the
8 following provisions comply with the standards adopted under those
9 provisions:

10 (1) this chapter;

11 (2) Articles 5.01, 5.03, and 5.04, if applicable;

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

13 (4) Chapters 1951 and 1952.

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

17 (c) Each insurer shall use the statistical plans adopted
18 under this section to record and report loss experience and other
19 required data in accordance with the rules adopted by the
20 commissioner.

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

23 Sec. 1953.102. RULES ALLOWING INTERCHANGE OF LOSS
24 EXPERIENCE INFORMATION. The commissioner may adopt reasonable
25 rules to allow the interchange of loss experience information as
26 necessary for the application of rating plans. (V.T.I.C. Art.
27 5.05, Sec. (b).)

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

4 (1) exchange information and experience data with
5 insurance supervisory officials, insurers, and rating
6 organizations in other states; and

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

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

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

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

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

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

25 CHAPTER 2008. COVERAGE FOR CERTAIN DAMAGE

26 TO PROPERTY BUILT WHOLLY OR PARTIALLY OVER WATER

27 Sec. 2008.001. APPLICABILITY OF CHAPTER. This chapter

1 applies only to an insurer described by Section 2251.003(a).
2 (V.T.I.C. Art. 5.14, Sec. (a).)

3 Sec. 2008.002. COVERAGE; LIMITS AND DEDUCTIBLES. (a) An
4 insurance policy written by an insurer against loss or damage by
5 windstorm, hurricane, or hail may include coverage for:

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

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

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

13 PART I. ADDITIONS TO TITLE 13, INSURANCE CODE

14 SECTION 1I.001. ADDITION. Subtitle A, Title 13, Insurance
15 Code, is amended by adding Chapter 4007 to read as follows:

16 CHAPTER 4007. NOTICE TO DEPARTMENT BY CERTAIN PROPERTY AND
17 CASUALTY INSURANCE COMPANIES REGARDING AGENTS

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

21 (1) a provision of:

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

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

24 (2) Chapter 861, 862, 883, 911, 912, 941, 942, 984, or
25 3503. (V.T.I.C. Art. 21.70, Sec. (a) (part).)

26 Sec. 4007.002. NOTICE TO DEPARTMENT REQUIRED. (a) On forms
27 prescribed by the commissioner, an insurance company shall notify

1 the department not later than the 30th day after the date on which:

2 (1) balances due from an insurance agent for more than
3 90 days exceed \$1 million or 10 percent of the company's
4 policyholder surplus computed on December 31 of the preceding year
5 or the most recent quarter if a report is specifically required by
6 the department;

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

9 (3) the contract with an agent is canceled or
10 terminated.

11 (b) An insurance company may comply with the notification
12 requirement of Subsection (a)(1) by submitting a single annual
13 report if:

14 (1) the company routinely operates above the limit
15 established by Subsection (a)(1); and

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

19 PART J. ADDITION OF TITLE 20, INSURANCE CODE

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

22 TITLE 20. REGULATION OF OTHER OCCUPATIONS

23 CHAPTER 6001. FIRE EXTINGUISHER SERVICE AND INSTALLATION

24 SUBCHAPTER A. GENERAL PROVISIONS

25 Sec. 6001.001. PURPOSE

26 Sec. 6001.002. DEFINITIONS

27 [Sections 6001.003-6001.050 reserved for expansion]

1 SUBCHAPTER B. POWERS AND DUTIES OF COMMISSIONER,
2 DEPARTMENT, AND STATE FIRE MARSHAL

3 Sec. 6001.051. ADMINISTRATION OF CHAPTER

4 Sec. 6001.052. ADOPTION OF RULES

5 Sec. 6001.053. RULES RESTRICTING ADVERTISING OR
6 COMPETITIVE BIDDING

7 Sec. 6001.054. GENERAL POWERS AND DUTIES OF DEPARTMENT

8 Sec. 6001.055. FEES

9 Sec. 6001.056. DEPOSIT IN OPERATING ACCOUNT

10 [Sections 6001.057-6001.100 reserved for expansion]

11 SUBCHAPTER C. FIRE EXTINGUISHER ADVISORY COUNCIL

12 Sec. 6001.101. ADVISORY COUNCIL; APPOINTMENT

13 Sec. 6001.102. ADVISORY COUNCIL DUTIES

14 [Sections 6001.103-6001.150 reserved for expansion]

15 SUBCHAPTER D. REGISTRATION, LICENSE, AND PERMIT REQUIREMENTS

16 Sec. 6001.151. FIRM REGISTRATION CERTIFICATE REQUIRED

17 Sec. 6001.152. BRANCH OFFICE REGISTRATION CERTIFICATE
18 REQUIRED

19 Sec. 6001.153. HYDROSTATIC TESTING; REGISTRATION
20 CERTIFICATE REQUIRED

21 Sec. 6001.154. REQUIRED INSURANCE COVERAGE FOR
22 REGISTRATION CERTIFICATE

23 Sec. 6001.155. EMPLOYEE LICENSE REQUIRED

24 Sec. 6001.156. ACTIVITIES NOT REGULATED BY CHAPTER

25 Sec. 6001.157. LICENSE EXAMINATION

26 Sec. 6001.158. EXAMINATION RESULTS

27 Sec. 6001.159. CONTINUING EDUCATION REQUIREMENTS

1 Sec. 6001.160. RECIPROCAL LICENSE

2 Sec. 6001.161. APPRENTICE PERMIT REQUIRED

3 Sec. 6001.162. NOT TRANSFERABLE

4 [Sections 6001.163-6001.200 reserved for expansion]

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

6 Sec. 6001.201. RENEWAL REQUIRED; FEE

7 Sec. 6001.202. NOTICE OF EXPIRATION

8 Sec. 6001.203. RENEWAL PROCEDURES

9 [Sections 6001.204-6001.250 reserved for expansion]

10 SUBCHAPTER F. PROHIBITED PRACTICES

11 AND DISCIPLINARY PROCEDURES

12 Sec. 6001.251. PROHIBITED PRACTICES

13 Sec. 6001.252. DISCIPLINARY ACTIONS

14 Sec. 6001.253. DISCIPLINARY HEARING

15 Sec. 6001.254. REAPPLICATION REQUIREMENTS

16 Sec. 6001.255. REEXAMINATION AFTER REVOCATION

17 [Sections 6001.256-6001.300 reserved for expansion]

18 SUBCHAPTER G. CRIMINAL PENALTY

19 Sec. 6001.301. CRIMINAL PENALTY

20 CHAPTER 6001. FIRE EXTINGUISHER SERVICE AND INSTALLATION

21 SUBCHAPTER A. GENERAL PROVISIONS

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

24 (1) regulating:

25 (A) the leasing, selling, installing, and
26 servicing of portable fire extinguishers; and

27 (B) the planning, certifying, installing, and

1 servicing of fixed fire extinguisher systems; and

2 (2) prohibiting portable fire extinguishers, fixed
3 fire extinguisher systems, or extinguisher equipment that is not
4 labeled or listed by a testing laboratory approved by the
5 department. (V.T.I.C. Art. 5.43-1, Sec. 1.)

6 Sec. 6001.002. DEFINITIONS. In this chapter:

7 (1) "Firm" means an individual, partnership,
8 corporation, or association.

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

13 (3) "Hydrostatic testing" means pressure testing by
14 hydrostatic methods.

15 (4) "Insurance agent" means:

16 (A) an individual, firm, or corporation licensed
17 under:

18 (i) Subchapter E, Chapter 981; or

19 (ii) Subchapter A, B, C, D, E, or G, Chapter
20 4051; or

21 (B) an individual authorized to represent an
22 insurance fund or pool created by a municipality, county, or other
23 political subdivision of this state under Chapter 791, Government
24 Code.

25 (5) "Portable fire extinguisher" means any device that
26 contains liquid, powder, or gases for suppressing or extinguishing
27 fires.

1 (6) "Registered firm" means a firm that holds a
2 registration certificate.

3 (7) "Service" and "servicing" mean servicing a
4 portable fire extinguisher or a fixed fire extinguisher system by
5 inspecting, charging, filling, maintaining, recharging, refilling,
6 repairing, or testing. (V.T.I.C. Art. 5.43-1, Sec. 3.)

7 [Sections 6001.003-6001.050 reserved for expansion]

8 SUBCHAPTER B. POWERS AND DUTIES OF COMMISSIONER,
9 DEPARTMENT, AND STATE FIRE MARSHAL

10 Sec. 6001.051. ADMINISTRATION OF CHAPTER. (a) The
11 department shall administer this chapter.

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

15 Sec. 6001.052. ADOPTION OF RULES. (a) In adopting
16 necessary rules, the commissioner may use recognized standards,
17 including standards:

18 (1) published by the National Fire Protection
19 Association;

20 (2) recognized by federal law or regulation;

21 (3) published by any nationally recognized
22 standards-making organization; or

23 (4) contained in the manufacturer's installation
24 manuals.

25 (b) The commissioner shall adopt and administer rules
26 determined essentially necessary for the protection and
27 preservation of life and property regarding:

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

2 (A) installing or servicing portable fire
3 extinguishers or planning, certifying, installing, or servicing
4 fixed fire extinguisher systems; or

5 (B) hydrostatic testing of fire extinguisher
6 cylinders;

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

8 (A) install or service portable fire
9 extinguishers; and

10 (B) plan, certify, install, or service fixed fire
11 extinguisher systems; and

12 (3) requirements for:

13 (A) installing or servicing portable fire
14 extinguishers; and

15 (B) planning, certifying, installing, or
16 servicing fixed fire extinguisher systems.

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

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

26 (b) In the commissioner's rules to prohibit false,
27 misleading, or deceptive practices, the commissioner may not

1 include a rule that:

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

3 (2) restricts the use of a license, permit,
4 certificate, or approval holder's personal appearance or voice in
5 an advertisement;

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

9 (4) restricts the license, permit, certificate, or
10 approval holder's advertisement under a trade name. (V.T.I.C. Art.
11 5.43-1, Sec. 8A.)

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

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

14 (1) applying for a registration certificate to engage
15 in the business of installing or servicing portable fire
16 extinguishers or planning, certifying, installing, or servicing
17 fixed fire extinguisher systems; or

18 (2) seeking approval as a testing laboratory.

19 (b) The department shall issue:

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

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

27 Sec. 6001.055. FEES. (a) The commissioner shall set the

1 fee for:

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

4 (2) the renewal of a firm registration certificate in
5 an amount not to exceed \$300 annually;

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

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

10 (5) an initial registration certificate to perform
11 hydrostatic testing of fire extinguishers manufactured in
12 accordance with the specifications and procedures of the United
13 States Department of Transportation in an amount not to exceed
14 \$250;

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

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

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

24 (9) an apprentice permit in an amount not to exceed
25 \$30.

26 (b) Unless the examination or reexamination for an employee
27 license is administered by a testing service, the commissioner

1 shall set a nonrefundable fee for:

2 (1) the initial examination in an amount not to exceed
3 \$30; and

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

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

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

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

11 (d) On a change of ownership of a registered firm, the
12 department shall issue a new registration certificate with a new
13 number for a fee set by the commissioner in an amount not to exceed
14 \$450. On a change of ownership of a branch office, the commissioner
15 shall charge a fee in an amount not to exceed \$100. (V.T.I.C. Art.
16 5.43-1, Secs. 4(a) (part), (b), (c-1), (d) (part), (e) (part),
17 (f).)

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

24 [Sections 6001.057-6001.100 reserved for expansion]

25 SUBCHAPTER C. FIRE EXTINGUISHER ADVISORY COUNCIL

26 Sec. 6001.101. ADVISORY COUNCIL; APPOINTMENT. (a) The
27 commissioner may delegate the exercise of all or part of the

1 commissioner's functions, powers, and duties under this chapter,
2 other than the issuance of licenses, certificates, and permits, to
3 a fire extinguisher advisory council.

4 (b) The commissioner shall appoint the members of the
5 advisory council. The members of the council must:

6 (1) be experienced and knowledgeable in one or more of
7 the following:

8 (A) fire services;

9 (B) fire extinguisher manufacturing;

10 (C) fire insurance inspection or underwriting;

11 or

12 (D) fire extinguisher servicing; or

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

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

19 (b) The advisory council shall periodically:

20 (1) review rules implementing this chapter; and

21 (2) recommend rule changes to the commissioner.

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

23 [Sections 6001.103-6001.150 reserved for expansion]

24 SUBCHAPTER D. REGISTRATION, LICENSE, AND PERMIT REQUIREMENTS

25 Sec. 6001.151. FIRM REGISTRATION CERTIFICATE REQUIRED.

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

1 (1) installing or servicing portable fire
2 extinguishers; or

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

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

11 (b) Before issuing a branch office registration
12 certificate, the department must determine that the branch office
13 location is part of a registered firm. (V.T.I.C. Art. 5.43-1, Sec.
14 4(a) (part).)

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

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

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

24 (b) The license of an individual qualified to do work
25 described by Subsection (a) must indicate the authority of the
26 individual to perform that work.

27 (c) Hydrostatic testing of fire extinguishers that is not

1 performed under the specifications of the United States Department
2 of Transportation must be performed in the manner recommended by
3 the National Fire Protection Association. (V.T.I.C. Art. 5.43-1,
4 Sec. 4(e) (part).)

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

16 (b) Unless the commissioner, after notice and an
17 opportunity for a hearing, increases or decreases the limits, the
18 limits of insurance coverage required by Subsection (a) must be at
19 least:

20 (1) \$100,000 combined single limits for bodily injury
21 and property damage for each occurrence; and

22 (2) \$300,000 aggregate for all occurrences for each
23 policy year.

24 (c) The evidence of insurance required by this section must
25 be in the form of a certificate of insurance executed by an insurer
26 authorized to engage in the business of insurance in this state and
27 countersigned by an insurance agent licensed in this state. A

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

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

10 (e) Failure to maintain the liability insurance required by
11 this section constitutes grounds for the denial, suspension, or
12 revocation, after notice and opportunity for hearing, of a
13 registration certificate issued under this chapter. (V.T.I.C. Art.
14 5.43-1, Secs. 4A, 8 (part).)

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

18 (1) installing or servicing portable fire
19 extinguishers;

20 (2) installing, servicing, or certifying
21 preengineered fixed fire extinguisher systems; or

22 (3) planning, supervising, servicing, or certifying
23 the installation of fixed fire extinguisher systems other than
24 preengineered systems.

25 (b) An individual who holds a license to install or service
26 portable fire extinguishers or install and service fixed fire
27 extinguisher systems must be an employee or agent of a registered

1 firm. (V.T.I.C. Art. 5.43-1, Secs. 4(c), 5(c).)

2 Sec. 6001.156. ACTIVITIES NOT REGULATED BY CHAPTER. (a)

3 The licensing provisions of this chapter do not apply to:

4 (1) the filling or charging of a portable fire
5 extinguisher by the manufacturer before initial sale of the fire
6 extinguisher;

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

10 (3) the installation of portable fire extinguishers in
11 a building by the building owner, the owner's managing agent, or an
12 employee of the building owner or the owner's managing agent;

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

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

21 (6) a fire department that services portable fire
22 extinguishers as a public service without charge, if the members of
23 the fire department are trained in the proper servicing of the fire
24 extinguishers;

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

26 (A) the installation of portable fire
27 extinguishers or a fixed fire extinguisher system is performed

1 under the direct supervision of and certified by a firm
2 appropriately registered to install and certify portable
3 extinguishers or fixed systems; and

4 (B) the registered firm assumes full
5 responsibility for the installation; or

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

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

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

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

14 Sec. 6001.157. LICENSE EXAMINATION. (a) The state fire
15 marshal shall:

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

18 (2) examine each applicant for a license under this
19 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 a license applicant
8 regarding 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. 5.43-1, Secs. 7(e), (f), (j), 8 (part).)

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

20 (b) If an examination is conducted, graded, or reviewed by a
21 testing service, the state fire marshal shall send notice to the
22 examinees of the results of the examination not later than the 14th
23 day after the date on which the state fire marshal receives the
24 results from 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 under Subsections (a) and (b).

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

10 Sec. 6001.159. CONTINUING EDUCATION REQUIREMENTS. (a) The
11 commissioner may adopt procedures for certifying and may certify
12 continuing education programs for individuals licensed under this
13 chapter.

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

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

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

25 (b) An apprentice may perform a service described by
26 Subsection (a) only under the direct supervision of an individual
27 who holds a license issued under this chapter and who works for the

1 same firm as the apprentice. (V.T.I.C. Art. 5.43-1, Secs. 4(d)
2 (part), 5(b) (part).)

3 Sec. 6001.162. NOT TRANSFERABLE. A registration
4 certificate, license, or permit issued under this chapter is not
5 transferable. (V.T.I.C. Art. 5.43-1, Sec. 5(d).)

6 [Sections 6001.163-6001.200 reserved for expansion]

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

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

12 (b) An apprentice permit expires on the first anniversary of
13 the date of issuance.

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

25 Sec. 6001.202. NOTICE OF EXPIRATION. At least 30 days
26 before the expiration date of a registration certificate or
27 license, the state fire marshal shall send written notice of the

1 impending expiration to the holder of the registration certificate
2 or license at the holder's last known address. (V.T.I.C. Art.
3 5.43-1, Sec. 7A(b) (part).)

4 Sec. 6001.203. RENEWAL PROCEDURES. (a) The holder of an
5 unexpired registration certificate or license may renew the
6 certificate or license by paying the required renewal fee to the
7 department before the expiration date of the certificate or
8 license.

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

12 (1) the required renewal fee; and

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

15 (c) A firm or individual whose registration certificate or
16 license has been expired for more than 90 days but less than two
17 years may renew the certificate or license by paying to the
18 department:

19 (1) all unpaid renewal fees; and

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

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

1 (e) This section may not be construed to prevent the
2 department from denying or refusing to renew a license under
3 applicable law or commissioner rules. (V.T.I.C. Art. 5.43-1, Sec.
4 7A(b) (part).)

5 [Sections 6001.204-6001.250 reserved for expansion]

6 SUBCHAPTER F. PROHIBITED PRACTICES

7 AND DISCIPLINARY PROCEDURES

8 Sec. 6001.251. PROHIBITED PRACTICES. (a) An individual or
9 firm may not:

10 (1) engage in the business of installing or servicing
11 portable fire extinguishers without holding a registration
12 certificate;

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

16 (3) install, service, or certify the servicing of
17 portable fire extinguishers or plan, certify, service, or install
18 fixed fire extinguisher systems without holding a license;

19 (4) perform hydrostatic testing of fire extinguisher
20 cylinders manufactured in accordance with the specifications and
21 requirements of the United States Department of Transportation
22 without holding a hydrostatic testing registration certificate;

23 (5) obtain or attempt to obtain a registration
24 certificate or license by fraudulent representation;

25 (6) install or service portable fire extinguishers or
26 plan, certify, service, or install fixed fire extinguisher systems
27 in violation of this chapter or the rules adopted and administered

1 under this chapter;

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

5 (8) sell, install, service, or recharge a carbon
6 tetrachloride fire extinguisher; or

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

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

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

22 (1) violate this chapter;

23 (2) violate rules or standards adopted under this
24 chapter; or

25 (3) constitute misrepresentation made in connection
26 with:

27 (A) the sale of products; or

1 (B) services rendered.

2 (b) Subject to Section 6001.253, the commissioner may
3 suspend, revoke, or refuse to issue or renew a certificate,
4 license, permit, or approval. (V.T.I.C. Art. 5.43-1, Secs. 7(b),
5 12(a).)

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

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

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

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

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

- 27 (1) reapply; and

1 (2) in a public hearing, show good cause why the
2 issuance of the registration certificate, license, or permit is not
3 against the public safety and welfare. (V.T.I.C. Art. 5.43-1, Sec.
4 7(c).)

5 Sec. 6001.255. REEXAMINATION AFTER REVOCATION. An
6 individual whose license to service portable fire extinguishers or
7 to install or service fixed fire extinguisher systems has been
8 revoked must retake and pass the required written examination
9 before a new license may be issued. (V.T.I.C. Art. 5.43-1, Sec.
10 7(d).)

11 [Sections 6001.256-6001.300 reserved for expansion]

12 SUBCHAPTER G. CRIMINAL PENALTY

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

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

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

19 CHAPTER 6002. FIRE DETECTION AND ALARM DEVICE INSTALLATION

20 SUBCHAPTER A. GENERAL PROVISIONS

21 Sec. 6002.001. PURPOSE

22 Sec. 6002.002. DEFINITIONS

23 Sec. 6002.003. EFFECT ON LOCAL REGULATION

24 Sec. 6002.004. PROVISION OF CERTAIN SERVICES BY

25 POLITICAL SUBDIVISION

26 [Sections 6002.005-6002.050 reserved for expansion]

1 SUBCHAPTER B. POWERS AND DUTIES OF COMMISSIONER, DEPARTMENT,
2 AND STATE FIRE MARSHAL

3 Sec. 6002.051. ADMINISTRATION OF CHAPTER; RULES

4 Sec. 6002.052. ADOPTION OF RULES; STANDARDS

5 Sec. 6002.053. RULES RESTRICTING ADVERTISING OR
6 COMPETITIVE BIDDING

7 Sec. 6002.054. FEES

8 Sec. 6002.055. DEPOSIT IN OPERATING ACCOUNT

9 [Sections 6002.056-6002.100 reserved for expansion]

10 SUBCHAPTER C. FIRE DETECTION AND ALARM DEVICES ADVISORY COUNCIL

11 Sec. 6002.101. ADVISORY COUNCIL; APPOINTMENT

12 Sec. 6002.102. ADVISORY COUNCIL DUTIES

13 [Sections 6002.103-6002.150 reserved for expansion]

14 SUBCHAPTER D. REGISTRATION, LICENSE, AND APPROVAL REQUIREMENTS

15 Sec. 6002.151. FIRM REGISTRATION CERTIFICATE REQUIRED;
16 LIMITED CERTIFICATE

17 Sec. 6002.152. BRANCH OFFICE REGISTRATION CERTIFICATE
18 REQUIRED

19 Sec. 6002.153. REQUIRED INSURANCE COVERAGE FOR
20 REGISTRATION CERTIFICATE

21 Sec. 6002.154. FIRE ALARM TECHNICIAN, RESIDENTIAL FIRE
22 ALARM SUPERINTENDENT, AND FIRE ALARM
23 PLANNING SUPERINTENDENT

24 Sec. 6002.155. ACTIVITIES NOT REGULATED BY CHAPTER

25 Sec. 6002.156. LICENSE EXAMINATION

26 Sec. 6002.157. EXAMINATION RESULTS

- 1 Sec. 6002.158. TRAINING SCHOOLS AND INSTRUCTORS;
2 APPROVAL
- 3 Sec. 6002.159. CONTINUING EDUCATION PROGRAMS
- 4 Sec. 6002.160. RECIPROCAL LICENSE
- 5 Sec. 6002.161. NOT TRANSFERABLE
- 6 [Sections 6002.162-6002.200 reserved for expansion]
- 7 SUBCHAPTER E. RENEWAL OF REGISTRATION CERTIFICATE OR LICENSE
- 8 Sec. 6002.201. RENEWAL REQUIRED; FEE
- 9 Sec. 6002.202. NOTICE OF EXPIRATION
- 10 Sec. 6002.203. RENEWAL PROCEDURES
- 11 Sec. 6002.204. RENEWAL OF CERTAIN LICENSES
- 12 [Sections 6002.205-6002.250 reserved for expansion]
- 13 SUBCHAPTER F. SELLING OR LEASING OF FIRE ALARM
14 OR FIRE DETECTION DEVICES
- 15 Sec. 6002.251. REQUIRED LABEL; EXCEPTIONS
- 16 Sec. 6002.252. REQUIRED PURCHASE AND INSTALLATION
17 INFORMATION
- 18 Sec. 6002.253. TRAINING AND SUPERVISION OF CERTAIN
19 EXEMPT EMPLOYEES
- 20 [Sections 6002.254-6002.300 reserved for expansion]
- 21 SUBCHAPTER G. PROHIBITED PRACTICES AND DISCIPLINARY PROCEDURES
- 22 Sec. 6002.301. PROHIBITED PRACTICES
- 23 Sec. 6002.302. DISCIPLINARY ACTIONS
- 24 Sec. 6002.303. DISCIPLINARY HEARING
- 25 Sec. 6002.304. REAPPLICATION REQUIREMENTS
- 26 [Sections 6002.305-6002.350 reserved for expansion]

SUBCHAPTER H. CRIMINAL PENALTY

Sec. 6002.351. CRIMINAL PENALTY

CHAPTER 6002. FIRE DETECTION AND ALARM DEVICE INSTALLATION

SUBCHAPTER A. GENERAL PROVISIONS

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

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

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

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

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

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

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

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

(3) "Fire alarm technician" means a licensed

1 individual designated by a registered firm to:

2 (A) inspect and certify that each fire alarm or
3 detection system as installed meets the standards provided by law;
4 or

5 (B) perform or directly supervise the servicing
6 or maintaining of a previously installed fire alarm device or
7 system and certify that service or maintenance.

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

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

13 (6) "Installation" means:

14 (A) the initial placement of equipment; or

15 (B) the extension, modification, or alteration
16 of equipment already in place.

17 (7) "Insurance agent" means:

18 (A) an individual, firm, or corporation licensed
19 under:

20 (i) Subchapter E, Chapter 981; or

21 (ii) Subchapter A, B, C, D, E, or G, Chapter
22 4051; or

23 (B) an individual authorized to represent an
24 insurance fund or pool created by a municipality, county, or other
25 political subdivision of this state under Chapter 791, Government
26 Code.

27 (8) "Maintenance" means the maintenance of a fire

1 alarm device or a fire detection device in a condition of repair
2 that provides performance as originally designed or intended.

3 (9) "Monitoring" means the receipt of fire alarm and
4 supervisory signals and the retransmission or communication of
5 those signals to a fire service communications center in this state
6 or serving property in this state.

7 (10) "Organization" means a corporation, a government
8 or a governmental subdivision or agency, a business trust, an
9 estate, a trust, a partnership, a firm or association, two or more
10 individuals with a joint or common interest, or any other legal or
11 commercial entity.

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

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

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

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

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

26 (14) "Service" or "servicing" means inspection,
27 maintenance, repair, or testing of a fire alarm device or a fire

1 detection device. (V.T.I.C. Art. 5.43-2, Secs. 2(1), (2), (5),
2 (6), (7), (8), (9), (10), (11), (12) (part), (13) (part), (14),
3 (15), (16) (part).)

4 Sec. 6002.003. EFFECT ON LOCAL REGULATION. (a) This
5 chapter and the rules adopted under this chapter have uniform force
6 and effect throughout this state. A municipality or county may not
7 enact an ordinance or rule inconsistent with this chapter or rules
8 adopted under this chapter. An inconsistent ordinance or rule is
9 void and has no effect.

10 (b) Notwithstanding Subsection (a), a municipality or
11 county may:

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

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

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

22 (c) A municipality, county, or other political subdivision
23 of this state may not require, as a condition of engaging in
24 business or performing any activity authorized under this chapter,
25 that a registered firm, a license holder, or an employee of a
26 license holder:

27 (1) obtain a registration, franchise, or license from

1 the political subdivision;

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

4 (3) post a bond.

5 (d) Notwithstanding any other provision of this section or
6 Section 6002.155, a municipality or county may require a registered
7 firm to obtain a permit and pay a permit fee for the installation of
8 a fire alarm or fire detection device or system and require that the
9 installation of such a system be in conformance with the building
10 code or other construction requirements of the municipality or
11 county and state law.

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

16 Sec. 6002.004. PROVISION OF CERTAIN SERVICES BY POLITICAL
17 SUBDIVISION. (a) In this section, "monitoring" means the receipt
18 of fire alarm or supervisory signals or retransmission or
19 communication of those signals to a fire service communications
20 center that is located in this state or serves property in this
21 state.

22 (b) Except as provided by Subsection (c), a political
23 subdivision may not offer residential alarm system sales, service,
24 installation, or monitoring unless the political subdivision has
25 been providing monitoring services to residences within the
26 boundaries of the political subdivision as of September 1, 1999.
27 Any fee charged by the political subdivision under this subsection

1 may not exceed the cost of the monitoring.

2 (c) A political subdivision may:

3 (1) offer service, installation, or monitoring for
4 property owned by the political subdivision or another political
5 subdivision;

6 (2) allow for the response to an alarm or detection
7 device by:

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

9 or

10 (B) a law enforcement officer or firefighter
11 acting in an official capacity; or

12 (3) offer monitoring to a financial institution, as
13 defined by Section 59.301, Finance Code, that requests, in writing,
14 that the political subdivision provide monitoring service to the
15 financial institution.

16 (d) Subsection (b) does not apply to a political
17 subdivision:

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

19 or

20 (2) in which monitoring is not otherwise provided or
21 available.

22 (e) This section is not intended to require a political
23 subdivision to hold a license under this chapter. (V.T.I.C. Art.
24 5.43-2, Secs. 7(b), (c), (d), (e).)

25 [Sections 6002.005-6002.050 reserved for expansion]

1 SUBCHAPTER B. POWERS AND DUTIES OF COMMISSIONER, DEPARTMENT,
2 AND STATE FIRE MARSHAL

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

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

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

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

12 (A) standards of the National Fire Protection
13 Association;

14 (B) standards recognized by federal law or
15 regulation; or

16 (C) standards published by a nationally
17 recognized standards-making organization;

18 (2) the National Electrical Code; or

19 (3) information provided by individual manufacturers.

20 (b) Under rules adopted under Section 6002.051, the
21 department may create specialized licenses or registration
22 certificates for an organization or individual engaged in the
23 business of planning, certifying, leasing, selling, servicing,
24 installing, monitoring, or maintaining fire alarm or fire detection
25 devices or systems. The rules must establish appropriate training
26 and qualification standards for each kind of license and
27 certificate.

1 (c) The commissioner shall also adopt standards applicable
2 to fire alarm devices, equipment, or systems regulated under this
3 chapter. In adopting standards under this subsection, the
4 commissioner may allow the operation of a fire alarm monitoring
5 station that relies on fire alarm devices or equipment approved or
6 listed by a nationally recognized testing laboratory without regard
7 to whether the monitoring station is approved or listed by a
8 nationally recognized testing laboratory if the operator of the
9 station demonstrates that the station operating standards are
10 substantially equivalent to those required to be approved or
11 listed. (V.T.I.C. Art. 5.43-2, Secs. 4 (part), 6(a) (part), (b).)

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

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

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

21 (2) restricts the use of a license or registration
22 certificate holder's personal appearance or voice in an
23 advertisement;

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

26 (4) restricts the license or registration certificate
27 holder's advertisement under a trade name. (V.T.I.C. Art. 5.43-2,

1 Sec. 6A.)

2 Sec. 6002.054. FEES. (a) The commissioner shall set the
3 fee for:

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

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

8 (3) the renewal of a registration certificate for an
9 individual or organization engaged in the business of planning,
10 certifying, leasing, selling, servicing, installing, monitoring,
11 or maintaining exclusively single station devices in an amount not
12 to exceed \$250 annually;

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

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

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

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

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

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

25 (b) Unless the examination or reexamination for a license is
26 administered by a testing service, the commissioner shall set a
27 nonrefundable fee for:

1 (1) the initial examination in an amount not to exceed
2 \$30; and

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

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

6 (1) a duplicate registration certificate or license
7 issued under this chapter; and

8 (2) any request requiring changes to a registration
9 certificate or license. (V.T.I.C. Art. 5.43-2, Secs. 5(a) (part),
10 (b) (part), (c) (part), (d), (i), 5D(b) (part), (c) (part).)

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

15 [Sections 6002.056-6002.100 reserved for expansion]

16 SUBCHAPTER C. FIRE DETECTION AND ALARM DEVICES ADVISORY COUNCIL

17 Sec. 6002.101. ADVISORY COUNCIL; APPOINTMENT. The
18 commissioner shall appoint an advisory council consisting of seven
19 individuals as follows:

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

24 (2) two individuals who:

25 (A) are experienced in the engineering of fire
26 prevention services; or

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

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

3 (4) one individual who:

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

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

8 Sec. 6002.102. ADVISORY COUNCIL DUTIES. The advisory
9 council shall periodically:

10 (1) review rules implementing this chapter; and

11 (2) recommend rule changes to the commissioner.
12 (V.T.I.C. Art. 5.43-2, Sec. 6(c).)

13 [Sections 6002.103-6002.150 reserved for expansion]

14 SUBCHAPTER D. REGISTRATION, LICENSE, AND APPROVAL REQUIREMENTS

15 Sec. 6002.151. FIRM REGISTRATION CERTIFICATE REQUIRED;
16 LIMITED CERTIFICATE. (a) An individual or organization may not
17 engage in the business of planning, certifying, leasing, selling,
18 installing, servicing, monitoring, or maintaining fire alarm or
19 fire detection devices or systems unless the individual or
20 organization holds a registration certificate issued by the
21 department.

22 (b) The department may issue a limited registration
23 certificate to an individual or organization whose business is
24 restricted to monitoring.

25 (c) Applications for registration certificates and
26 qualifications for those certificates are subject to rules adopted
27 by the commissioner. (V.T.I.C. Art. 5.43-2, Secs. 5(a) (part),

1 7(a) (part), 10(a) (part).)

2 Sec. 6002.152. BRANCH OFFICE REGISTRATION CERTIFICATE
3 REQUIRED. (a) Except as provided by Subsection (c), each separate
4 office location of a registered firm, other than the location
5 identified on the firm's registration certificate, must have a
6 branch office registration 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.

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

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

27 (b) Unless the commissioner increases or decreases the

1 limits under rules adopted under Section 6002.051(b), the limits of
2 insurance coverage required by Subsection (a) must be at least:

3 (1) \$100,000 combined single limits for bodily injury
4 and property damage for each occurrence; and

5 (2) \$300,000 aggregate for all occurrences for each
6 policy year.

7 (c) The evidence of insurance required by this section must
8 be in the form of a certificate of insurance executed by an insurer
9 authorized to engage in the business of insurance in this state and
10 countersigned by an insurance agent licensed in this state. A
11 certificate of insurance for surplus lines coverage procured in
12 compliance with Chapter 981 through a surplus lines agent that is
13 licensed under Subchapter E, Chapter 981, and resident in this
14 state may be filed with the department as evidence of the coverage
15 required by this section.

16 (d) An insurance certificate executed and filed with the
17 department under this section remains in force until the insurer
18 has terminated future liability by the notice required by the
19 department.

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

24 (f) For an individual or organization licensed to install or
25 service burglar alarms under Chapter 1702, Occupations Code,
26 compliance with the insurance requirements of that chapter
27 constitutes compliance with the insurance requirements of this

1 section if the insurance held by the individual or organization
2 complies with the requirements of this section in amounts and types
3 of coverage.

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

8 Sec. 6002.154. FIRE ALARM TECHNICIAN, RESIDENTIAL FIRE
9 ALARM SUPERINTENDENT, AND FIRE ALARM PLANNING SUPERINTENDENT. (a)
10 Each registered firm, including a firm engaged in the business of
11 planning, certifying, leasing, selling, servicing, installing,
12 monitoring, or maintaining exclusively single station devices,
13 must employ at least one employee who is a fire alarm technician,
14 residential fire alarm superintendent, or fire alarm planning
15 superintendent.

16 (b) A fire alarm technician, residential fire alarm
17 superintendent, or fire alarm planning superintendent must hold a
18 license issued by the department, conditioned on the successful
19 completion of a written license examination.

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

24 (d) A fire alarm technician may perform or supervise
25 monitoring. A fire alarm planning superintendent may act as a fire
26 alarm technician or a residential fire alarm superintendent. A
27 residential fire alarm superintendent may act as a fire alarm

1 technician.

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

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

8 (1) an individual or organization in the business of
9 building construction that installs electrical wiring and devices
10 that may include, in part, the installation of a fire alarm or
11 detection system if:

12 (A) the individual or organization is a party to
13 a contract that provides that:

14 (i) the installation will be performed
15 under the direct supervision of and certified by a licensed
16 employee or agent of a firm registered to install and certify such
17 an alarm or detection device; and

18 (ii) the registered firm assumes full
19 responsibility for the installation of the alarm or detection
20 device; and

21 (B) the individual or organization does not plan,
22 certify, lease, sell, service, or maintain fire alarms or detection
23 devices or systems;

24 (2) an individual or organization that:

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

27 (B) if the individual or organization does not

1 charge for the device or its installation, installs the device for
2 the protection of the individual's or organization's personal
3 property located on another's property and does not install the
4 device as a normal business practice on the property of another;

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

9 (A) the devices installed are:

10 (i) single station detectors; or

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

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

19 (4) an individual or organization that:

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

22 (B) does not plan, certify, install, service, or
23 maintain the devices;

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

27 (6) an engineer licensed under Chapter 1001,

1 Occupations Code, acting solely in the engineer's professional
2 capacity;

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

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

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

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

13 (D) the detector is a single station installation
14 and not a part of or connected to any other detection device or
15 system;

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

18 (9) a building owner, the owner's managing agent, or an
19 employee of the owner or agent who installs battery-operated single
20 station smoke detectors or monitor fire alarm or fire detection
21 devices or systems in the owner's building, and in which the
22 monitoring:

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

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

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

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

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

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

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

12 (D) the detector is a single station installation
13 and not a part of or connected to any other detection device or
14 system; or

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

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

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

24 Sec. 6002.156. LICENSE EXAMINATION. (a) The state fire
25 marshal shall establish the scope and type of an examination
26 required by this chapter. The examination must cover this chapter
27 and commissioner rules and include specific testing of all license

1 categories.

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

4 (c) If a testing service is used, the state fire marshal may
5 contract with the testing service regarding requirements for the
6 examination, including:

- 7 (1) examination development;
- 8 (2) scheduling;
- 9 (3) site arrangements;
- 10 (4) grading;
- 11 (5) reporting;
- 12 (6) analysis; or
- 13 (7) other administrative duties.

14 (d) The state fire marshal may require the testing service
15 to:

- 16 (1) correspond directly with an applicant regarding
17 the administration of the examination;
- 18 (2) collect a reasonable fee from an applicant for
19 administering the examination; or
- 20 (3) administer the examination at a specific location
21 or time.

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

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

26 Sec. 6002.157. EXAMINATION RESULTS. (a) Not later than the
27 30th day after the date on which an examination is administered

1 under this chapter, the state fire marshal shall send notice to each
2 examinee of the results of the examination.

3 (b) If an examination is conducted, graded, or reviewed by a
4 testing service, the state fire marshal shall send notice to each
5 examinee of the results of the examination within two weeks after
6 the date on which the state fire marshal receives the results from
7 the testing service.

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

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

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

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

21 (a) An applicant for approval as a training school must submit an
22 application to the state fire marshal, accompanied by the
23 applicant's complete course or testing curriculum. A registered
24 firm, or an affiliate of a registered firm, is not eligible for
25 approval as a training school.

26 (b) The state fire marshal shall review the materials
27 submitted for course approval and shall approve or deny approval in

1 a letter provided not later than the 60th day after the date of
2 receipt of the application. A denial of approval must disclose
3 specific reasons for the denial. An applicant whose approval is
4 denied may reapply at any time.

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

10 (d) Approval for a training school or instructor is valid
11 for one year.

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

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

20 Sec. 6002.159. CONTINUING EDUCATION PROGRAMS. (a) The
21 commissioner may adopt procedures for certifying and may certify
22 continuing education programs.

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

25 Sec. 6002.160. RECIPROCAL LICENSE. The department may
26 waive any license requirement for an applicant who holds a license
27 issued by another state that has license requirements substantially

1 equivalent to the license requirements of this state. (V.T.I.C.
2 Art. 5.43-2, Sec. 5F.)

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

6 [Sections 6002.162-6002.200 reserved for expansion]

7 SUBCHAPTER E. RENEWAL OF REGISTRATION CERTIFICATE OR LICENSE

8 Sec. 6002.201. RENEWAL REQUIRED; FEE. (a) A renewal of a
9 registration certificate or license issued under this chapter is
10 valid for a period of two years. The license or registration
11 renewal fee for each year of the two-year period is payable on
12 renewal.

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

23 Sec. 6002.202. NOTICE OF EXPIRATION. At least 30 days
24 before the expiration date of a registration certificate or
25 license, the state fire marshal shall send written notice of the
26 impending expiration to the holder of the registration certificate
27 or license at the holder's last known address. (V.T.I.C. Art.

1 5.43-2, Sec. 5C(a) (part).)

2 Sec. 6002.203. RENEWAL PROCEDURES. (a) The holder of an
3 unexpired registration certificate or license may renew the
4 certificate or license by paying the required renewal fee to the
5 department before the expiration date of the certificate or
6 license.

7 (b) An individual or organization whose registration
8 certificate or license has been expired for 90 days or less may
9 renew the certificate or license by paying to the department:

10 (1) the required renewal fee; and

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

13 (c) An individual or organization whose registration
14 certificate or license has been expired for more than 90 days but
15 less than two years may renew the certificate or license by paying
16 to the department:

17 (1) all unpaid renewal fees; and

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

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

26 (e) This section may not be construed to prevent the
27 department from denying or refusing to renew a license under

1 applicable law or commissioner rules.

2 (f) A license or registration certificate issued under this
3 chapter expires at midnight on the date printed on the license or
4 certificate. A renewal application and fee for the license or
5 registration certificate must be postmarked on or before the
6 expiration date to be accepted as timely.

7 (g) If a renewal application is not complete but there has
8 been no lapse in the required insurance, the applicant is entitled
9 to 30 days from the date that the applicant is notified by the
10 department of the deficiencies in the renewal application to comply
11 with any additional requirement. If an applicant fails to respond
12 and correct all deficiencies in the renewal application within the
13 30-day period, the department may charge a late fee. (V.T.I.C. Art.
14 5.43-2, Secs. 5C(a) (part), (c).)

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

21 [Sections 6002.205-6002.250 reserved for expansion]

22 SUBCHAPTER F. SELLING OR LEASING OF FIRE ALARM

23 OR FIRE DETECTION DEVICES

24 Sec. 6002.251. REQUIRED LABEL; EXCEPTIONS. (a) Except as
25 provided by Subsections (b) and (c), a detection or alarm device,
26 alarm system, or item of monitoring equipment, a purpose of which is
27 to detect or give alarm of fire, may not be sold, offered for sale,

1 leased, installed, or used to monitor property in this state unless
2 the device, system, or item of equipment carries a label of approval
3 or listing of a testing laboratory approved by the department.

4 (b) Except as provided by Subsection (c), a detection or
5 alarm device, alarm system, or item of monitoring equipment in a
6 one-family or two-family residence, a purpose of which is to detect
7 or give alarm of fire, may not be sold, offered for sale, leased,
8 installed, or used to monitor property in this state after April 14,
9 1989, unless the device, system, or equipment carries a label of
10 approval or listing of a testing laboratory approved by the
11 department.

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

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

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

17 (d) Fire alarm devices that are not required by this chapter
18 or rules adopted under this chapter and that do not impair the
19 operation of fire alarm or fire detection devices required by this
20 chapter or the rules adopted under this chapter are exempt from the
21 label and listing requirements described by Subsections (a) and (b)
22 if the devices are approved by the local authority with
23 jurisdiction. (V.T.I.C. Art. 5.43-2, Secs. 9(a), (b), (c).)

24 Sec. 6002.252. REQUIRED PURCHASE AND INSTALLATION
25 INFORMATION. A fire detection or fire alarm device may not be sold
26 or installed in this state unless the device is accompanied by
27 printed information that:

1 (1) is supplied to the owner by the supplier or
2 installing contractor; and

3 (2) concerns:

4 (A) instructions describing the installation,
5 operation, testing, and proper maintenance of the device;

6 (B) information to aid in establishing an
7 emergency evacuation plan for the protected premises; and

8 (C) the telephone number and location, including
9 notification procedures, of the nearest fire department. (V.T.I.C.
10 Art. 5.43-2, Sec. 9(d).)

11 Sec. 6002.253. TRAINING AND SUPERVISION OF CERTAIN EXEMPT
12 EMPLOYEES. Each registered firm that employs an individual who is
13 exempt from the licensing requirements of this chapter under
14 Section 6002.155(10) shall appropriately train and supervise the
15 individual to ensure that:

16 (1) each installation complies with the adopted
17 provisions of National Fire Protection Standard No. 74 or other
18 adopted standards;

19 (2) each smoke or heat detector installed or sold
20 carries a label or listing of approval by a testing laboratory
21 approved by the department; and

22 (3) the individual is knowledgeable in fire protection
23 and the proper use and placement of detectors. (V.T.I.C. Art.
24 5.43-2, Sec. 9(e).)

25 [Sections 6002.254-6002.300 reserved for expansion]

26 SUBCHAPTER G. PROHIBITED PRACTICES AND DISCIPLINARY PROCEDURES

27 Sec. 6002.301. PROHIBITED PRACTICES. An individual or

1 organization may not:

2 (1) plan, certify, lease, sell, service, install,
3 monitor, or maintain a fire alarm or fire detection device or system
4 without a license or registration certificate;

5 (2) obtain or attempt to obtain a registration
6 certificate or license by fraudulent representation; or

7 (3) plan, certify, lease, sell, service, install,
8 monitor, or maintain a fire alarm or fire detection device or system
9 in violation of this chapter or the rules adopted under this
10 chapter. (V.T.I.C. Art. 5.43-2, Sec. 7(a).)

11 Sec. 6002.302. DISCIPLINARY ACTIONS. (a) 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 the sale of products or services rendered.

21 (b) An original or renewal registration certificate,
22 license, or testing laboratory approval may be denied, suspended,
23 or revoked, if after notice and public hearing the commissioner,
24 through the state fire marshal, determines from the evidence
25 presented at the hearing that this chapter or a rule adopted under
26 this chapter has been violated. (V.T.I.C. Art. 5.43-2, Secs.
27 10(b), (c).)

1 Sec. 6002.303. DISCIPLINARY HEARING. (a) If the state fire
2 marshal proposes to suspend, revoke, or refuse to renew a license or
3 registration certificate issued under this chapter, the holder of
4 the license or certificate is entitled to a hearing conducted by the
5 State Office of Administrative Hearings.

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

8 (c) Rules of practice adopted by the commissioner
9 applicable to the proceedings for a disciplinary action may not
10 conflict with rules adopted by the State Office of Administrative
11 Hearings. (V.T.I.C. Art. 5.43-2, Sec. 10A.)

12 Sec. 6002.304. REAPPLICATION REQUIREMENTS. (a) A holder
13 of a registration certificate, license, or testing laboratory
14 approval that has been revoked under this chapter may not file
15 another application for a registration certificate, license, or
16 approval before the first anniversary of the effective date of the
17 revocation.

18 (b) An individual or organization reapplying under this
19 section must request a public hearing to show cause why the issuance
20 of a new registration certificate, license, or approval should not
21 be denied. (V.T.I.C. Art. 5.43-2, Sec. 10(d).)

22 [Sections 6002.305-6002.350 reserved for expansion]

23 SUBCHAPTER H. CRIMINAL PENALTY

24 Sec. 6002.351. CRIMINAL PENALTY. (a) An individual or
25 organization commits an offense if the individual or organization
26 violates Section 6002.151, 6002.152, or 6002.154.

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

1 (c) Venue for an offense under this section is in Travis
2 County or the county in which the offense is committed. (V.T.I.C.
3 Art. 5.43-2, Sec. 11.)

4 CHAPTER 6003. FIRE PROTECTION SPRINKLER SYSTEM SERVICE AND
5 INSTALLATION

6 SUBCHAPTER A. GENERAL PROVISIONS

7 Sec. 6003.001. DEFINITIONS

8 Sec. 6003.002. APPLICABILITY OF CHAPTER

9 Sec. 6003.003. EFFECT ON LOCAL REGULATION

10 [Sections 6003.004-6003.050 reserved for expansion]

11 SUBCHAPTER B. POWERS AND DUTIES OF COMMISSIONER,
12 DEPARTMENT, AND STATE FIRE MARSHAL

13 Sec. 6003.051. ADMINISTRATION OF CHAPTER

14 Sec. 6003.052. ADOPTION OF RULES

15 Sec. 6003.053. RULES RESTRICTING ADVERTISING OR
16 COMPETITIVE BIDDING

17 Sec. 6003.054. GENERAL POWERS AND DUTIES OF
18 COMMISSIONER, STATE FIRE MARSHAL, AND
19 DEPARTMENT

20 Sec. 6003.055. FEES

21 Sec. 6003.056. DEPOSIT IN OPERATING ACCOUNT

22 [Sections 6003.057-6003.100 reserved for expansion]

23 SUBCHAPTER C. FIRE PROTECTION ADVISORY COUNCIL

24 Sec. 6003.101. ADVISORY COUNCIL; APPOINTMENT

25 Sec. 6003.102. ADVISORY COUNCIL DUTIES

26 [Sections 6003.103-6003.150 reserved for expansion]

1 SUBCHAPTER D. REGISTRATION AND LICENSE REQUIREMENTS

- 2 Sec. 6003.151. FIRE PROTECTION SPRINKLER SYSTEM
3 CONTRACTOR; REGISTRATION CERTIFICATE
4 REQUIRED
5 Sec. 6003.152. REQUIRED INSURANCE COVERAGE FOR
6 REGISTRATION CERTIFICATE
7 Sec. 6003.153. RESPONSIBLE MANAGING EMPLOYEE: LICENSE
8 REQUIRED
9 Sec. 6003.154. POSTING OF LICENSE OR CERTIFICATE
10 REQUIRED
11 Sec. 6003.155. DISPLAY OF REGISTRATION CERTIFICATE
12 NUMBER ON CERTAIN DOCUMENTS REQUIRED
13 Sec. 6003.156. LICENSE EXAMINATION
14 Sec. 6003.157. EXAMINATION RESULTS
15 Sec. 6003.158. CONTINUING EDUCATION REQUIREMENTS
16 Sec. 6003.159. RECIPROCAL LICENSE
17 Sec. 6003.160. NOT TRANSFERABLE

18 [Sections 6003.161-6003.200 reserved for expansion]

19 SUBCHAPTER E. RENEWAL OF REGISTRATION CERTIFICATE OR LICENSE

- 20 Sec. 6003.201. RENEWAL REQUIRED; FEE
21 Sec. 6003.202. NOTICE OF EXPIRATION
22 Sec. 6003.203. RENEWAL PROCEDURES

23 [Sections 6003.204-6003.250 reserved for expansion]

24 SUBCHAPTER F. PROHIBITED PRACTICES

25 AND DISCIPLINARY PROCEDURES

- 26 Sec. 6003.251. PROHIBITED PRACTICES
27 Sec. 6003.252. DISCIPLINARY ACTIONS

1 Sec. 6003.253. DISCIPLINARY HEARING

2 Sec. 6003.254. APPLICABILITY OF ADMINISTRATIVE
3 PROCEDURE ACT

4 Sec. 6003.255. REAPPLICATION REQUIREMENTS

5 [Sections 6003.256-6003.300 reserved for expansion]

6 SUBCHAPTER G. CRIMINAL PENALTY

7 Sec. 6003.301. CRIMINAL PENALTY

8 CHAPTER 6003. FIRE PROTECTION SPRINKLER SYSTEM SERVICE AND
9 INSTALLATION

10 SUBCHAPTER A. GENERAL PROVISIONS

11 Sec. 6003.001. DEFINITIONS. In this chapter:

12 (1) "Fire protection sprinkler system" means an
13 assembly of underground or overhead piping or conduits that conveys
14 water with or without other agents to dispersal openings or devices
15 to:

16 (A) extinguish, control, or contain fire; and

17 (B) provide protection from exposure to fire or
18 the products of combustion.

19 (2) "Fire protection sprinkler system contractor"
20 means an individual or organization that offers to undertake,
21 represents itself as being able to undertake, or undertakes the
22 plan, sale, installation, maintenance, or servicing of:

23 (A) a fire protection sprinkler system; or

24 (B) any part of a fire protection sprinkler
25 system.

26 (3) "Individual" means a natural person, including an
27 owner, manager, officer, employee, or occupant.

1 (4) "Installation" means:

2 (A) the initial placement of equipment; or

3 (B) the extension, modification, or alteration
4 of equipment after initial placement.

5 (5) "Insurance agent" means:

6 (A) an individual, firm, or corporation licensed
7 under:

8 (i) Subchapter E, Chapter 981; or

9 (ii) Subchapter A, B, C, D, E, or G, Chapter
10 4051; or

11 (B) an individual authorized to represent an
12 insurance fund or pool created by a municipality, county, or other
13 political subdivision of this state under Chapter 791, Government
14 Code.

15 (6) "License" means the document issued to a
16 responsible managing employee authorizing the employee to engage in
17 the fire protection sprinkler system business in this state.

18 (7) "Maintenance" means the maintenance of a fire
19 protection sprinkler system or any part of a fire protection
20 sprinkler system in the condition of repair that provides
21 performance as originally planned.

22 (8) "Organization" means a corporation, a partnership
23 or other business association, a governmental entity, or any other
24 legal or commercial entity.

25 (9) "Registration certificate" means the document
26 issued to a fire protection sprinkler system contractor authorizing
27 the contractor to engage in business in this state.

1 (10) "Responsible managing employee" means an
2 individual designated by a company that plans, sells, installs,
3 maintains, or services fire protection sprinkler systems to ensure
4 that each fire protection sprinkler system, as installed,
5 maintained, or serviced, meets the standards for the system as
6 provided by law.

7 (11) "Service" means maintenance, repair, or testing.
8 (V.T.I.C. Art. 5.43-3, Secs. 1(1), (2), (5), (6), (7), (8), (9),
9 (10), (11), (12), (13) as added Acts 71st Leg., R.S., Ch. 823.)

10 Sec. 6003.002. APPLICABILITY OF CHAPTER. (a) This chapter
11 does not apply to:

12 (1) an employee of the United States, this state, or
13 any political subdivision of this state who acts as a fire
14 protection sprinkler system contractor for the employing
15 governmental entity;

16 (2) the plan, sale, installation, maintenance, or
17 servicing of a fire protection sprinkler system in any property
18 owned by the United States or this state;

19 (3) an individual or organization acting under court
20 order as authorization;

21 (4) an individual or organization that sells or
22 supplies products or materials to a registered fire protection
23 sprinkler system contractor;

24 (5) an installation, maintenance, or service project
25 for which the total contract price for labor, materials, and all
26 other services is less than \$100, if:

27 (A) the project is not a part of a complete or

1 more costly project, whether the complete project is to be
2 undertaken by one or more fire protection sprinkler system
3 contractors; or

4 (B) the project is not divided into contracts of
5 less than \$100 for the purpose of evading this chapter;

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

9 (7) a regular employee of a registered fire protection
10 sprinkler system contractor; or

11 (8) an owner or lessee of property that:

12 (A) installs a fire protection sprinkler system
13 on the owned or leased property for the owner's or lessee's own use
14 or for family members' use; and

15 (B) does not offer the property for sale or lease
16 before the first anniversary of the date of installation of the fire
17 protection sprinkler system.

18 (b) This chapter does not authorize an individual or
19 organization to practice professional engineering other than in
20 compliance with Chapter 1001, Occupations Code. (V.T.I.C. Art.
21 5.43-3, Secs. 2(b), 11.)

22 Sec. 6003.003. EFFECT ON LOCAL REGULATION. (a) This
23 chapter and the rules adopted under this chapter have uniform force
24 and effect throughout this state. A municipality or county may not
25 enact an order, ordinance, or rule requiring a fire protection
26 sprinkler system contractor to obtain a registration certificate
27 from the municipality or county. A municipality or county may not

1 impose on a fire protection sprinkler system contractor
2 qualification or financial responsibility requirements other than
3 proof of a registration certificate.

4 (b) Notwithstanding any other provision of this chapter, a
5 municipality or county may require a fire protection sprinkler
6 system contractor to obtain a permit and pay a permit fee for the
7 installation of a fire protection sprinkler system and require the
8 installation of a fire protection sprinkler system to conform to
9 the building code or other construction requirements of the
10 municipality or county.

11 (c) A municipal or county order, ordinance, or rule in
12 effect on September 1, 1983, is not invalidated because of any
13 provision of this chapter. (V.T.I.C. Art. 5.43-3, Sec. 2(a).)

14 [Sections 6003.004-6003.050 reserved for expansion]

15 SUBCHAPTER B. POWERS AND DUTIES OF COMMISSIONER,
16 DEPARTMENT, AND STATE FIRE MARSHAL

17 Sec. 6003.051. ADMINISTRATION OF CHAPTER. (a) The
18 department shall administer this chapter.

19 (b) The commissioner may issue rules necessary to
20 administer this chapter through the state fire marshal. (V.T.I.C.
21 Art. 5.43-3, Sec. 3(a) (part).)

22 Sec. 6003.052. ADOPTION OF RULES. (a) In adopting
23 necessary rules, the commissioner may use recognized standards,
24 including standards:

- 25 (1) adopted by federal law or regulation;
26 (2) published by a nationally recognized
27 standards-making organization; or

1 (3) developed by individual manufacturers.

2 (b) Under rules adopted under Section 6003.051(b), the
3 department may create a specialized licensing or registration
4 program for fire protection sprinkler system contractors.
5 (V.T.I.C. Art. 5.43-3, Secs. 3(a) (part), (b).)

6 Sec. 6003.053. RULES RESTRICTING ADVERTISING OR
7 COMPETITIVE BIDDING. (a) The commissioner may not adopt rules
8 restricting advertising or competitive bidding by the holder of a
9 license or registration certificate issued under this chapter
10 except to prohibit false, misleading, or deceptive practices.

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

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

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

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

20 (4) restricts the license or registration certificate
21 holder's advertisement under a trade name. (V.T.I.C. Art. 5.43-3,
22 Sec. 7A.)

23 Sec. 6003.054. GENERAL POWERS AND DUTIES OF COMMISSIONER,
24 STATE FIRE MARSHAL, AND DEPARTMENT. (a) The commissioner may
25 delegate authority to exercise all or part of the commissioner's
26 functions, powers, and duties under this chapter, including the
27 issuance of licenses and registration certificates, to the state

1 fire marshal. The state fire marshal shall implement the rules
2 adopted by the commissioner for the protection and preservation of
3 life and property in controlling:

4 (1) the registration of an individual or an
5 organization engaged in the business of planning, selling,
6 installing, maintaining, or servicing fire protection sprinkler
7 systems; and

8 (2) the requirements for the plan, sale, installation,
9 maintenance, or servicing of fire protection sprinkler systems by:

10 (A) determining the criteria and qualifications
11 for registration certificate and license holders;

12 (B) evaluating the qualifications of an
13 applicant for a registration certificate to engage in the business
14 of planning, selling, installing, maintaining, or servicing fire
15 protection sprinkler systems;

16 (C) conducting examinations and evaluating the
17 qualifications of a license applicant; and

18 (D) issuing registration certificates and
19 licenses to qualified applicants.

20 (b) The commissioner shall establish a procedure for
21 reporting and processing complaints relating to the business of
22 planning, selling, installing, maintaining, or servicing fire
23 protection sprinkler systems in this state. (V.T.I.C. Art. 5.43-3,
24 Secs. 7(a), (b).)

25 Sec. 6003.055. FEES. (a) The commissioner shall set the
26 fee for:

27 (1) a registration certificate application in an

1 amount not to exceed \$100;

2 (2) an initial or renewal registration certificate in
3 an amount not to exceed \$1,200 annually; and

4 (3) an initial or renewal responsible managing
5 employee license fee in an amount not to exceed \$200 annually.

6 (b) Unless the examination for a responsible managing
7 employee license is administered by a testing service, the
8 commissioner shall set a nonrefundable fee for each examination in
9 an amount not to exceed \$100.

10 (c) The commissioner shall set a fee in an amount not to
11 exceed \$70 for:

12 (1) a duplicate registration certificate or license
13 issued under this chapter; or

14 (2) any request requiring changes to a registration
15 certificate or license. (V.T.I.C. Art. 5.43-3, Secs. 4(a) (part),
16 (c) (part), (d) (part), (e), (i) (part), 5A(a) (part).)

17 Sec. 6003.056. DEPOSIT IN OPERATING ACCOUNT. All fees
18 collected under this chapter shall be deposited in the state
19 treasury to the credit of the Texas Department of Insurance
20 operating account for use in administering this chapter. (V.T.I.C.
21 Art. 5.43-3, Sec. 4(i) (part).)

22 [Sections 6003.057-6003.100 reserved for expansion]

23 SUBCHAPTER C. FIRE PROTECTION ADVISORY COUNCIL

24 Sec. 6003.101. ADVISORY COUNCIL; APPOINTMENT. (a) The
25 commissioner shall appoint the members of the fire protection
26 advisory council, who serve at the pleasure of the commissioner.

27 (b) The advisory council is composed of seven members as

1 follows:

2 (1) three members who have been actively engaged in
3 the management of a fire protection sprinkler system business for
4 not less than five years preceding appointment;

5 (2) one member who represents the engineering section
6 of the department's property and casualty program;

7 (3) one member who is a volunteer firefighter; and

8 (4) two members who each represent a different
9 municipal fire department in this state.

10 (c) The State Firemen's and Fire Marshals' Association of
11 Texas, on the commissioner's request, may recommend a volunteer
12 firefighter for appointment to the advisory council. (V.T.I.C.
13 Art. 5.43-3, Secs. 6(a) (part), (c), (e).)

14 Sec. 6003.102. ADVISORY COUNCIL DUTIES. (a) In addition to
15 other duties delegated by the commissioner, the fire protection
16 advisory council shall:

17 (1) advise the state fire marshal regarding practices
18 in the fire protection sprinkler system industry and the rules
19 necessary to implement and administer this chapter; and

20 (2) make recommendations to the state fire marshal
21 regarding forms and procedures for registration certificates and
22 licenses.

23 (b) The advisory council shall periodically:

24 (1) review rules implementing this chapter; and

25 (2) recommend rule changes to the commissioner.

26 (V.T.I.C. Art. 5.43-3, Secs. 6(b), (d).)

27 [Sections 6003.103-6003.150 reserved for expansion]

1 SUBCHAPTER D. REGISTRATION AND LICENSE REQUIREMENTS

2 Sec. 6003.151. FIRE PROTECTION SPRINKLER SYSTEM
3 CONTRACTOR; REGISTRATION CERTIFICATE REQUIRED. (a) Unless the
4 individual or organization holds a registration certificate issued
5 by the department, an individual or organization may not plan,
6 sell, install, maintain, or service a fire protection sprinkler
7 system.

8 (b) An applicant for a registration certificate must apply
9 to the department on a form prescribed by the commissioner.

10 (c) An organization that is a partnership or joint venture
11 is not required to register under the name of the organization if
12 each partner or joint venturer holds a registration certificate.
13 (V.T.I.C. Art. 5.43-3, Secs. 4(a) (part), 8 (part).)

14 Sec. 6003.152. REQUIRED INSURANCE COVERAGE FOR
15 REGISTRATION CERTIFICATE. (a) The department may not issue a
16 registration certificate under this chapter unless the applicant
17 files with the department evidence of a general liability insurance
18 policy that includes products and completed operations coverage.
19 The policy must be conditioned to pay on behalf of the insured those
20 amounts that the insured becomes legally obligated to pay as
21 damages because of bodily injury and property damage caused by an
22 occurrence involving the insured or the insured's officer, agent,
23 or employee in the conduct of any activity that requires a
24 registration certificate or license under this chapter.

25 (b) Unless the commissioner, after notice and an
26 opportunity for a hearing, increases or decreases the limits, the
27 limits of insurance coverage required by Subsection (a) must be at

1 least:

2 (1) \$100,000 combined single limits for bodily injury
3 and property damage for each occurrence; and

4 (2) \$300,000 aggregate for all occurrences for each
5 policy year.

6 (c) The evidence of insurance required by this section must
7 be in the form of a certificate of insurance executed by an insurer
8 authorized to engage in the business of insurance in this state and
9 countersigned by an insurance agent licensed in this state. A
10 certificate of insurance for surplus lines coverage procured in
11 compliance with Chapter 981 through a surplus lines agent that is
12 licensed under Subchapter E, Chapter 981, and resident in this
13 state may be filed with the department as evidence of the coverage
14 required by this section.

15 (d) An insurance certificate executed and filed with the
16 department under this section remains in force until the insurer
17 has terminated future liability by the notice required by the
18 department.

19 (e) Failure to maintain the liability insurance required by
20 this section constitutes grounds for the denial, suspension, or
21 revocation, after notice and opportunity for hearing, of a
22 registration certificate issued under this chapter. (V.T.I.C. Art.
23 5.43-3, Secs. 5, 7(c).)

24 Sec. 6003.153. RESPONSIBLE MANAGING EMPLOYEE: LICENSE
25 REQUIRED. (a) Each fire protection sprinkler system contractor
26 must employ at least one licensed responsible managing employee on
27 a full-time basis.

1 (b) A responsible managing employee must hold a license
2 issued by the department, conditioned on the successful completion
3 of the license examination and compliance with the requirements of
4 the rules adopted under this chapter.

5 (c) Notwithstanding Subsection (a), an individual or
6 organization with a current registration certificate may act as a
7 fire protection sprinkler system contractor for 30 days after the
8 death or dissociation of its licensed responsible managing employee
9 or for a longer period approved by the commissioner under the rules
10 adopted under this chapter. (V.T.I.C. Art. 5.43-3, Secs. 4(b), (c)
11 (part), 8 (part).)

12 Sec. 6003.154. POSTING OF LICENSE OR CERTIFICATE REQUIRED.
13 Each registration certificate and license issued under this chapter
14 must be posted in a conspicuous place in the fire protection
15 sprinkler system contractor's place of business. (V.T.I.C. Art.
16 5.43-3, Sec. 4(f).)

17 Sec. 6003.155. DISPLAY OF REGISTRATION CERTIFICATE NUMBER
18 ON CERTAIN DOCUMENTS REQUIRED. Each bid, proposal, offer, and
19 installation drawing for a fire protection sprinkler system must
20 prominently display the registration certificate number of the fire
21 protection sprinkler system contractor. (V.T.I.C. Art. 5.43-3,
22 Sec. 4(g).)

23 Sec. 6003.156. LICENSE EXAMINATION. (a) The state fire
24 marshal shall establish the scope and type of an examination
25 required by this chapter.

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

1 (c) If a testing service is used, the state fire marshal may
2 contract with the testing service regarding requirements for the
3 examination, including:

- 4 (1) examination development;
5 (2) scheduling;
6 (3) site arrangements;
7 (4) grading;
8 (5) reporting;
9 (6) analysis; or
10 (7) other administrative duties.

11 (d) The state fire marshal may require the testing service
12 to:

13 (1) correspond directly with an applicant regarding
14 the administration of the examination;

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

17 (3) administer the examination at a specific location
18 or time.

19 (e) The state fire marshal shall adopt rules as necessary to
20 implement examination requirements under this chapter. (V.T.I.C.
21 Art. 5.43-3, Secs. 5B(a), (b), (e).)

22 Sec. 6003.157. EXAMINATION RESULTS. (a) Not later than the
23 30th day after the date on which an examination is administered
24 under this chapter, the state fire marshal shall send notice to each
25 examinee of the results of the examination.

26 (b) If an examination is graded or reviewed by a testing
27 service, the state fire marshal shall send notice to each examinee

1 of the results of the examination not later than the 14th day after
2 the date on which the state fire marshal receives the results from
3 the testing service.

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

8 (d) The state fire marshal may require a testing service to
9 notify an examinee of the results of the examinee's examination.

10 (e) If requested in writing by an individual who fails the
11 examination administered under this chapter, the state fire marshal
12 shall send to the individual an analysis of the individual's
13 performance on the examination. (V.T.I.C. Art. 5.43-3, Secs.
14 5B(c), (d).)

15 Sec. 6003.158. CONTINUING EDUCATION REQUIREMENTS. (a) The
16 commissioner may adopt procedures for certifying and may certify
17 continuing education programs.

18 (b) Participation in the continuing education programs is
19 voluntary. (V.T.I.C. Art. 5.43-3, Sec. 5C.)

20 Sec. 6003.159. RECIPROCAL LICENSE. The department may waive
21 any license requirement for an applicant who holds a license issued
22 by another state that has license requirements substantially
23 equivalent to the license requirements of this state. (V.T.I.C.
24 Art. 5.43-3, Sec. 5D.)

25 Sec. 6003.160. NOT TRANSFERABLE. A registration
26 certificate or license issued under this chapter is not
27 transferable. (V.T.I.C. Art. 5.43-3, Sec. 4(h).)

1 [Sections 6003.161-6003.200 reserved for expansion]

2 SUBCHAPTER E. RENEWAL OF REGISTRATION CERTIFICATE OR LICENSE

3 Sec. 6003.201. RENEWAL REQUIRED; FEE. (a) Except as
4 otherwise provided by this subsection, an initial registration
5 certificate or license is valid for a period of one year from the
6 date of issue and is renewable on payment of the renewal fee. An
7 initial registration certificate or license issued on or after
8 September 1, 1983, may be issued for a period of less than one year
9 and the renewal fee shall be prorated proportionally.

10 (b) A renewal of a registration certificate or license
11 issued under this chapter is valid for a period of two years. The
12 license or registration fee for each year of the two-year period is
13 payable on renewal.

14 (c) The commissioner by rule may adopt a system under which
15 registration certificates and licenses expire on various dates
16 during the year. For the year in which an expiration date of a
17 registration certificate or license is less than one year from its
18 issuance or anniversary date, the fee shall be prorated on a monthly
19 basis so that each holder of a registration certificate or license
20 pays only that portion of the renewal fee that is allocable to the
21 number of months during which the registration certificate or
22 license is valid. On renewal on the new expiration date, the total
23 renewal fee is payable. (V.T.I.C. Art. 5.43-3, Secs. 4(d) (part),
24 5A(a), (c).)

25 Sec. 6003.202. NOTICE OF EXPIRATION. At least 30 days
26 before the expiration date of a registration certificate or
27 license, the department shall send written notice of the impending

1 expiration to the holder of the registration certificate or
2 license at the holder's last known address. (V.T.I.C. Art. 5.43-3,
3 Sec. 5A(b) (part).)

4 Sec. 6003.203. RENEWAL PROCEDURES. (a) The holder of an
5 unexpired registration certificate or license may renew the
6 certificate or license by paying the required renewal fee to the
7 department before the expiration date of the certificate or
8 license.

9 (b) An individual or organization whose registration
10 certificate or license has been expired for 90 days or less may
11 renew the certificate or license by paying to the department:

12 (1) the required renewal fee; and

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

15 (c) An individual or organization whose registration
16 certificate or license has been expired for more than 90 days but
17 less than two years may renew the certificate or license by paying
18 to the department:

19 (1) all unpaid renewal fees; and

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

22 (d) An individual or organization whose registration
23 certificate or license has been expired for two years or longer may
24 not renew the certificate or license. The individual or
25 organization may obtain a new registration certificate or license
26 by complying with the requirements and procedures for obtaining an
27 initial registration certificate or license.

1 (e) This section may not be construed to prevent the
2 department from denying or refusing to renew a license under
3 applicable law or commissioner rules. (V.T.I.C. Art. 5.43-3, Sec.
4 5A(b) (part).)

5 [Sections 6003.204-6003.250 reserved for expansion]

6 SUBCHAPTER F. PROHIBITED PRACTICES

7 AND DISCIPLINARY PROCEDURES

8 Sec. 6003.251. PROHIBITED PRACTICES. An individual or
9 organization may not:

10 (1) obtain or attempt to obtain a registration
11 certificate or license by fraudulent representation; or

12 (2) plan, sell, install, maintain, or service a fire
13 protection sprinkler system in violation of this chapter or the
14 rules adopted under this chapter. (V.T.I.C. Art. 5.43-3, Sec. 8
15 (part).)

16 Sec. 6003.252. DISCIPLINARY ACTIONS. The state fire
17 marshal may suspend, revoke, or refuse to issue or renew a
18 registration certificate or license if, after notice and hearing,
19 the state fire marshal finds that the applicant, registrant, or
20 license holder has engaged in acts that:

21 (1) violate this chapter;

22 (2) violate rules or standards adopted under this
23 chapter; or

24 (3) constitute misrepresentation made in connection
25 with:

26 (A) the sale of products; or

27 (B) services rendered. (V.T.I.C. Art. 5.43-3,

1 Sec. 9(a).)

2 Sec. 6003.253. DISCIPLINARY HEARING. (a) If the state fire
3 marshal proposes to suspend, revoke, or refuse to renew a license or
4 registration certificate issued under this chapter, the holder of
5 the license or certificate is entitled to a hearing conducted by the
6 State Office of Administrative Hearings.

7 (b) Rules of practice adopted by the commissioner
8 applicable to the proceedings for a disciplinary action may not
9 conflict with rules adopted by the State Office of Administrative
10 Hearings. (V.T.I.C. Art. 5.43-3, Sec. 9A (part).)

11 Sec. 6003.254. APPLICABILITY OF ADMINISTRATIVE PROCEDURE
12 ACT. Proceedings for the denial, suspension, or revocation of a
13 registration certificate or license, appeals from those
14 proceedings, and any other proceedings for a disciplinary action
15 are governed by Chapter 2001, Government Code. (V.T.I.C. Art.
16 5.43-3, Secs. 9(b), 9A (part).)

17 Sec. 6003.255. REAPPLICATION REQUIREMENTS. (a) An
18 applicant or holder of a registration certificate or license whose
19 certificate or license has been denied, refused, or revoked under
20 this chapter, other than for failure to pass a required written
21 examination, may not file another application for a registration
22 certificate or license before:

23 (1) the first anniversary of the effective date of the
24 denial, refusal, or revocation; or

25 (2) if judicial review of the denial, refusal, or
26 revocation is sought, before the first anniversary of the date of
27 the final court order or decree affirming the action.

1 (b) The commissioner may deny an application described by
2 Subsection (a) unless the applicant shows good cause why the
3 denial, refusal, or revocation of the registration certificate or
4 license should not be considered a bar to the issuance of a new
5 registration certificate or license. (V.T.I.C. Art. 5.43-3, Sec.
6 9(c).)

7 [Sections 6003.256-6003.300 reserved for expansion]

8 SUBCHAPTER G. CRIMINAL PENALTY

9 Sec. 6003.301. CRIMINAL PENALTY. (a) A person commits an
10 offense if the person knowingly violates Section 6003.151(a),
11 6003.153, or 6003.251.

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

13 (c) Venue for an offense under this section is in Travis
14 County or the county in which the offense is committed. (V.T.I.C.
15 Art. 5.43-3, Sec. 10; New.)

16 PART K. ADDITIONS TO GOVERNMENT CODE AND LOCAL GOVERNMENT CODE

17 SECTION 1K.001. ADDITION. Subchapter A, Chapter 533,
18 Government Code, is amended by adding Section 533.019 to read as
19 follows:

20 Sec. 533.019. MANAGED CARE ORGANIZATIONS: FISCAL SOLVENCY
21 AND COMPLAINT SYSTEM GUIDELINES. (a) The Texas Department of
22 Insurance, in conjunction with the commission, shall establish
23 fiscal solvency standards and complaint system guidelines for
24 managed care organizations that serve Medicaid recipients.

25 (b) The guidelines must require that information regarding
26 a managed care organization's complaint process be made available
27 to a recipient in an appropriate communication format when the

1 recipient enrolls in the Medicaid managed care program. (V.T.I.C.
2 Art. 1.61.)

3 SECTION 1K.002. ADDITION. Subtitle C, Title 5, Local
4 Government Code, is amended by adding Chapter 177 to read as
5 follows:

6 CHAPTER 177. LIFE, HEALTH, AND ACCIDENT INSURANCE FOR OFFICIALS,
7 EMPLOYEES, AND RETIREES OF POLITICAL SUBDIVISIONS

8 SUBCHAPTER A. GENERAL PROVISIONS

9 Sec. 177.001. CERTAIN COVERAGE AUTHORIZED. (a) A county or
10 other political subdivision of this state may procure contracts
11 insuring the political subdivision's officials, employees, and
12 retirees or any class of the political subdivision's officials,
13 employees, and retirees under a policy of group life, group health,
14 accident, accidental death and dismemberment, or hospital,
15 surgical, or medical expense insurance.

16 (b) The dependents of those officials, employees, and
17 retirees may be insured under a group policy that provides:

18 (1) health insurance; or

19 (2) hospital, surgical, or medical expense insurance.

20 (V.T.I.C. Art. 3.51-2, Sec. (a) (part).)

21 Sec. 177.002. PAYMENT OF PREMIUMS. (a) A county or other
22 political subdivision of this state that is authorized to procure a
23 contract insuring the political subdivision's officials,
24 employees, and retirees or any class of the political subdivision's
25 officials, employees, and retirees under a policy of group
26 insurance that covers one or more risks may pay from the local funds
27 of the political subdivision all or any portion of the premiums for

1 the policy. The political subdivision may also pay all or any
2 portion of the premiums on group health, hospital, surgical, or
3 medical expense insurance for dependents of the political
4 subdivision's officials, employees, and retirees.

5 (b) If authorized by the official, employee, or retiree in
6 writing to make the deduction, the county or other political
7 subdivision may deduct from the person's salary an amount equal to
8 any required contribution by the person to the premiums for the
9 insurance issued under Section 177.001 to the political
10 subdivision as the policyholder. (V.T.I.C. Art. 3.51-2, Secs. (a)
11 (part), (b), (c) (part).)

12 Sec. 177.003. USE OF STATE FUNDS. State funds may not be
13 used to procure a contract under this subchapter or pay premiums
14 under that contract. (V.T.I.C. Art. 3.51-2, Sec. (a) (part).)

15 [Sections 177.004-177.050 reserved for expansion]

16 SUBCHAPTER B. HEALTH AND INSURANCE FUND

17 Sec. 177.051. FUND AUTHORIZED. (a) A county or other
18 political subdivision of this state may establish a fund to provide
19 insurance authorized by Subchapter A.

20 (b) A fund established under Subsection (a) shall be known
21 as the "health and insurance fund--employees and dependents."
22 (V.T.I.C. Art. 3.51-2, Sec. (c) (part).)

23 Sec. 177.052. PAYMENT OF MONEY INTO FUND. There shall be
24 credited to a fund established under this subchapter:

25 (1) any salary deduction to which an official,
26 employee, or retiree agrees in writing; and

27 (2) contributions from the county or other political

1 subdivision. (V.T.I.C. Art. 3.51-2, Sec. (c) (part).)

2 Sec. 177.053. USE OF MONEY IN FUND. Payment from a fund
3 established under this subchapter:

4 (1) is authorized only for the payment of premiums on
5 life, group health, accident, accidental death and dismemberment,
6 or hospital, surgical, or medical expense insurance for officials,
7 employees, retirees, and their dependents; and

8 (2) must be made in accordance with rules adopted by
9 the county or other political subdivision establishing the fund.
10 (V.T.I.C. Art. 3.51-2, Sec. (c) (part).)

11 Sec. 177.054. PAYMENT OF CLAIMS FROM FUND. A claim against
12 a fund established under this subchapter shall be payable in the
13 same manner as other claims of the county or other political
14 subdivision. (V.T.I.C. Art. 3.51-2, Sec. (c) (part).)

15 PART L. REPEALER

16 SECTION 1L.001. REPEALER. (a) The following Acts and
17 articles as compiled in Vernon's Texas Insurance Code are repealed:

18 (1) 1.01, 1.02, 1.10, 1.12, 1.13, 1.33, and 1.61;

19 (2) 3.11, 3.38, 3.49-3, 3.50-7B, and 3.51-2;

20 (3) 3.50-7A, as added by Chapter 201, Acts of the 78th
21 Legislature, Regular Session, 2003;

22 (4) 3.50-7A, as added by Chapter 213, Acts of the 78th
23 Legislature, Regular Session, 2003;

24 (5) 5.01-1, 5.02, 5.03-1, 5.05, 5.14, 5.43-1, 5.43-2,
25 5.43-3, and 5.66; and

26 (6) 21.20-2, 21.49-15, 21.49-16, 21.49C, 21.70, and
27 21.80.

1 (b) Subsection (b), Article 1.09-1, Insurance Code, is
2 repealed.

3 (c) Subchapter B, Chapter 4, Insurance Code, is repealed.

4 PART M. LEGISLATIVE INTENT

5 SECTION 1M.001. LEGISLATIVE INTENT. This article is
6 enacted under Section 43, Article III, Texas Constitution. This
7 article is intended as a recodification only, and no substantive
8 change in law is intended by this article.

9 PART N. EFFECTIVE DATE

10 SECTION 1N.001. EFFECTIVE DATE. This article takes effect
11 April 1, 2009.

12 ARTICLE 2. UPDATES OF CROSS-REFERENCES IN TITLES 2, 3, 5, 6, 7, 8,
13 10, 11, AND 13, INSURANCE CODE

14 PART A. GENERAL PROVISIONS

15 SECTION 2A.001. This article is enacted as part of the
16 state's continuing statutory revision program under Chapter 323,
17 Government Code. This article is a revision for purposes of Section
18 43, Article III, Texas Constitution, and has the purpose of making
19 necessary corrections to enacted codifications of the Insurance
20 Code.

21 SECTION 2A.002. If any provision of this article conflicts
22 with a statute enacted by the 80th Legislature, Regular Session,
23 2007, the statute controls.

24 PART B. CROSS-REFERENCE UPDATES: TITLE 2, INSURANCE CODE

25 SECTION 2B.001. Section 34.004(a), Insurance Code, is
26 amended to correct a cross-reference to read as follows:

27 (a) A person is not liable in a civil action, including an

1 action for libel or slander, for collecting, reviewing, analyzing,
2 disseminating, or reporting information collected from annual
3 statements filed under Chapter 802 [~~Article 1.11~~] if the person is:

4 (1) the department, the commissioner, or an employee
5 of the department;

6 (2) a member or employee of or delegate to the National
7 Association of Insurance Commissioners or an authorized committee,
8 subcommittee, or task force of that association; or

9 (3) another person who is responsible for collecting,
10 reviewing, analyzing, and disseminating information from filed
11 annual statement convention blanks.

12 SECTION 2B.002. Section 36.002, Insurance Code, is amended
13 to correct cross-references to read as follows:

14 Sec. 36.002. ADDITIONAL RULEMAKING AUTHORITY. The
15 commissioner may adopt reasonable rules that are:

16 (1) necessary to effect the purposes of a provision
17 of:

18 (A) Subchapter B, Chapter 5;

19 (B) Subchapter C, Chapter 1806;

20 (C) Subchapter A, Chapter 2301;

21 (D) Chapter 251, as that chapter relates to
22 casualty insurance and fidelity, guaranty, and surety bond
23 insurance;

24 (E) Chapter 253;

25 (F) Chapter 2008, 2251, or 2252; or

26 (G) Subtitle B, Title 10; or

27 (2) appropriate to accomplish the purposes of a

1 provision of:

2 (A) Section 37.051(a), 403.002, 492.051(b) or
3 (c), 501.159, 941.003(b)(1) [~~941.003(b)(3)~~] or (c), or
4 942.003(b)(1) [~~942.003(b)(3)~~] or (c);

5 (B) Subchapter H, Chapter 544;

6 (C) Chapter 251, as that chapter relates to:

7 (i) automobile insurance;

8 (ii) casualty insurance and fidelity,
9 guaranty, and surety bond insurance;

10 (iii) fire insurance and allied lines;

11 (iv) workers' compensation insurance; or

12 (v) aircraft insurance;

13 (D) Chapter 5, 252, 253, 254, 255, 256, 426, 493,
14 494, 1804, 1805, 1806, [~~or~~] 2171, 6001, 6002, or 6003;

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

16 (F) Section 417.008, Government Code; or

17 (G) [~~Chapter 406A, Labor Code, or~~

18 [~~H~~] Chapter 2154, Occupations Code.

19 SECTION 2B.003. Section 36.106, Insurance Code, is amended
20 to correct cross-references to read as follows:

21 Sec. 36.106. WAIVER OF CERTAIN NOTICE REQUIREMENTS. The
22 commissioner may, on written agreement or stipulation of each party
23 and any intervenor, waive or modify the notice publication
24 requirement of Section 822.059 [~~Article 2.01~~], 822.157 [~~2.03~~],
25 841.060 [~~3.04~~], or 884.058 [~~22.03~~].

26 SECTION 2B.004. Section 38.002(a)(1), Insurance Code, is
27 amended to correct a cross-reference to read as follows:

1 (1) "Insurer" means an insurance company, reciprocal
2 or interinsurance exchange, mutual insurance company, capital
3 stock company, county mutual insurance company, Lloyd's plan, or
4 other legal entity engaged in the business of personal automobile
5 insurance or residential property insurance in this state. The
6 term includes:

7 (A) an affiliate as described by [~~Section 2,~~
8 ~~Article 21.49-1, or~~] Section 823.003(a) if that affiliate is
9 authorized to write and is writing personal automobile insurance or
10 residential property insurance in this state;

11 (B) the Texas Windstorm Insurance Association
12 created and operated under Chapter 2210 [~~Article 21.49~~];

13 (C) the FAIR Plan Association under Chapter 2211
14 [~~Article 21.49A~~]; and

15 (D) the Texas Automobile Insurance Plan
16 Association under Chapter 2151 [~~Article 21.81~~].

17 SECTION 2B.005. Section 38.003(b), Insurance Code, is
18 amended to correct a cross-reference to read as follows:

19 (b) For purposes of this section, "insurer" means a
20 reciprocal or interinsurance exchange, mutual insurance company,
21 capital stock company, county mutual insurance company, Lloyd's
22 plan, life, accident, or health or casualty insurance company,
23 health maintenance organization, mutual life insurance company,
24 mutual insurance company other than life, mutual, or natural
25 premium life insurance company, general casualty company,
26 fraternal benefit society, group hospital service company, or other
27 legal entity engaged in the business of insurance in this state.

1 The term includes an affiliate as described by [~~Section 2, Article~~
2 ~~21.49-1, or~~] Section 823.003(a) if that affiliate is authorized to
3 write and is writing insurance in this state.

4 SECTION 2B.006. Section 38.051, Insurance Code, is amended
5 to correct cross-references to read as follows:

6 Sec. 38.051. DEFINITION. In this subchapter, "health
7 benefit plan provider" means an insurance company, group hospital
8 service corporation, or health maintenance organization that
9 issues:

10 (1) an individual, group, blanket, or franchise
11 insurance policy, an insurance agreement, a group hospital service
12 contract, or an evidence of coverage, that provides benefits for
13 medical or surgical expenses incurred as a result of an accident or
14 sickness; or

15 (2) a long-term care benefit plan [~~insurance policy~~],
16 as defined by Section 1651.003 [~~2, Article 3.70-12~~].

17 SECTION 2B.007. Section 38.101(2), Insurance Code, is
18 amended to correct cross-references to read as follows:

19 (2) "Health benefit plan coverage" means a group
20 policy, contract, or certificate of health insurance or benefits
21 delivered, issued for delivery, or renewed in this state by:

22 (A) an insurance company subject to a law
23 described by Section 841.002 [~~Chapter 3~~];

24 (B) a group hospital service corporation under
25 Chapter 842 [~~20~~];

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

1 1507, Chapters 222, 251, and 258, as applicable to a health
2 maintenance organization, and Chapters 843, 1271, and 1272 [the
3 Texas Health Maintenance Organization Act (Chapter 20A, Vernon's
4 Texas Insurance Code)]; or

5 (D) a self-insurance trust or mechanism
6 providing health care benefits.

7 SECTION 2B.008. Section 38.152, Insurance Code, is amended
8 to correct a cross-reference to read as follows:

9 Sec. 38.152. EXEMPTION. This subchapter does not apply to
10 a farm mutual insurance company or to a county mutual fire insurance
11 company writing exclusively industrial fire insurance as described
12 by Section 912.310 [Article 17.02].

13 SECTION 2B.009. Section 38.252(c), Insurance Code, is
14 amended to correct a cross-reference to read as follows:

15 (c) The commissioner shall not require reporting of data:

16 (1) that could reasonably be used to identify a
17 specific enrollee in a health benefit plan;

18 (2) in any way that violates confidentiality
19 requirements of state or federal law applicable to an enrollee in a
20 health benefit plan; or

21 (3) in which the health maintenance organization
22 operating under [~~the Texas Health Maintenance Organization Act (~~
23 ~~Chapter 843 [20A, Vernon's Texas Insurance Code])~~] does not directly
24 process the claim or does not receive complete and accurate
25 encounter data.

26 SECTION 2B.010. Section 82.002(a), Insurance Code, is
27 amended to correct cross-references to read as follows:

1 (a) This chapter applies to each company regulated by the
2 commissioner, including:

3 (1) a domestic or foreign, stock or mutual, life,
4 health, or accident insurance company;

5 (2) a domestic or foreign, stock or mutual, fire or
6 casualty insurance company;

7 (3) a Mexican casualty company;

8 (4) a domestic or foreign Lloyd's plan insurer;

9 (5) a domestic or foreign reciprocal or interinsurance
10 exchange;

11 (6) a domestic or foreign fraternal benefit society;

12 (7) a domestic or foreign title insurance company;

13 (8) an attorney's title insurance company;

14 (9) a stipulated premium insurance company;

15 (10) a nonprofit legal service corporation;

16 (11) a health maintenance organization;

17 (12) a statewide mutual assessment company;

18 (13) a local mutual aid association;

19 (14) a local mutual burial association;

20 (15) an association exempt under Section 887.102
21 ~~[Article 14.17]~~;

22 (16) a nonprofit hospital, medical, or dental service
23 corporation, including a company subject to Chapter 842 ~~[20]~~;

24 (17) a county mutual insurance company; and

25 (18) a farm mutual insurance company.

26 SECTION 2B.011. Section 83.001(4), Insurance Code, is
27 amended to correct cross-references to read as follows:

1 (4) "Unfair act" means an unfair method of
2 competition, an unfair or deceptive act or practice, or an unfair
3 claim settlement practice as defined under Chapter 541 [~~Article~~
4 ~~21.21~~] or 542 [~~21.21-2~~] or a rule adopted under either chapter
5 [~~article~~].

6 SECTION 2B.012. Section 83.002(a), Insurance Code, is
7 amended to correct cross-references to read as follows:

8 (a) This chapter applies to each company regulated by the
9 commissioner, including:

10 (1) a domestic or foreign, stock or mutual, life,
11 health, or accident insurance company;

12 (2) a domestic or foreign, stock or mutual, fire or
13 casualty insurance company;

14 (3) a Mexican casualty company;

15 (4) a domestic or foreign Lloyd's plan insurer;

16 (5) a domestic or foreign reciprocal or interinsurance
17 exchange;

18 (6) a domestic or foreign fraternal benefit society;

19 (7) a domestic or foreign title insurance company;

20 (8) an attorney's title insurance company;

21 (9) a stipulated premium insurance company;

22 (10) a nonprofit legal service corporation;

23 (11) a statewide mutual assessment company;

24 (12) a local mutual aid association;

25 (13) a local mutual burial association;

26 (14) an association exempt under Section 887.102
27 [~~Article 14.17~~];

1 (15) a nonprofit hospital, medical, or dental service
2 corporation, including a company subject to Chapter 842 [~~20~~];

3 (16) a county mutual insurance company; and

4 (17) a farm mutual insurance company.

5 SECTION 2B.013. Section 83.051(a), Insurance Code, is
6 amended to correct cross-references to read as follows:

7 (a) The commissioner ex parte may issue an emergency cease
8 and desist order if:

9 (1) the commissioner believes that:

10 (A) an authorized person engaging in the business
11 of insurance is:

12 (i) committing an unfair act; or

13 (ii) in a hazardous condition or a
14 hazardous financial condition under Section 843.406 [~~19, Texas~~
15 ~~Health Maintenance Organization Act (Article 20A.19, Vernon's~~
16 ~~Texas Insurance Code),~~] or Subchapter A, Chapter 404 [~~Article~~
17 ~~1.32~~], as determined by the commissioner; or

18 (B) an unauthorized person:

19 (i) is engaging in the business of
20 insurance in violation of Chapter 101 or in violation of a rule
21 adopted under that chapter; or

22 (ii) is engaging in the business of
23 insurance in violation of Chapter 101 and is committing an unfair
24 act; and

25 (2) it appears to the commissioner that the alleged
26 conduct:

27 (A) is fraudulent;

1 (B) is hazardous or creates an immediate danger
2 to the public safety; or

3 (C) is causing or can be reasonably expected to
4 cause public injury that:

5 (i) is likely to occur at any moment;

6 (ii) is incapable of being repaired or
7 rectified; and

8 (iii) has or is likely to have influence or
9 effect.

10 SECTION 2B.014. Section 101.001(a), Insurance Code, is
11 amended to correct a cross-reference to read as follows:

12 (a) It is a state concern that many residents of this state
13 hold insurance policies issued by persons or insurers who are not
14 authorized to do insurance business in this state and who are not
15 qualified as eligible surplus lines insurers under Chapter 981
16 [~~Article 1.14-2~~]. These residents face often insurmountable
17 obstacles in asserting legal rights under the policies in foreign
18 forums under unfamiliar laws and rules of practice.

19 SECTION 2B.015. Section 101.002(2), Insurance Code, is
20 amended to correct a cross-reference to read as follows:

21 (2) "Unfair act" means an unfair method of competition
22 or an unfair or deceptive act or practice as defined under Chapter
23 541 [~~Article 21.21~~] or a rule adopted under that chapter [~~article~~].

24 SECTION 2B.016. Section 101.052, Insurance Code, is amended
25 to correct cross-references to read as follows:

26 Sec. 101.052. ADVERTISING RELATING TO MEDICARE SUPPLEMENT
27 BENEFIT PLANS [~~POLICIES~~]. With respect to a Medicare supplement

1 benefit plan [~~policy~~] authorized under Chapter 1652 [~~Article 3.74~~],
2 the business of insurance in this state includes using, creating,
3 publishing, mailing, or disseminating in this state an
4 advertisement relating to an act that constitutes the business of
5 insurance under Section 101.051 unless the advertisement is used,
6 created, published, mailed, or disseminated on behalf of an insurer
7 or person who:

8 (1) is authorized under this code to engage in the
9 business of insurance in this state;

10 (2) has actual knowledge of the content of the
11 advertisement;

12 (3) has authorized the advertisement to be used,
13 created, published, mailed, or disseminated on that insurer's or
14 person's behalf; and

15 (4) is clearly identified by name in the advertisement
16 as the sponsor of the advertisement.

17 SECTION 2B.017. Section 101.101, Insurance Code, is amended
18 to correct a cross-reference to read as follows:

19 Sec. 101.101. DEFINITION. In this subchapter, "person"
20 means an individual or entity that is a person for purposes of
21 Section 541.002 [~~2(a), Article 21.21~~].

22 SECTION 2B.018. Section 101.203(c), Insurance Code, is
23 amended to correct cross-references to read as follows:

24 (c) This section does not apply to:

25 (1) a transaction in this state that:

26 (A) involves a policy that:

27 (i) is lawfully solicited, negotiated,

1 written, and delivered outside this state; and

2 (ii) covers, at the time the policy is
3 issued, only subjects of insurance that are not resident, located,
4 or expressly to be performed in this state; and

5 (B) takes place after the policy is issued; or

6 (2) surplus lines insurance procured through eligible
7 surplus lines insurers [~~carriers~~] as defined by Section 981.002
8 [~~Article 1.14-2~~].

9 SECTION 2B.019. Section 101.301(b), Insurance Code, is
10 amended to correct cross-references to read as follows:

11 (b) This section does not apply to:

12 (1) a transaction described by Section 101.053(b)(4);
13 or

14 (2) surplus lines insurance procured through eligible
15 surplus lines insurers [~~carriers~~] as defined by Section 981.002
16 [~~Article 1.14-2~~].

17 PART C. CROSS-REFERENCE UPDATES: TITLE 3, INSURANCE CODE

18 SECTION 2C.001. Section 252.002(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:

26 (1) Chapters 1807, 2001-2006, 2171, 6001, 6002, and
27 6003;

- 1 (2) Subchapter C, Chapter 5;
- 2 (3) Subchapter H, Chapter 544;
- 3 (4) Subchapter D, Chapter 1806;
- 4 (5) Section 403.002;
- 5 (6) Sections 417.007, 417.008, and 417.009,
6 Government Code; and
- 7 (7) Chapter 2154, Occupations Code.

8 SECTION 2C.002. Section 252.003, Insurance Code, is amended
9 to correct a cross-reference to read as follows:

10 Sec. 252.003. PREMIUMS SUBJECT TO TAXATION. An insurer
11 shall pay maintenance taxes under this chapter on the correctly
12 reported gross premiums collected from writing insurance in this
13 state against loss or damage by:

- 14 (1) bombardment;
- 15 (2) civil war or commotion;
- 16 (3) cyclone;
- 17 (4) earthquake;
- 18 (5) excess or deficiency of moisture;
- 19 (6) explosion as defined by Section 2002.006(b)
20 ~~[Article 5.52]~~;
- 21 (7) fire;
- 22 (8) flood;
- 23 (9) frost and freeze;
- 24 (10) hail;
- 25 (11) insurrection;
- 26 (12) invasion;
- 27 (13) lightning;

- 1 (14) military or usurped power;
- 2 (15) an order of a civil authority made to prevent the
- 3 spread of a conflagration, epidemic, or catastrophe;
- 4 (16) rain;
- 5 (17) riot;
- 6 (18) the rising of the waters of the ocean or its
- 7 tributaries;
- 8 (19) smoke or smudge;
- 9 (20) strike or lockout;
- 10 (21) tornado;
- 11 (22) vandalism or malicious mischief;
- 12 (23) volcanic eruption;
- 13 (24) water or other fluid or substance resulting from
- 14 the breakage or leakage of sprinklers, pumps, or other apparatus
- 15 erected for extinguishing fires, water pipes, or other conduits or
- 16 containers;
- 17 (25) weather or climatic conditions; or
- 18 (26) windstorm.

19 SECTION 2C.003. Section 253.002(b), Insurance Code, is
20 amended to correct a cross-reference to read as follows:

21 (b) The commissioner shall annually adjust the rate of
22 assessment of the maintenance tax so that the tax imposed that year,
23 together with any unexpended funds produced by the tax, produces
24 the amount the commissioner determines is necessary to pay the
25 expenses during the succeeding year of regulating all classes of
26 insurance specified under Section 253.003 [~~Subchapter B, Chapter~~
27 ~~5~~].

1 SECTION 2C.004. Section 253.003, Insurance Code, is amended
2 to correct a cross-reference to read as follows:

3 Sec. 253.003. PREMIUMS SUBJECT TO TAXATION. An insurer
4 shall pay maintenance taxes under this chapter on the correctly
5 reported gross premiums from writing a class of insurance specified
6 under:

- 7 (1) Chapters 2008, 2251, and 2252;
8 (2) Subchapter B, Chapter 5;
9 (3) Subchapter C, Chapter 1806;
10 (4) Subchapter A, Chapter 2301; and
11 (5) Subtitle B, Title 10.

12 SECTION 2C.005. Section 255.003(a), Insurance Code, is
13 amended to correct a cross-reference to read as follows:

14 (a) An insurer shall pay maintenance taxes under this
15 chapter on the correctly reported gross workers' compensation
16 insurance premiums from writing workers' compensation insurance in
17 this state, including the modified annual premium of a policyholder
18 that purchases an optional deductible plan under Subchapter E,
19 Chapter 2053 [~~Article 5.55C~~].

20 SECTION 2C.006. Section 256.002(b), Insurance Code, is
21 amended to correct a cross-reference to read as follows:

22 (b) The commissioner shall annually adjust the rate of
23 assessment of the maintenance tax so that the tax imposed that year,
24 together with any unexpended funds produced by the tax, produces
25 the amount the commissioner determines is necessary to pay the
26 expenses during the succeeding year of regulating all classes of
27 insurance specified under Chapter 2101 [~~Subchapter K, Chapter 5~~].

1 SECTION 2C.007. Section 256.003, Insurance Code, is amended
2 to correct a cross-reference to read as follows:

3 Sec. 256.003. PREMIUMS SUBJECT TO TAXATION. An insurer
4 shall pay maintenance taxes under this chapter on the correctly
5 reported gross premiums from writing a class of insurance specified
6 under Chapter 2101 [~~Subchapter K, Chapter 5~~].

7 SECTION 2C.008. Section 261.003(b), Insurance Code, is
8 amended to correct a cross-reference to read as follows:

9 (b) The commissioner shall annually adjust the rate of
10 assessment of the maintenance tax so that the tax imposed that year,
11 together with any unexpended funds produced by the tax, produces
12 the amount the commissioner determines is necessary to pay the
13 expenses during the succeeding year of regulating all classes of
14 insurance specified under Chapter 2204 [~~Article 1.14-3~~].

15 SECTION 2C.009. Section 261.004, Insurance Code, is amended
16 to correct a cross-reference to read as follows:

17 Sec. 261.004. PREMIUMS SUBJECT TO TAXATION. The exchange
18 shall pay maintenance taxes under this chapter on the correctly
19 reported gross premiums paid through the exchange on all classes of
20 insurance specified under Chapter 2204 [~~Article 1.14-3~~].

21 PART D. CROSS-REFERENCE UPDATES: TITLE 5, INSURANCE CODE

22 SECTION 2D.001. Section 501.158, Insurance Code, is amended
23 to correct cross-references to read as follows:

24 Sec. 501.158. CONFIDENTIALITY REQUIREMENTS.
25 Confidentiality requirements applicable to examination reports
26 under Sections 401.105 and 401.106 [~~Article 1.18~~] and to the
27 commissioner under Section 441.201 [~~3A, Article 21.28-A~~] apply to

1 the public counsel.

2 SECTION 2D.002. Section 501.204(a), Insurance Code, is
3 amended to correct a cross-reference to read as follows:

4 (a) This section applies to each insurer authorized to
5 engage in business in this state under:

- 6 (1) [~~Chapter 25,~~
7 [~~2~~] Chapter 841;
- 8 (2) [~~3~~] Chapter 842;
- 9 (3) [~~4~~] Chapter 843;
- 10 (4) [~~5~~] Chapter 882;
- 11 (5) [~~6~~] Chapter 884;
- 12 (6) [~~7~~] Chapter 885;
- 13 (7) [~~8~~] Chapter 887;
- 14 (8) [~~9~~] Chapter 888;
- 15 (9) [~~10~~] Chapter 961;
- 16 (10) Chapter 962;
- 17 (11) Chapter 982;
- 18 (12) Subchapter B, Chapter 1103;
- 19 (13) Subchapter A, Chapter 1104;
- 20 (14) Chapter 1201, or a provision listed in Section
21 1201.005;
- 22 (15) Chapter 1551;
- 23 (16) Chapter 1578; or
- 24 (17) Chapter 1601.

25 SECTION 2D.003. Sections 523.051(a) and (c), Insurance
26 Code, are amended to correct a cross-reference to read as follows:

27 (a) The market assistance program is a voluntary program

1 designed to assist applicants for insurance and insureds in this
2 state in obtaining residential property insurance coverage in
3 underserved areas. The commissioner by rule shall designate
4 underserved areas using the standards described by Section 2004.002
5 [~~1, Article 5.35-3~~].

6 (c) The market assistance program may not provide
7 assistance regarding windstorm and hail insurance coverage for a
8 risk eligible for that coverage under Chapter 2210 [~~Article 21.49~~].

9 SECTION 2D.004. Section 523.202(b), Insurance Code, is
10 amended to correct a cross-reference to read as follows:

11 (b) After each review, the executive committee shall report
12 to the commissioner regarding:

13 (1) the need to continue operating the voluntary
14 market assistance program;

15 (2) the need to establish a mandatory market
16 assistance program;

17 (3) the need to establish a FAIR (Fair Access to
18 Insurance Requirements) Plan under Chapter 2211 [~~Article 21.49A~~];
19 or

20 (4) other recommendations the executive committee
21 considers appropriate.

22 SECTION 2D.005. Section 541.005(a), Insurance Code, is
23 amended to correct cross-references to read as follows:

24 (a) A risk retention group or purchasing group described by
25 Subchapter B, Chapter 2201, or [~~as those terms are defined by~~]
26 Section 2201.251 that is [~~2, Article 21.54,~~] not chartered in this
27 state may not engage in a trade practice in this state that is

1 defined as unlawful under this chapter.

2 SECTION 2D.006. Section 541.454(a), Insurance Code, is
3 amended to correct cross-references to read as follows:

4 (a) Civil penalties, premium refunds, judgments,
5 compensatory judgments, individual recoveries, orders, class
6 action awards, costs, damages, or attorney's fees assessed or
7 awarded under this chapter:

8 (1) may be paid only from the capital or surplus funds
9 of the offending insurer; and

10 (2) may not take precedence over, be in priority to, or
11 in any other manner apply to:

12 (A) Chapter 462 or 463 [~~Article 21.28-C or~~
13 ~~21.28-D~~] or any other insurance guaranty act; or

14 (B) Chapter 422 [~~Article 21.39-A~~].

15 SECTION 2D.007. Section 542.052, Insurance Code, is amended
16 to correct a cross-reference to read as follows:

17 Sec. 542.052. APPLICABILITY OF SUBCHAPTER. This subchapter
18 applies to any insurer authorized to engage in business as an
19 insurance company or to provide insurance in this state, including:

20 (1) a stock life, health, or accident insurance
21 company;

22 (2) a mutual life, health, or accident insurance
23 company;

24 (3) a stock fire or casualty insurance company;

25 (4) a mutual fire or casualty insurance company;

26 (5) a Mexican casualty insurance company;

27 (6) a Lloyd's plan;

- 1 (7) a reciprocal or interinsurance exchange;
- 2 (8) a fraternal benefit society;
- 3 (9) a stipulated premium company;
- 4 (10) a nonprofit legal services corporation;
- 5 (11) a statewide mutual assessment company;
- 6 (12) a local mutual aid association;
- 7 (13) a local mutual burial association;
- 8 (14) an association exempt under Section 887.102;
- 9 (15) a nonprofit hospital, medical, or dental service
- 10 corporation, including a corporation subject to Chapter 842;
- 11 (16) a county mutual insurance company;
- 12 (17) a farm mutual insurance company;
- 13 (18) a risk retention group;
- 14 (19) a purchasing group;
- 15 (20) an eligible surplus lines insurer; and
- 16 (21) except as provided by Section 542.053(b), a
- 17 guaranty association operating under Chapter 462 or 463 [~~Article~~
- 18 ~~21.28-C or 21.28-D~~].

19 SECTION 2D.008. Sections 542.053(a) and (b), Insurance
20 Code, are amended to correct cross-references to read as follows:

- 21 (a) This subchapter does not apply to:
 - 22 (1) workers' compensation insurance;
 - 23 (2) mortgage guaranty insurance;
 - 24 (3) title insurance;
 - 25 (4) fidelity, surety, or guaranty bonds;
 - 26 (5) marine insurance as defined by Section 1807.001
 - 27 [~~Article 5.53~~]; or

1 (6) a guaranty association created and operating under
2 Chapter 2602.

3 (b) A guaranty association operating under Chapter 462 or
4 463 [~~Article 21.28-C or 21.28-D~~] is not subject to the damage
5 provisions of Section 542.060.

6 SECTION 2D.009. Section 542.102(b), Insurance Code, is
7 amended to correct a cross-reference to read as follows:

8 (b) This section does not apply to a workers' compensation
9 insurance policy subject to Section 2051.151 [~~Article 5.65A~~].

10 SECTION 2D.010. Section 542.152, Insurance Code, is amended
11 to correct a cross-reference to read as follows:

12 Sec. 542.152. EXCEPTION. This subchapter does not apply
13 to:

14 (1) a casualty insurance policy that requires the
15 insured's consent to settle a claim against the insured;

16 (2) fidelity, surety, or guaranty bonds; or

17 (3) marine insurance as defined by Section 1807.001
18 [~~Article 5.53~~].

19 SECTION 2D.011. Section 544.301(1), Insurance Code, is
20 amended to correct cross-references to read as follows:

21 (1) "Insurer" means an insurance company, reciprocal
22 or interinsurance exchange, mutual insurance company, capital
23 stock company, county mutual insurance company, farm mutual
24 insurance company, Lloyd's plan, or other legal entity authorized
25 to write residential property insurance in this state. The term
26 includes an affiliate, as described by Section 823.003(a), if that
27 affiliate is authorized to write and is writing residential

1 property insurance in this state. The term does not include:

2 (A) an eligible surplus lines insurer regulated
3 under Chapter 981;

4 (B) the Texas Windstorm Insurance Association
5 under Chapter 2210 [~~Article 21.49~~]; or

6 (C) the FAIR Plan Association under Chapter 2211
7 [~~Article 21.49A~~].

8 SECTION 2D.012. Section 551.001, Insurance Code, is amended
9 to correct cross-references by amending Subsection (a) and adding
10 Subsection (a-1) to read as follows:

11 (a) The commissioner may, as necessary, adopt and enforce
12 reasonable rules, including notice requirements, relating to the
13 cancellation and nonrenewal of any insurance policy regulated by
14 the department under:

15 (1) Chapter 5;

16 (2) Chapter 1804, 1805, 2171, or 2301; or

17 (3) Subtitle C, D, E, or F, Title 10 [~~, other than:~~

18 [~~(1) a policy subject to Subchapter B or C; or~~

19 [~~(2) a marine insurance policy other than inland~~
20 ~~marine]~~.

21 (a-1) Notwithstanding Subsection (a), Subsection (a) does
22 not apply to:

23 (1) an insurance policy subject to Subchapter B or C of
24 this chapter; or

25 (2) a marine insurance policy other than inland
26 marine.

27 SECTION 2D.013. Sections 551.107(b) and (e), Insurance

1 Code, are amended to correct cross-references to read as follows:

2 (b) A claim under this section does not include a claim:

3 (1) resulting from a loss caused by natural causes;

4 (2) that is filed but is not paid or payable under the
5 policy; or

6 (3) that an insurer is prohibited from using under
7 Section 544.353 [~~3, Article 5.35-4~~].

8 (e) An insurer may notify an insured who has filed two
9 claims in a period of less than three years that the insurer may
10 refuse to renew the policy if the insured files a third claim during
11 the three-year period. If the insurer does not notify the insured
12 in accordance with this subsection, the insurer may not refuse to
13 renew the policy because of claims. The notice form must:

14 (1) list the policyholder's claims; and

15 (2) contain the sentence: "The filing by you of
16 another claim, except for a claim resulting from a loss caused by
17 natural causes, a claim filed but not paid or payable under the
18 policy under which it was filed, or an appliance-related claim that
19 we are prohibited from using under Section 544.353 [~~3, Article~~
20 ~~5.35-4~~], Texas Insurance Code, could cause us to refuse to renew
21 your policy."

22 SECTION 2D.014. Section 553.004(a), Insurance Code, is
23 amended to correct a cross-reference to read as follows:

24 (a) If the commissioner considers it necessary, the
25 commissioner may initiate an examination of an insurer under
26 Sections 401.051, 401.052, and 401.054-401.062 [~~Article 1.15~~].

27 SECTION 2D.015. Section 558.001, Insurance Code, is amended

1 to correct a cross-reference to read as follows:

2 Sec. 558.001. DEFINITION. In this chapter, "insurer" means
3 an insurance company or other entity authorized to engage in the
4 business of insurance in this state. The term includes:

- 5 (1) a stock life, health, or accident insurance
6 company;
- 7 (2) a mutual life, health, or accident insurance
8 company;
- 9 (3) a stock fire or casualty insurance company;
- 10 (4) a mutual fire or casualty insurance company;
- 11 (5) a Mexican casualty insurance company;
- 12 (6) a farm mutual insurance company;
- 13 (7) a county mutual insurance company;
- 14 (8) a Lloyd's plan;
- 15 (9) a reciprocal or insurance exchange;
- 16 (10) a fraternal benefit society;
- 17 (11) a stipulated premium company;
- 18 (12) a nonprofit legal services corporation;
- 19 (13) a statewide mutual assessment company;
- 20 (14) a local mutual aid association;
- 21 (15) a local mutual burial association;
- 22 (16) an association exempt under Section 887.102;
- 23 (17) a nonprofit hospital, medical, or dental service
24 corporation, including a corporation subject to Chapter 842;
- 25 (18) a risk retention group;
- 26 (19) a purchasing group;
- 27 (20) an eligible surplus lines insurer; and

1 (21) a guaranty association operating under Chapter
2 462 or 463 [~~Article 21.28-C or 21.28-D~~].

3 SECTION 2D.016. Section 558.002(c), Insurance Code, is
4 amended to correct cross-references to read as follows:

5 (c) A guaranty association shall promptly refund any
6 unearned premium as described by Subchapter E, Chapter 462 [~~Section~~
7 ~~5(8), Article 21.28-C~~], or Sections 463.003(9) [~~5(10)~~] and 463.259
8 [~~8(n), Article 21.28-D~~].

9 SECTION 2D.017. Section 706.001(a), Insurance Code, is
10 amended to correct a cross-reference to read as follows:

11 (a) The definitions adopted under Sections 2251.002 and
12 2301.002 and the terms described by Sections 2251.003 and 2301.003
13 [~~Article 5.13-2~~] apply to this chapter.

14 SECTION 2D.018. Section 706.004, Insurance Code, is amended
15 to correct a cross-reference to read as follows:

16 Sec. 706.004. RATES AND FORMS. Notwithstanding any other
17 law, rates and forms for insurance coverage issued under this
18 chapter are governed by:

- 19 (1) Subchapters A-E, Chapter 2251;
20 (2) Subchapter A, Chapter 2301; and
21 (3) Article 5.13-2.

22 PART E. CROSS-REFERENCE UPDATES: TITLE 6, INSURANCE CODE

23 SECTION 2E.001. Section 802.056, Insurance Code, is amended
24 to correct cross-references to read as follows:

25 Sec. 802.056. STATUS OF REPORTS AND OTHER INFORMATION. A
26 report or any other information resulting from the collection,
27 review, analysis, and distribution of information developed from

1 the filing of annual statement convention blanks and provided to
2 the department by the National Association of Insurance
3 Commissioners is considered part of the process of examination of
4 insurance companies under this code, including Chapters 86 and 401
5 ~~[Articles 1.15-1.19]~~.

6 SECTION 2E.002. Section 803.009, Insurance Code, is amended
7 to correct cross-references to read as follows:

8 Sec. 803.009. CONFLICTING PROVISIONS. This chapter
9 prevails over a conflicting provision of any other law of this
10 state, including:

- 11 (1) Chapters 221, 222, and 223;
12 (2) Sections 401.151, 401.152, 401.155, and 401.156;
13 and
14 (3) Section 171.0525, Tax Code ~~[Articles 1.16, 4.10,~~
15 ~~4.11, and 9.59]~~.

16 SECTION 2E.003. Section 804.104, Insurance Code, is amended
17 to correct a cross-reference to read as follows:

18 Sec. 804.104. RISK RETENTION GROUP NOT CHARTERED IN THIS
19 STATE. A risk retention group that is not chartered but that is
20 registered in this state under Section 2201.152 ~~[4(b)(3), Article~~
21 ~~21.54]~~, must designate the commissioner as its agent for service of
22 process and receipt of legal documents.

23 SECTION 2E.004. Section 804.201(a), Insurance Code, is
24 amended to correct a cross-reference to read as follows:

25 (a) Process served by serving the commissioner under this
26 chapter must be directed to the defendant and include:

- 27 (1) for an unauthorized person or insurer, the name

1 and address of the person or insurer to be served;

2 (2) for a risk retention group, the name and address of
3 the group to be served;

4 (3) for a surplus lines insurer, the name and address
5 of the insurer to be served;

6 (4) for an unincorporated association, trust, or other
7 organization formed under Chapter 1505 [~~Article 3.71~~], the name and
8 address of the association, trust, or organization; or

9 (5) for an authorized company, the name and address of
10 the company as it appears in the department records.

11 SECTION 2E.005. Section 822.056(e), Insurance Code, is
12 amended to correct a cross-reference to read as follows:

13 (e) If all of the authorized shares of stock without par
14 value are not subscribed and paid for when the charter is granted or
15 the amendment is filed, respectively, the insurance company shall
16 file with the department a certificate authenticated by a majority
17 of the directors stating the number of shares without par value
18 issued and the consideration received for those shares. An
19 insurance company may issue and dispose of those remaining
20 authorized shares for money or an instrument authorized for minimum
21 capital under:

22 (1) a provision of Subchapter B, Chapter 424, other
23 than Section 424.052, 424.072, or 424.073; and

24 (2) Section 822.204 [~~and Article 2.10~~].

25 SECTION 2E.006. Sections 822.061(a) and (b), Insurance
26 Code, are amended to correct a cross-reference to read as follows:

27 (a) On receipt of a charter fee in the amount determined

1 under Chapter 202 [~~Article 4.07~~], the commissioner shall examine
2 the articles of incorporation filed with the department under
3 Section 822.060 and any certificate filed under Section
4 822.057(a)(4).

5 (b) If the commissioner approves the articles of
6 incorporation and, if applicable, the certificate filed under
7 Section 822.057(a)(4), the commissioner shall certify and file the
8 approved documents with the department records and, on receipt of a
9 fee in the amount determined under Chapter 202 [~~Article 4.07~~], the
10 commissioner shall issue a certified copy of the charter to the
11 incorporators.

12 SECTION 2E.007. Section 822.155, Insurance Code, is amended
13 to correct a cross-reference to read as follows:

14 Sec. 822.155. APPLICATION FOR AMENDMENT OF CHARTER. A
15 domestic insurance company may amend its charter by paying to the
16 commissioner a fee in the amount determined under Chapter 202
17 [~~Article 4.07~~] and by filing with the department:

18 (1) an application for a charter amendment on the form
19 and containing the information prescribed by the commissioner; and

20 (2) the company's proposed amendment.

21 SECTION 2E.008. Sections 822.158(a) and (e), Insurance
22 Code, are amended to correct cross-references to read as follows:

23 (a) Not later than the 60th day after the date the
24 application under Section 822.155 is filed, the commissioner shall
25 determine whether:

26 (1) the proposed capital structure of the insurance
27 company meets the requirements of this code;

1 (2) the officers, directors, and managing head of the
2 insurance company have sufficient insurance experience, ability,
3 standing, and good record to make success of the company probable;

4 (3) the applicants are acting in good faith;

5 (4) if the proposed amendment relates to a diminution
6 of the insurance company's charter powers with respect to the kinds
7 of insurance business in which the company may be engaged, all
8 liabilities incidental to the exercise of the powers to be
9 eliminated have been terminated or wholly reinsured; and

10 (5) the property involved in an increase of capital or
11 surplus, or both, is:

12 (A) properly valued; and

13 (B) in the form authorized by the following
14 provisions [~~Section 822.204 and Article 2.10~~], to the extent those
15 provisions apply:

16 (i) Subchapter B, Chapter 424, other than
17 Sections 424.052, 424.072, and 424.073; and

18 (ii) Section 822.204.

19 (e) On approval of a certificate required under Section
20 822.156 and receipt of a fee in the amount determined under Chapter
21 202 [~~Article 4.07~~], the commissioner shall issue to the directors a
22 certified copy of an amendment authorizing the issuance of shares
23 of stock without par value that is filed under this section. The
24 amendment is effective on issuance of the certified copy of the
25 amendment.

26 SECTION 2E.009. Section 822.211, Insurance Code, is amended
27 to correct cross-references to read as follows:

1 Sec. 822.211. ACTION OF COMMISSIONER WHEN CAPITAL OR
2 SURPLUS REQUIREMENTS NOT SATISFIED. If an insurance company does
3 not comply with the capital and surplus requirements of this
4 chapter, the commissioner may enter an order prohibiting the
5 company from writing new business and may:

6 (1) place the company under state supervision or
7 conservatorship;

8 (2) declare the company to be in a hazardous condition
9 as provided by Subchapter A, Chapter 404 [~~Article 1.32~~];

10 (3) declare the company to be impaired as provided by
11 Subchapter B, Chapter 404 [~~Section 5, Article 1.10~~]; or

12 (4) apply to the company any other applicable sanction
13 provided by this code.

14 SECTION 2E.010. Section 823.001(c), Insurance Code, is
15 amended to read as follows:

16 (c) The purpose of this chapter [~~article~~] is to promote the
17 public interest by:

18 (1) facilitating the achievement of the objectives
19 described by Subsection (a);

20 (2) requiring disclosure of pertinent information
21 relating to and approval of changes in control of an insurer;

22 (3) requiring disclosure and approval of material
23 transactions and relationships between the insurer and the
24 insurer's affiliates, including certain dividends to shareholders
25 paid by the insurer; and

26 (4) providing standards governing material
27 transactions between the insurer and the insurer's affiliates.

1 SECTION 2E.011. Section 823.353(a), Insurance Code, is
2 amended to correct a cross-reference to read as follows:

3 (a) Each registered insurer that complies with an order
4 under Section 823.351(a) shall pay the expense of the examination
5 in accordance with Sections 401.151, 401.152, 401.155, and 401.156
6 ~~[Article 1.16]~~.

7 SECTION 2E.012. Section 823.451, Insurance Code, is amended
8 to correct cross-references to read as follows:

9 Sec. 823.451. RECEIVERSHIP. If it appears to the
10 commissioner that a person's violation of this chapter so impairs
11 the financial condition of a domestic insurer as to threaten the
12 insurer's insolvency or make the further transaction of the
13 insurer's business hazardous to the insurer's policyholders or
14 creditors or the public, the commissioner may proceed under
15 Chapters 441 and 443 ~~[Articles 21.28 and 21.28-A]~~ to take
16 possession of the insurer's property and conduct the business of
17 the insurer.

18 SECTION 2E.013. Section 824.151(b), Insurance Code, is
19 amended to correct a cross-reference to read as follows:

20 (b) Except as provided by Section 824.152, the provisions of
21 Subchapter D, Chapter 425, ~~[Article 3.39]~~ that limit investments in
22 the corporate stock of another corporation do not apply to a
23 purchase made under this section.

24 SECTION 2E.014. Sections 824.152(d) and (g), Insurance
25 Code, are amended to correct a cross-reference to read as follows:

26 (d) A purchase, offer to purchase, tender offer, request to
27 purchase, or invitation to purchase shares in excess of the limits

1 imposed under Subchapter D, Chapter 425, [Article 3.39] may not be
2 made until it is filed with and approved by the commissioner in
3 accordance with Chapter 823.

4 (g) If the merger or consolidation does not take effect
5 within the period finally determined and extended by the
6 commissioner, the purchasing corporation must sell or otherwise
7 dispose of the purchased shares that exceed the investment
8 limitations imposed under Subchapter D, Chapter 425, [Article 3.39]
9 within six months of the final effective date.

10 SECTION 2E.015. Section 828.051, Insurance Code, is amended
11 to correct cross-references to read as follows:

12 Sec. 828.051. EXCEPTION TO LIMITATION ON PURCHASING SHARES
13 OF OTHER COMPANY. Subchapters C and D, Chapter 425, [Articles 3.33
14 and 3.39] do not apply to a purchase or contract described by
15 Section 828.001 if all requirements of this subchapter are met.

16 SECTION 2E.016. Section 828.054, Insurance Code, is amended
17 to correct cross-references to read as follows:

18 Sec. 828.054. APPROVAL REQUIRED. A purchase, offer to
19 purchase, tender offer, request to purchase, or invitation to
20 purchase shares in excess of the limits imposed under Subchapter C
21 or D, Chapter 425, [Article 3.33 or 3.39] may not be made until it is
22 filed with and approved by the commissioner in accordance with
23 Chapter 823.

24 SECTION 2E.017. Section 828.056(b), Insurance Code, is
25 amended to correct cross-references to read as follows:

26 (b) If the reinsurance agreement does not take effect within
27 the period finally determined and extended by the commissioner, the

1 purchasing company shall sell or otherwise dispose of the purchased
2 shares that exceed the investment limitations imposed under
3 Subchapter C or D, Chapter 425, [Article 3.33 or 3.39] within six
4 months of the final effective date.

5 SECTION 2E.018. Section 841.002, Insurance Code, is amended
6 to correct cross-references to read as follows:

7 Sec. 841.002. APPLICABILITY OF CHAPTER AND OTHER
8 LAW. Except as otherwise expressly provided by this code, each
9 insurance company incorporated or engaging in business in this
10 state as a life insurance company, an accident insurance company, a
11 life and accident insurance company, a health and accident
12 insurance company, or a life, health, and accident insurance
13 company is subject to:

- 14 (1) this chapter;
- 15 (2) Chapter 3;
- 16 (3) Chapters 425 and 492; [and]
- 17 (4) [~~(3)~~] Title 7;
- 18 (5) Sections 1202.051, 1204.151, 1204.153, and
19 1204.154;
- 20 (6) Subchapter A, Chapter 1202, Subchapters A and F,
21 Chapter 1204, Subchapter A, Chapter 1273, Subchapters A, B, and D,
22 Chapter 1355, and Subchapter A, Chapter 1366;
- 23 (7) Subchapter A, Chapter 1507;
- 24 (8) Chapters 1203, 1210, 1251-1254, 1301, 1351, 1354,
25 1359, 1364, 1368, 1505, 1506, 1651, 1652, and 1701; and
- 26 (9) Chapter 177, Local Government Code.

27 SECTION 2E.019. Section 841.054(c), Insurance Code, is

1 amended to correct a cross-reference to read as follows:

2 (c) At the time of incorporation, the required capital and
3 surplus shall consist only of:

4 (1) United States currency;

5 (2) bonds of the United States, this state, or a county
6 or municipality of this state; or

7 (3) government insured mortgage loans that are
8 authorized by this chapter or Chapter 425 [~~3~~], with not more than 50
9 percent of the required capital invested in first mortgage real
10 property loans.

11 SECTION 2E.020. Section 841.058(a), Insurance Code, is
12 amended to correct a cross-reference to read as follows:

13 (a) To obtain a charter for a domestic insurance company,
14 the incorporators must pay to the department the charter fee in an
15 amount determined under Chapter 202 [~~Article 4.07~~] and file with
16 the department:

17 (1) an application for charter on the form and
18 containing the information prescribed by the commissioner;

19 (2) the company's articles of incorporation; and

20 (3) an affidavit made by two or more of the
21 incorporators that states that:

22 (A) the minimum capital and surplus requirements
23 of Section 841.054 are satisfied;

24 (B) the capital and surplus are the bona fide
25 property of the company; and

26 (C) the information in the articles of
27 incorporation is true and correct.

1 SECTION 2E.021. Section 841.061(c), Insurance Code, is
2 amended to correct a cross-reference to read as follows:

3 (c) If the commissioner does not reject the application
4 under Subsection (b), the commissioner shall approve the
5 application. On approval of an application, the department shall
6 record the information required by Section 841.058 in records
7 maintained for that purpose. On receipt of a fee in the amount
8 determined under Chapter 202 [~~Article 4.07~~], the commissioner shall
9 provide to the incorporators a certified copy of the application,
10 articles of incorporation, and submitted affidavit.

11 SECTION 2E.022. Section 841.207, Insurance Code, is amended
12 to correct a cross-reference to read as follows:

13 Sec. 841.207. ACTIONS OF COMMISSIONER WHEN CAPITAL AND
14 SURPLUS REQUIREMENTS NOT SATISFIED. If an insurance company does
15 not comply with the capital and surplus requirements of this
16 chapter, the commissioner may order the insurance company to cease
17 writing new business and may:

18 (1) place the insurance company under state
19 supervision or conservatorship;

20 (2) declare the insurance company to be in a hazardous
21 condition as provided by Subchapter A, Chapter 404 [~~Article 1.32~~];

22 (3) declare the insurance company to be impaired as
23 provided by Section 841.206; or

24 (4) apply to the insurance company any other
25 applicable sanction provided by this code.

26 SECTION 2E.023. Section 841.255(a), Insurance Code, is
27 amended to correct a cross-reference to read as follows:

1 (a) Not later than March 1 of each year, a domestic
2 insurance company shall:

3 (1) prepare a statement showing the condition of the
4 company on December 31 of the preceding year; and

5 (2) deliver the statement to the department
6 accompanied by a filing fee in the amount determined under Chapter
7 202 [~~Article 4.07~~].

8 SECTION 2E.024. Section 841.257, Insurance Code, is amended
9 to correct cross-references to read as follows:

10 Sec. 841.257. KINDS OF BUSINESS LIMITED. An insurance
11 company authorized to engage in the business of insurance under
12 this chapter or in accordance with Section 982.051 may not accept a
13 risk or write an insurance policy in this state or any other state
14 or country other than:

15 (1) a life, accident, or health insurance policy;

16 (2) reinsurance under Sections 492.051(b) and (c) or
17 Chapter 493 [~~Article 5.75-1~~] by a life insurance company authorized
18 to engage in the business of insurance in this state; or

19 (3) reinsurance under Chapter 494 [~~Article 5.75-3~~] by
20 a domestic insurance company.

21 SECTION 2E.025. Section 842.201(c), Insurance Code, is
22 amended to correct a cross-reference to read as follows:

23 (c) The department shall charge a fee in an amount
24 determined under Chapter 202 [~~Article 4.07~~] for filing the
25 statement.

26 SECTION 2E.026. Section 842.209, Insurance Code, is amended
27 to correct cross-references to read as follows:

1 Sec. 842.209. EXAMINATIONS. The following laws [~~Articles~~
2 ~~1.15 and 1.16~~] apply to a group hospital service corporation:

3 (1) Subchapter A, Chapter 86; and

4 (2) Sections 401.051, 401.052, 401.054-401.062,
5 401.151, 401.152, 401.155, and 401.156.

6 SECTION 2E.027. Section 842.210, Insurance Code, is amended
7 to correct cross-references to read as follows:

8 Sec. 842.210. LIQUIDATION, REHABILITATION, OR CONSERVATION
9 OF GROUP HOSPITAL SERVICE CORPORATION. The dissolution,
10 liquidation, rehabilitation, or conservation of a group hospital
11 service corporation is subject to Chapters 441 and 443 [~~Articles~~
12 ~~21.28 and 21.28-A~~].

13 SECTION 2E.028. Section 842.253, Insurance Code, is amended
14 to correct a cross-reference to read as follows:

15 Sec. 842.253. POLICY, CERTIFICATE, AND APPLICATION
16 FORMS. A policy, certificate, or application form used by a group
17 hospital service corporation is subject to Chapter 1701 [~~Article~~
18 ~~3.42~~].

19 SECTION 2E.029. Sections 843.002(20), (28), and (30),
20 Insurance Code, are amended to correct cross-references to read as
21 follows:

22 (20) "Net worth" means the amount by which total
23 liabilities, excluding liability for subordinated debt issued in
24 compliance with Chapter 427 [~~Article 1.39~~], is exceeded by total
25 admitted assets.

26 (28) "Uncovered expenses" means the estimated amount
27 of administrative expenses and the estimated cost of health care

1 services that are not guaranteed, insured, or assumed by a person
 2 other than the health maintenance organization. The term does not
 3 include the cost of health care services if the physician or
 4 provider agrees in writing that an enrollee is not liable,
 5 assessable, or in any way subject to making payment for the services
 6 except as described in the evidence of coverage issued to the
 7 enrollee under Chapter 1271 [~~Article 20A.09~~]. The term includes
 8 any amount due on loans in the next calendar year unless the amount
 9 is specifically subordinated to uncovered medical and health care
 10 expenses or the amount is guaranteed by a sponsoring organization.

11 (30) "Delegated entity" means an entity, other than a
 12 health maintenance organization authorized to engage in business
 13 under this chapter, that by itself, or through subcontracts with
 14 one or more entities, undertakes to arrange for or provide medical
 15 care or health care to an enrollee in exchange for a predetermined
 16 payment on a prospective basis and that accepts responsibility for
 17 performing on behalf of the health maintenance organization a
 18 function regulated by this chapter, Section 1367.053, Subchapter A,
 19 Chapter 1452, Subchapter B, Chapter 1507, Chapter 222, 251, or 258,
 20 as applicable to a health maintenance organization, or Chapter 1271
 21 or 1272 [~~or Chapter 20A~~]. The term does not include:

22 (A) an individual physician; or

23 (B) a group of employed physicians, practicing
 24 medicine under one federal tax identification number, whose total
 25 claims paid to providers not employed by the group constitute less
 26 than 20 percent of the group's total collected revenue computed on a
 27 calendar year basis.

1 SECTION 2E.030. Section 843.006(a), Insurance Code, is
2 amended to correct a cross-reference to read as follows:

3 (a) Except as provided by Subsection (b), each application,
4 filing, and report required under this chapter, Section 1367.053,
5 Subchapter A, Chapter 1452, Subchapter B, Chapter 1507, Chapter
6 222, 251, or 258, as applicable to a health maintenance
7 organization, or Chapter 1271 or 1272 [~~or Chapter 20A~~] is a public
8 document.

9 SECTION 2E.031. Section 843.007(a), Insurance Code, is
10 amended to correct a cross-reference to read as follows:

11 (a) Any information relating to the diagnosis, treatment,
12 or health of an enrollee or applicant obtained by a health
13 maintenance organization from the enrollee or applicant or from a
14 physician or provider shall be held in confidence and may not be
15 disclosed to any person except:

16 (1) to the extent necessary to accomplish the purposes
17 of this chapter or:

18 (A) Section 1367.053;

19 (B) Subchapter A, Chapter 1452;

20 (C) Subchapter B, Chapter 1507;

21 (D) Chapter 222, 251, or 258, as applicable to a
22 health maintenance organization; or

23 (E) Chapter 1271 or 1272 [~~Chapter 20A~~];

24 (2) with the express consent of the enrollee or
25 applicant;

26 (3) in compliance with a statute or court order for the
27 production or discovery of evidence; or

1 (4) in the event of a claim or litigation between the
2 enrollee or applicant and the health maintenance organization in
3 which the information is pertinent.

4 SECTION 2E.032. Section 843.008, Insurance Code, is amended
5 to correct cross-references to read as follows:

6 Sec. 843.008. COSTS OF ADMINISTERING HEALTH MAINTENANCE
7 ORGANIZATION LAWS. Money collected under this chapter and
8 Chapters 222, 251, and 258, as applicable to a health maintenance
9 organization, [Article 20A.33] must be sufficient to administer
10 this chapter and:

11 (1) Section 1367.053;

12 (2) Subchapter A, Chapter 1452;

13 (3) Subchapter B, Chapter 1507;

14 (4) Chapters 222, 251, and 258, as applicable to a
15 health maintenance organization; and

16 (5) Chapters 1271 and 1272 [Chapter 20A].

17 SECTION 2E.033. Sections 843.051(a), (b), and (e),
18 Insurance Code, are amended to correct cross-references to read as
19 follows:

20 (a) Except to the extent that the commissioner determines
21 that the nature of health maintenance organizations, health care
22 plans, or evidences of coverage renders a provision of the
23 following laws clearly inappropriate, Subchapter A, Chapter 542,
24 Subchapters D and E, Chapter 544, and Chapters 541, 543, and 547
25 [Articles 21.21, 21.21A, 21.21-2, 21.21-5, and 21.21-6, as added by
26 Chapter 522, Acts of the 74th Legislature, Regular Session, 1995,
27 and the Unauthorized Insurers False Advertising Process Act

1 ~~(Article 21.21-1, Vernon's Texas Insurance Code)~~ apply to:

2 (1) health maintenance organizations that offer
3 basic, limited, and single health care coverages;

4 (2) basic, limited, and single health care plans; and

5 (3) evidences of coverage under basic, limited, and
6 single health care plans.

7 (b) A health maintenance organization is subject to:

8 (1) Chapter 402 [~~Section 3B, Article 3.51-6~~];

9 (2) Chapter 827 and is an authorized insurer for
10 purposes of that chapter; and

11 (3) Subchapter G, Chapter 1251, and Section 1551.064
12 [~~Article 21.49-8~~].

13 (e) Except for Chapter 251, as applicable to a third-party
14 administrator, and Chapters 259, 4151, and 4201 [~~Articles 21.07-6~~
15 ~~and 21.58A~~], insurance laws and group hospital service corporation
16 laws do not apply to a physician or provider. Notwithstanding this
17 subsection, a physician or provider who conducts a utilization
18 review during the ordinary course of treatment of patients under a
19 joint or delegated review agreement with a health maintenance
20 organization on services provided by the physician or provider is
21 not required to obtain certification under Subchapter C, Chapter
22 4201 [~~Section 3, Article 21.58A~~].

23 SECTION 2E.034. Section 843.071(b), Insurance Code, is
24 amended to correct a cross-reference to read as follows:

25 (b) A person may not use "health maintenance organization"
26 or "HMO" in the course of operation unless the person:

27 (1) complies with 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~~]; and

7 (2) holds a certificate of authority under this
8 chapter.

9 SECTION 2E.035. Section 843.073(b), Insurance Code, is
10 amended to correct a cross-reference to read as follows:

11 (b) Except as provided by Section 843.101 or 843.318(a), a
12 physician or provider that employs or enters into a contractual
13 arrangement with a provider or group of providers to provide basic
14 or limited health care services or a single health care service is
15 subject to this chapter and the following provisions [~~Chapter 20A~~]
16 and is required to obtain a certificate of authority under this
17 chapter:

- 18 (1) Section 1367.053;
- 19 (2) Subchapter A, Chapter 1452;
- 20 (3) Subchapter B, Chapter 1507;
- 21 (4) Chapters 222, 251, and 258, as applicable to a
22 health maintenance organization; and
- 23 (5) Chapters 1271 and 1272.

24 SECTION 2E.036. Sections 843.078(j), (m), and (n),
25 Insurance Code, are amended to correct cross-references to read as
26 follows:

27 (j) An application for a certificate of authority must

1 include a description of the procedures and programs to be
2 implemented by the applicant to meet the quality of health care
3 requirements of this chapter and:

- 4 (1) Section 1367.053;
- 5 (2) Subchapter A, Chapter 1452;
- 6 (3) Subchapter B, Chapter 1507;
- 7 (4) Chapters 222, 251, and 258, as applicable to a
8 health maintenance organization; and
- 9 (5) 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
25 reasonable 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
13 841.705[+]
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 Chapter 3, 841, 1251, 1505, 1651, 1652, or
23 1701 or Subchapter A, Chapter 1507; or

24 (3) issue life insurance coverage through policies
25 without cash surrender values or nonforfeiture values and that
26 exceed \$10,000 on one life.

27 SECTION 2E.087. Section 884.405, Insurance Code, is amended

1 to correct cross-references to read as follows:

2 Sec. 884.405. AGENT; LICENSE. (a) An agent may not
3 solicit or write any coverage authorized by this subchapter unless
4 the agent:

5 (1) holds a license issued under Subchapters A-E,
6 Chapter 4054 [~~Chapter 213, Acts of the 54th Legislature, Regular~~
7 ~~Session, 1955 (Article 21.07-1, Vernon's Texas Insurance Code)~~];
8 and

9 (2) is appointed by the stipulated premium company for
10 which the agent is soliciting and writing coverage under this
11 subchapter.

12 (b) The commissioner may issue under Subchapters A-E,
13 Chapter 4054 [~~Chapter 213, Acts of the 54th Legislature, Regular~~
14 ~~Session, 1955 (Article 21.07-1, Vernon's Texas Insurance Code)~~], a
15 license for an agent to solicit and write any coverage authorized by
16 this subchapter for a stipulated premium company. Subchapters A-E,
17 Chapter 4054, apply [~~Chapter 213, Acts of the 54th Legislature,~~
18 ~~Regular Session, 1955 (Article 21.07-1, Vernon's Texas Insurance~~
19 ~~Code), applies~~] to the stipulated premium company as if the company
20 were a legal reserve life insurance company.

21 SECTION 2E.088. Section 884.455, Insurance Code, is amended
22 to correct a cross-reference to read as follows:

23 Sec. 884.455. REQUIRED SECURITIES. The commissioner shall
24 require that a stipulated premium company have securities of the
25 class and character required by Sections 425.203-425.228 [~~Article~~
26 ~~3.39~~] in the amount of the reserve liability computed for the
27 company under Section 884.454 less any deficiency reserve under

1 Section 884.453 after all the debts and claims against the company
2 and the minimum capital required by this chapter have been applied.

3 SECTION 2E.089. Section 884.601(a), Insurance Code, is
4 amended to correct a cross-reference to read as follows:

5 (a) The shareholders of a stipulated premium company that
6 possesses capital in an amount equal to at least \$700,000,
7 unencumbered surplus in an amount equal to at least \$700,000, and
8 sufficient reserves on hand for the company's policies as required
9 under provisions of Chapter 425, other than Sections
10 425.002-425.005, [~~Subchapter C, Chapter 3,~~] may convert the company
11 to a legal reserve company that operates under Chapter 841 by
12 complying with each requirement applicable to a company operating
13 under that chapter.

14 SECTION 2E.090. Section 884.701, Insurance Code, is amended
15 to correct cross-references to read as follows:

16 Sec. 884.701. HAZARDOUS FINANCIAL CONDITION, SUPERVISION,
17 CONSERVATORSHIP, AND LIQUIDATION. Subchapter A, Chapter 404, and
18 Chapters 441 and 443 [~~Articles 1.32, 21.28, and 21.28-A]~~ apply to a
19 stipulated premium company engaged in the business of insurance in
20 this state.

21 SECTION 2E.091. Section 885.301(a), Insurance Code, is
22 amended to correct cross-references to read as follows:

23 (a) A fraternal benefit society may provide for the payment
24 of:

25 (1) death benefits in any form;

26 (2) endowment benefits;

27 (3) annuity benefits;

1 (4) benefits for temporary or permanent disability
2 resulting from disease or accident;

3 (5) benefits for hospital, medical, or nursing
4 expenses resulting from sickness, bodily infirmity, or accident;

5 (6) benefits for the erection of a monument or
6 tombstone to the memory of a deceased member;

7 (7) funeral benefits; and

8 (8) any other benefit that may be provided by a life,
9 accident, or health insurance company and that is:

10 (A) offered in compliance with a law described by
11 Section 841.002 [~~the provisions of Chapter 3 and Title 7~~]
12 applicable to a life, accident, or health insurance company; and

13 (B) consistent with this chapter.

14 SECTION 2E.092. Section 885.306(a), Insurance Code, is
15 amended to correct a cross-reference to read as follows:

16 (a) A fraternal benefit society may not deliver or issue for
17 delivery in this state a benefit certificate unless the form of the
18 certificate has been filed under Chapter 1701 [~~Article 3.42~~].

19 SECTION 2E.093. Section 885.351, Insurance Code, is amended
20 to correct cross-references to read as follows:

21 Sec. 885.351. AGENTS. (a) A fraternal benefit society may
22 appoint an agent licensed by the department under Subchapters A-E,
23 Chapter 4054, [~~Article 21.07-1~~] to sell benefits listed under
24 Section 885.301(a) to society members.

25 (b) Except as provided by Section 885.352, a person may not
26 solicit or procure benefit contracts for a fraternal benefit
27 society unless the person is licensed as a general life, accident,

1 and health agent under Subchapters A-E, Chapter 4054 [~~Article~~
2 ~~21.07-1~~].

3 (c) The licensing and regulation of agents for fraternal
4 benefit societies is subject to Title 13 [~~Subchapter A, Chapter~~
5 ~~217~~] and other laws regulating those agents.

6 SECTION 2E.094. Section 885.353, Insurance Code, is amended
7 to correct cross-references to read as follows:

8 Sec. 885.353. EMPLOYMENT OF CERTAIN PERSONS TO SOLICIT
9 BUSINESS PROHIBITED. A fraternal benefit society may not employ or
10 otherwise retain a person to solicit business if the person has had
11 a license issued under one of the following provisions revoked:

12 (1) Chapter 4001;

13 (2) Subchapters A-E and G, Chapter 4051; or

14 (3) Chapter 4054 [~~under Article 21.07 or 21.14, or~~
15 ~~under Chapter 213, Acts of the 54th Legislature, Regular Session,~~
16 ~~1955 (Article 21.07-1, Vernon's Texas Insurance Code)].~~

17 SECTION 2E.095. Section 885.404(c), Insurance Code, is
18 amended to correct a cross-reference to read as follows:

19 (c) For any category of benefit certificates issued to
20 insure a female risk, a modified net premium or present value
21 referred to in Subchapter B, Chapter 425, [~~Article 3.28~~] may be
22 computed according to an age not more than six years younger than
23 the actual age of the insured.

24 SECTION 2E.096. Section 885.408(b), Insurance Code, is
25 amended to correct a cross-reference to read as follows:

26 (b) Sections 425.203-425.228 apply [~~Article 3.39 applies~~]
27 to reserve investments for a domestic fraternal benefit society.

1 SECTION 2E.097. Section 885.410, Insurance Code, is amended
2 to correct cross-references to read as follows:

3 Sec. 885.410. EXAMINATION OF DOMESTIC FRATERNAL BENEFIT
4 SOCIETIES. A domestic fraternal benefit society is subject to:

- 5 (1) Subchapter A, Chapter 86;
6 (2) Subchapter A, Chapter 401; and
7 (3) Sections 401.051, 401.052, 401.054-401.062,
8 401.151, 401.152, 401.155, and 401.156 [~~Articles 1.15, 1.15A, and~~
9 ~~1.16~~].

10 SECTION 2E.098. Section 885.411(e), Insurance Code, is
11 amended to correct cross-references to read as follows:

12 (e) A foreign fraternal benefit society is subject to the
13 provisions of Subchapter A, Chapter 86, and Sections 401.051,
14 401.052, 401.054-401.062, 401.151, 401.152, 401.155, and 401.156
15 [~~Articles 1.15 and 1.16~~] that apply to an insurer that is not
16 organized under the laws of this state but is authorized to engage
17 in business in this state.

18 SECTION 2E.099. Section 885.412(b), Insurance Code, is
19 amended to correct cross-references to read as follows:

20 (b) This section does not apply to a proceeding involving a
21 fraternal benefit society instituted by the commissioner or the
22 state, including an administrative hearing, a proceeding under
23 Chapter 441 or 443 [~~Article 21.28 or 21.28-A~~], or a court
24 proceeding.

25 SECTION 2E.100. Section 885.413, Insurance Code, is amended
26 to correct a cross-reference to read as follows:

27 Sec. 885.413. FEES. The department shall deposit fees

1 collected under this chapter to the credit of the Texas Department
2 of Insurance operating account. Sections 201.001 and 201.002 apply
3 ~~[Article 1.31A applies]~~ to fees collected under this chapter.

4 SECTION 2E.101. Section 885.414(a), Insurance Code, is
5 amended to correct cross-references to read as follows:

6 (a) This chapter does not prevent or limit any action by or
7 remedy available to the department or the state under Chapter 441 or
8 443 ~~[Article 21.28 or 21.28-A]~~ or other applicable law.

9 SECTION 2E.102. Section 886.107(b), Insurance Code, is
10 amended to correct a cross-reference to read as follows:

11 (b) Sections 201.001 and 201.002 apply ~~[Article 1.31A~~
12 ~~applies]~~ to the fee.

13 SECTION 2E.103. Section 887.062, Insurance Code, is amended
14 to correct cross-references to read as follows:

15 Sec. 887.062. EXAMINATION. The following provisions
16 ~~[Articles 1.15 and 1.16]~~ apply to an association:

17 (1) Subchapter A, Chapter 86; and

18 (2) Sections 401.051, 401.052, 401.054-401.062,
19 401.151, 401.152, 401.155, and 401.156.

20 SECTION 2E.104. Section 887.551, Insurance Code, is amended
21 to correct cross-references to read as follows:

22 Sec. 887.551. HAZARDOUS FINANCIAL CONDITION, SUPERVISION,
23 CONSERVATORSHIP, AND LIQUIDATION. The following provisions
24 ~~[Articles 1.32, 21.28, and 21.28-A]~~ apply to an association engaged
25 in the business of insurance in this state:

26 (1) Subchapter A, Chapter 404;

27 (2) Chapter 441; and

1 (3) Chapter 443.

2 SECTION 2E.105. Section 888.052(b), Insurance Code, is
3 amended to correct a cross-reference to read as follows:

4 (b) Annual assessments collected under this section shall
5 be deposited to the credit of the Texas Department of Insurance
6 operating account. Sections 201.001 and 201.002 apply [~~Article~~
7 ~~1.31A applies~~] to the assessments.

8 SECTION 2E.106. Section 911.001(c), Insurance Code, is
9 amended to correct cross-references to read as follows:

10 (c) Except to the extent of any conflict with this chapter,
11 the following provisions apply to a farm mutual insurance company:

12 (1) Subchapter A, Chapter 32;

13 (2) Subchapter D, Chapter 36;

14 (3) Sections 31.002(2), 32.021(c), 32.023, 32.041,
15 33.002, 38.001, 81.001-81.004, 201.005, 201.055, 401.051, 401.052,
16 401.054-401.062, 401.103-401.106, 401.151, 401.152, 401.155,
17 401.156, 421.001, 801.051-801.055, 801.057, 801.101, 801.102,
18 822.204, 841.004, 841.251, 841.252, [and] 862.101, 1806.001,
19 1806.101, 1806.103(b), and 1806.104-1806.107;

20 (4) Chapter 86;

21 (5) Subchapter A, Chapter 401;

22 (6) Subchapter B, Chapter 404;

23 (7) Chapter 422;

24 (8) Subchapter B, Chapter 424, other than Section
25 424.052, 424.072, or 424.073;

26 (9) Chapter 441;

27 (10) Chapter 443;

1 (11) Chapter 462;

2 (12) Chapter 481;

3 (13) Chapter 541;

4 (14) [~~5~~] Chapter 802;

5 (15) [~~6~~] Subchapter A, Chapter 805;

6 (16) [~~7~~] Chapter 824; and

7 (17) Article [~~8~~ Sections 2, 5, 6, and 17, Article
8 1.10, and Articles] 1.09-1[~~, 1.12, 1.13, 1.15, 1.15A, 1.16, 1.17,~~
9 1.18, 1.19, 2.10, 5.20, 21.28, 21.28--A, 21.28--C, 21.39, and
10 21.39--A].

11 SECTION 2E.107. Section 911.251, Insurance Code, is amended
12 to correct cross-references to read as follows:

13 Sec. 911.251. LICENSING AND APPOINTMENT OF CERTAIN
14 AGENTS. (a) An individual or firm may not solicit, write, sign,
15 execute, or deliver insurance policies, bind insurance risks,
16 collect premiums, or otherwise act on behalf of a farm mutual
17 insurance company in the capacity of an insurance agent in the
18 solicitation or sale of crop insurance unless the individual or
19 firm holds a license issued under Title 13 [~~Subchapter A, Chapter~~
20 ~~21~~].

21 (b) A farm mutual insurance company may not appoint and act
22 through an agent under Subchapter F, Chapter 4051 [~~Article~~
23 ~~21.14-2~~].

24 SECTION 2E.108. Sections 911.308(c) and (d), Insurance
25 Code, are amended to correct cross-references to read as follows:

26 (c) A company described by Subsection (b) shall invest the
27 minimum unencumbered surplus as provided by Section 822.204. The

1 company may invest funds in excess of the minimum unencumbered
2 surplus as provided by the provisions of Subchapter B, Chapter 424,
3 other than Sections 424.052, 424.072, and 424.073 [~~Article 2.10~~].

4 (d) A company described by Subsection (b) shall, without
5 delay, restore the minimum unencumbered surplus if the surplus is
6 impaired. The department shall proceed as provided by Subchapter
7 B, Chapter 404 [~~Section 5, Article 1.10~~].

8 SECTION 2E.109. Sections 912.002(b) and (c), Insurance
9 Code, are amended to correct cross-references to read as follows:

10 (b) A county mutual insurance company is subject to:

11 (1) Sections 38.001, 401.051, 401.052,
12 401.054-401.062, 401.151, 401.152, 401.155, 401.156, 501.159,
13 501.202, 501.203, [~~and~~] 822.204, 1806.001, 1806.101, 1806.103(b),
14 1806.104-1806.107, 2002.002, and 2002.005;

15 (2) Subchapter A, Chapter 86;

16 (3) Subchapter A, Chapter 401;

17 (4) the provisions of Subchapter B, Chapter 424, other
18 than Sections 424.052, 424.072, and 424.073;

19 (5) Chapters 221, 251, 252, 254, [~~and~~] 541, and 2210;

20 and

21 (6) [~~(3)~~] Articles [1.15, 1.15A, 1.16, 2.10, 5.20,
22 5.37, 5.38,] 5.39 and [7] 5.40[~~, and 21.49~~].

23 (c) Rate regulation for a residential fire and allied lines
24 insurance policy written by a county mutual insurance company is
25 subject to Chapter 2253 [~~Subchapters Q and U, Chapter 5~~]. On and
26 after December 1, 2004, rate regulation for a personal automobile
27 insurance policy and a residential fire and allied lines insurance

1 policy written by a county mutual insurance company is subject to
2 Article 5.13-2 and Chapter 2251. A county mutual insurance company
3 is subject to Chapter 2253 [~~Subchapter U, Chapter 5~~]. The
4 commissioner may adopt rules as necessary to implement this
5 subsection.

6 SECTION 2E.110. Section 912.152, Insurance Code, is amended
7 to correct cross-references to read as follows:

8 Sec. 912.152. POLICY FORMS. (a) A county mutual insurance
9 company is subject to:

- 10 (1) Sections 1952.051-1952.055;
11 (2) Subchapter B, Chapter 2002;
12 (3) Chapter 2301; and
13 (4) Articles 5.06 and ~~7~~ 5.35 ~~[, and 5.145]~~.

14 (b) County mutual insurance companies shall file policy
15 forms under Subchapter B, Chapter 2301, [~~Article 5.145~~] or continue
16 to use the standard policy forms and endorsements promulgated under
17 former Articles 5.06 and 5.35 on notification to the commissioner
18 in writing in the manner prescribed by those articles that those
19 forms will continue to be used.

20 SECTION 2E.111. Section 912.251, Insurance Code, is amended
21 to correct a cross-reference to read as follows:

22 Sec. 912.251. LICENSING AND APPOINTMENT OF AGENTS. An
23 agent for a county mutual insurance company must be licensed and
24 appointed as provided by Title 13 [~~Subchapter A, Chapter 21~~].

25 SECTION 2E.112. Section 912.308(b), Insurance Code, is
26 amended to correct a cross-reference to read as follows:

27 (b) A county mutual insurance company is subject to

1 Subchapter B, Chapter 404, and Sections 822.203, 822.205, 822.210,
2 and 822.212 [~~and Section 5, Article 1.10~~].

3 SECTION 2E.113. Section 912.701, Insurance Code, is amended
4 to correct cross-references to read as follows:

5 Sec. 912.701. HAZARDOUS FINANCIAL CONDITION, SUPERVISION,
6 CONSERVATORSHIP, AND LIQUIDATION. Subchapter A, Chapter 404, and
7 Chapters 441 and 443 [~~Articles 1.32, 21.28, and 21.28-A~~] apply to a
8 county mutual insurance company engaged in the business of
9 insurance in this state.

10 SECTION 2E.114. Section 941.003(c), Insurance Code, is
11 amended to correct a cross-reference to read as follows:

12 (c) Chapter 2007 [~~Subchapter M, Chapter 5,~~] applies to rates
13 for motor vehicle insurance written by a Lloyd's plan.

14 SECTION 2E.115. Section 941.102(d), Insurance Code, is
15 amended to correct a cross-reference to read as follows:

16 (d) Sections 201.001 and 201.002 apply [~~Article 1.31A~~
17 ~~applies~~] to a fee collected under Subsection (c).

18 SECTION 2E.116. Section 941.204(b), Insurance Code, is
19 amended to correct a cross-reference to read as follows:

20 (b) Funds of a Lloyd's plan other than the minimum guaranty
21 fund and surplus described by Subsection (a) must, if invested, be
22 invested as provided by:

23 (1) the provisions of Subchapter B, Chapter 424, other
24 than Sections 424.052, 424.072, and 424.073 [~~Article 2.10~~]; or

25 (2) any other law governing the investment of the
26 funds of a capital stock insurance company engaged in the same kind
27 of business.

1 SECTION 2E.117. Section 941.206, Insurance Code, is amended
2 to correct cross-references to read as follows:

3 Sec. 941.206. HAZARDOUS FINANCIAL CONDITION, SUPERVISION,
4 CONSERVATORSHIP, AND LIQUIDATION; IMPAIRMENT OF SURPLUS. (a)
5 Subchapter A, Chapter 404, and Chapters 441 and 443 [~~Articles 1.32,~~
6 ~~21.28, and 21.28-A~~] apply to a Lloyd's plan engaged in the business
7 of insurance in this state.

8 (b) Subchapter B, Chapter 404, [~~Section 5, Article 1.10,~~]
9 applies to a Lloyd's plan.

10 SECTION 2E.118. Section 941.251(a), Insurance Code, is
11 amended to correct cross-references to read as follows:

12 (a) The provisions of Sections 86.001, 86.002, 401.051,
13 401.052, 401.054-401.062, 401.151, 401.152, 401.155, and 401.156
14 [~~The provisions of Articles 1.15 and 1.16~~] that relate to the
15 examination of insurers apply to a Lloyd's plan.

16 SECTION 2E.119. Section 942.003(c), Insurance Code, is
17 amended to correct a cross-reference to read as follows:

18 (c) Chapter 2007 [~~Subchapter M, Chapter 5,~~]
19 applies to rates for motor vehicle insurance written by an exchange.

20 SECTION 2E.120. Section 942.155(c), Insurance Code, is
21 amended to correct a cross-reference to read as follows:

22 (c) An exchange shall maintain the required assets as to:

23 (1) minimum surplus requirements, as provided by
24 Section 822.204; and

25 (2) other funds, as provided by the provisions of
26 Subchapter B, Chapter 424, other than Sections 424.052, 424.072,
27 and 424.073 [~~Article 2.10~~].

1 SECTION 2E.121. Section 942.156, Insurance Code, is amended
2 to correct a cross-reference to read as follows:

3 Sec. 942.156. ISSUANCE OF FIDELITY AND SURETY BOND
4 INSURANCE; DEPOSIT REQUIRED. (a) If a domestic exchange writes
5 fidelity or surety bond insurance in this state, the exchange shall
6 keep on deposit with the comptroller money, bonds, or other
7 securities in an amount of not less than \$50,000. The department
8 shall approve for the deposit securities described by the
9 provisions of Subchapter B, Chapter 424, other than Sections
10 424.052, 424.072, and 424.073, [~~Article 2.10,~~] and the exchange
11 shall maintain the approved securities intact at all times.

12 (b) A foreign exchange that writes fidelity or surety bond
13 insurance in this state shall file with the department evidence
14 satisfactory to the department that the exchange has, for the
15 protection of its subscribers, at least \$100,000 in money, bonds,
16 or other securities as described by the provisions of Subchapter B,
17 Chapter 424, other than Sections 424.052, 424.072, and 424.073,
18 [~~Article 2.10]~~ on deposit with the comptroller or other appropriate
19 official of its state of domicile or in escrow under that official's
20 supervision and control in a reliable bank or trust company. If
21 those bonds or other securities are not acceptable to and approved
22 by the department, the department may deny the attorney in fact for
23 the exchange a certificate of authority.

24 SECTION 2E.122. Sections 942.203(a) and (b), Insurance
25 Code, are amended to correct cross-references to read as follows:

26 (a) To the extent applicable, the schedule of fees
27 established under Chapter 202 [~~Article 4.07~~] applies to an exchange

1 and the exchange's attorney in fact.

2 (b) An exchange is subject to:

3 (1) Chapters 221 and 222; and

4 (2) Chapters 251-255 [~~Articles 4.04, 4.10, 4.11, 5.12,~~
5 ~~5.24, 5.49, and 5.68~~].

6 SECTION 2E.123. Section 961.002(b), Insurance Code, is
7 amended to correct cross-references to read as follows:

8 (b) The following provisions of this code apply to a
9 nonprofit legal services corporation in the same manner that they
10 apply to an insurer or a person engaged in the business of
11 insurance, to the extent the provisions do not conflict with this
12 chapter:

13 (1) Articles [~~1.01,~~] 1.09-1 and [~~1.11, 1.12, 1.13,~~
14 ~~1.15, 1.15A, 1.16, 1.17, 1.18, 1.19, 1.20, 1.21, 1.22, 21.21,~~
15 ~~21.21-2, 21.28, 21.28-A,~~] 21.47 [~~and 21.49-8~~];

16 (2) [~~Sections 2, 6, and 17, Article 1.10,~~
17 [~~3~~] Sections 31.002, 31.004, 31.007, 31.021,
18 31.022, 31.023, [~~31.025,~~] 31.026, 31.027, [~~32.001, 32.002,~~
19 ~~32.003,~~] 32.021, 32.022(a), 32.023, [~~32.041,~~] 33.002, 33.006,
20 36.108, 38.001, 81.004, 201.005, 201.055, 401.051, 401.052,
21 401.054-401.062, 401.103-401.106, 401.151, 401.152, 401.155,
22 401.156, 801.001, 801.002, 801.051-801.055, 801.057, 801.101,
23 801.102, [~~802.003,~~] 841.251, and 841.252;

24 (3) [~~4~~] Subchapter B, Chapter 31;

25 (4) Subchapters A and C, Chapter 32;

26 (5) Subchapter D, Chapter 36;

27 (6) Subchapter A, Chapter 401;

- 1 (7) Subchapter A, Chapter 542;
- 2 (8) Subchapter A, Chapter 805; and
- 3 (9) Chapters 86, 402, 441, 443, 481, 541, 802, and [~~(7)~~
- 4 ~~Chapter]~~ 824.

5 SECTION 2E.124. Section 961.005, Insurance Code, is amended
6 to correct a cross-reference to read as follows:

7 Sec. 961.005. AGENTS. The licensing and regulation of an
8 agent authorized to solicit prepaid legal services contracts for a
9 nonprofit legal services corporation is subject to Title 13
10 [~~Subchapter A, Chapter 21~~].

11 SECTION 2E.125. Section 981.005, Insurance Code, is amended
12 to correct a cross-reference to read as follows:

13 Sec. 981.005. VALIDITY OF CONTRACTS. (a) Unless a material
14 and intentional violation of this chapter or Chapter 225 [~~Section~~
15 ~~12, Article 1.14-2, 7~~] exists, an insurance contract obtained from an
16 eligible surplus lines insurer is:

- 17 (1) valid and enforceable as to all parties; and
- 18 (2) recognized in the same manner as a comparable
19 contract issued by an authorized insurer.

20 (b) A material and intentional violation of this chapter or
21 Chapter 225 [~~Section 12, Article 1.14-2, 7~~] does not preclude the
22 insured from enforcing the insured's rights under the contract.

23 SECTION 2E.126. Section 981.006, Insurance Code, is amended
24 to correct a cross-reference to read as follows:

25 Sec. 981.006. SANCTIONS. Chapter 82 applies to a surplus
26 lines agent or an eligible surplus lines insurer that violates:

- 27 (1) this chapter;

1 (2) Chapter 225 [~~Section 12, Article 1.14-2~~]; or

2 (3) a rule or order adopted under Subchapter B or
3 Section 981.005.

4 SECTION 2E.127. Section 981.008, Insurance Code, is amended
5 to correct a cross-reference to read as follows:

6 Sec. 981.008. SURPLUS LINES INSURANCE PREMIUM TAX. The
7 premiums charged for surplus lines insurance are subject to the
8 premium tax imposed under Chapter 225 [~~Section 12, Article 1.14-2~~].

9 SECTION 2E.128. Section 981.101(b), Insurance Code, is
10 amended to correct cross-references to read as follows:

11 (b) A surplus lines document must state, in 11-point type,
12 the following:

13 This insurance contract is with an insurer not licensed to transact
14 insurance in this state and is issued and delivered as surplus line
15 coverage under the Texas insurance statutes. The Texas Department
16 of Insurance does not audit the finances or review the solvency of
17 the surplus lines insurer providing this coverage, and the insurer
18 is not a member of the property and casualty insurance guaranty
19 association created under Chapter 462 [~~Article 21.28-C~~], Insurance
20 Code. Chapter 225 [~~Section 12, Article 1.14-2~~], Insurance Code,
21 requires payment of a _____ (insert appropriate tax rate)
22 percent tax on gross premium.

23 SECTION 2E.129. Section 981.104(b), Insurance Code, is
24 amended to correct a cross-reference to read as follows:

25 (b) A change made under Subsection (a) may not result in
26 coverage or an insurance contract that would violate this chapter
27 or Chapter 225 [~~Section 12, Article 1.14-2~~], if originally issued

1 on that basis.

2 SECTION 2E.130. Section 981.160, Insurance Code, is amended
3 to correct a cross-reference to read as follows:

4 Sec. 981.160. NO ENFORCEMENT AUTHORITY. This subchapter
5 does not give the stamping office authority to enforce this chapter
6 or Chapter 225 [~~Section 12, Article 1.14-2~~].

7 SECTION 2E.131. Section 981.201, Insurance Code, is amended
8 to correct a cross-reference to read as follows:

9 Sec. 981.201. DEFINITION. In this subchapter, "managing
10 general agent" means an agent licensed under Chapter 4053 [~~the~~
11 ~~Managing General Agents' Licensing Act (Article 21.07-3, Vernon's~~
12 ~~Texas Insurance Code)~~].

13 SECTION 2E.132. Section 981.203(a), Insurance Code, is
14 amended to correct cross-references to read as follows:

15 (a) The department may issue a surplus lines license to an
16 applicant who the department determines complies with Subsection
17 (b) and is:

18 (1) an individual who:
19 (A) has passed an examination under Chapter 4002
20 [~~Article 21.01-1~~] and department rules; and

21 (B) holds a current license as:
22 (i) a general property and casualty agent
23 authorized under Subchapter B, Chapter 4051 [~~Article 21.14~~]; or

24 (ii) a managing general agent; or
25 (2) a corporation, limited liability company, or
26 partnership that:

27 (A) has at least one officer or director or at

1 least one active partner who has passed the required surplus lines
2 license examination;

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; and

7 (C) conducts insurance activities under this
8 chapter only through an individual licensed under this section.

9 SECTION 2E.133. Section 981.220(b), Insurance Code, is
10 amended to correct a cross-reference to read as follows:

11 (b) A surplus lines license granted to a managing general
12 agent who is not also licensed under Subchapters A-E, Chapter 4051,
13 [~~Article 21.14~~] is limited to the acceptance of business
14 originating through a licensed general property and casualty agent.
15 The license does not authorize the agent to engage in business
16 directly with the insurance applicant.

17 SECTION 2E.134. Section 981.221, Insurance Code, is amended
18 to correct a cross-reference to read as follows:

19 Sec. 981.221. SUSPENSION OR REVOCATION OF LICENSE. If a
20 license holder does not maintain the qualifications necessary to
21 obtain the license, the department may revoke or suspend the
22 license or deny the renewal of that license in accordance with
23 Chapter 4003 and Subchapters B and C, Chapter 4005 [~~Article~~
24 ~~21.01-2~~].

25 SECTION 2E.135. Section 981.222, Insurance Code, is amended
26 to correct cross-references to read as follows:

27 Sec. 981.222. APPLICABILITY OF OTHER LAW. In addition to

1 the requirements of this chapter, the administration and regulation
2 of a surplus lines agent's license is governed by Title 13
3 [~~Subchapter A, Chapter 21~~], except that the provisions of Sections
4 4001.002(b)(2)-(6), 4001.003, and 4001.004 and Subchapters C-G,
5 Chapter 4001, do [~~Article 21.07 does~~] not apply to a license issued
6 under this subchapter.

7 SECTION 2E.136. Section 982.107, Insurance Code, is amended
8 to correct a cross-reference to read as follows:

9 Sec. 982.107. APPLICABILITY OF OTHER LAW. Chapter 402
10 [~~Article 21.49-8~~] applies to a foreign or alien insurance company.

11 SECTION 2E.137. Section 982.254, Insurance Code, is amended
12 to correct a cross-reference to read as follows:

13 Sec. 982.254. FAILURE TO ELIMINATE IMPAIRMENT OF TRUSTEED
14 SURPLUS. If an alien insurance company has not satisfied the
15 commissioner at the end of the designated period under Section
16 982.253(a) that the impairment has been eliminated, the
17 commissioner may proceed against the company as provided by Chapter
18 441 [~~Article 21.28-A~~] as an insurance company whose further
19 transaction of the business of insurance in the United States will
20 be hazardous to its policyholders in the United States.

21 SECTION 2E.138. Section 982.255(a), Insurance Code, is
22 amended to correct cross-references to read as follows:

23 (a) The books, records, accounting, and verification
24 relating to an authorized alien insurance company's trusteed assets
25 are subject to examination by the department or the department's
26 appointed representative at the United States branch office of the
27 company, in the same manner and to the same extent that applies

1 under Subchapter A, Chapter 86, and Sections 401.051, 401.052,
2 401.054-401.062, 401.151, 401.152, 401.155, and 401.156 [~~Articles~~
3 ~~1.15 and 1.16~~] to domestic and foreign insurance companies
4 authorized to engage in the same kind of insurance.

5 SECTION 2E.139. Section 984.002, Insurance Code, is amended
6 to correct cross-references to read as follows:

7 Sec. 984.002. AUTHORIZED AGENT REQUIRED. A Mexican
8 casualty insurance company may engage in the business of insurance
9 in this state only through an agent licensed by the department under
10 Subchapters A-E, Chapter 4051, or Chapter 4055 [~~Article 21.09 or~~
11 ~~21.14~~].

12 PART F. CROSS-REFERENCE UPDATES: TITLE 7, INSURANCE CODE

13 SECTION 2F.001. Section 1101.055(b), Insurance Code, is
14 amended to correct a cross-reference to read as follows:

15 (b) A life insurance policy may provide for a settlement
16 that will be less than the amount required under Subsection (a) if
17 the death of the insured is:

18 (1) by the insured's own hand regardless of whether the
19 insured is sane or insane;

20 (2) caused by following a hazardous occupation that is
21 stated in the policy; or

22 (3) the result of aviation activities under conditions
23 specified in the policy and approved by the department under
24 Chapter 1701 [~~Article 3.42~~].

25 SECTION 2F.002. Section 1101.101(b), Insurance Code, is
26 amended to correct a cross-reference to read as follows:

27 (b) Notwithstanding Chapter 1701 [~~Article 3.42~~], a policy

1 issued or delivered in another state, territory, district, or
2 county by a life insurance company organized under the laws of this
3 state may contain any provision required by the laws of that state,
4 territory, district, or county.

5 SECTION 2F.003. Section 1102.004(b), Insurance Code, is
6 amended to correct a cross-reference to read as follows:

7 (b) This section does not require the resubmission for
8 approval of any previously approved insurance policy form unless:

9 (1) withdrawal of approval is authorized under this
10 section or Chapter 1701 [~~Article 3.42~~]; or

11 (2) after notice and hearing, the commissioner
12 determines that approval was obtained by improper means, including
13 by misrepresentation, fraud, or a misleading statement or document.

14 SECTION 2F.004. Section 1105.007(b), Insurance Code, is
15 amended to correct a cross-reference to read as follows:

16 (b) Subsection (a) does not require a cash surrender value
17 greater than the reserve for the policy computed as provided by
18 Subchapter B, Chapter 425 [~~Article 3.28~~].

19 SECTION 2F.005. Section 1105.056, Insurance Code, is
20 amended to correct a cross-reference to read as follows:

21 Sec. 1105.056. NONFORFEITURE INTEREST RATE. The annual
22 nonforfeiture interest rate for a policy issued in a particular
23 calendar year is equal to 125 percent of the calendar year statutory
24 valuation interest rate for that policy as defined by Subchapter B,
25 Chapter 425 [~~Article 3.28~~], rounded to the nearest one-fourth of
26 one percent.

27 SECTION 2F.006. Section 1111.006, Insurance Code, is

1 amended to correct cross-references to read as follows:

2 Sec. 1111.006. APPLICABILITY OF OTHER INSURANCE LAWS. The
3 following laws apply to a person engaged in the business of life or
4 viatical settlements:

- 5 (1) ~~[Articles 1.10, 1.10D, 1.19, and 21.21,~~
6 ~~(2)]~~ Chapters 82, 83, ~~[and]~~ 84, 481, 541, and 701;
- 7 (2) ~~[(3)]~~ Sections 31.002, ~~[32.001, 32.002, 32.003,~~
8 32.021, 32.023, 32.041, 38.001, 81.004, 86.001, 86.051, 86.052,
9 201.004, 401.051, 401.054, 401.061, 401.151(a), 521.003, 521.004,
10 543.001(c), 801.056, and 862.052;
- 11 (3) Subchapter A, Chapter 32; ~~[and]~~
- 12 (4) Subchapter C, Chapter 36;
- 13 (5) Subchapter B, Chapter 404; and
- 14 (6) Subchapter B, Chapter 491.

15 SECTION 2F.007. Section 1131.007, Insurance Code, is
16 amended to correct a cross-reference to read as follows:

17 Sec. 1131.007. POLICY FORM. A policy of group life
18 insurance is subject to Chapter 1701 ~~[Article 3.42]~~.

19 SECTION 2F.008. Section 1151.101, Insurance Code, is
20 amended to correct a cross-reference to read as follows:

21 Sec. 1151.101. AUTHORIZED PROVISIONS. In addition to the
22 provisions required by Subchapter B and Section 1151.152, an
23 industrial life insurance policy may:

- 24 (1) exclude liability or promise a benefit that is
25 less than the full amount payable as a death benefit if the insured:
26 (A) dies by the insured's own hand, regardless of
27 whether the insured is sane or insane; or

1 (B) dies as a result of engaging in a stated
2 hazardous occupation;

3 (2) promise a benefit that is less than the full amount
4 payable if the insured dies as a result of an aviation activity
5 under a condition specified in the policy approved by the
6 department as provided by Chapter 1701 [~~Article 3.42~~];

7 (3) limit the maximum amount payable on the death of a
8 child younger than 15 years of age; and

9 (4) include any other provision not otherwise
10 prohibited by this chapter.

11 SECTION 2F.009. Section 1152.151, Insurance Code, is
12 amended to correct cross-references to read as follows:

13 Sec. 1152.151. AGENT'S LICENSE REQUIRED. (a) A person may
14 not sell or offer for sale in this state a variable contract, or act
15 to negotiate, make, or consummate a variable contract for another,
16 unless the department has licensed the person under Chapter 4054
17 [~~Article 21.07-1~~] as a general life, accident, and health agent.

18 (b) The licensing and regulation of a person acting as a
19 variable contract agent is subject to the same provisions
20 applicable to the licensing and regulation of other agents under
21 Title 13 [~~Subchapter A, Chapter 21~~].

22 PART G. CROSS-REFERENCE UPDATES: TITLE 8, INSURANCE CODE

23 SECTION 2G.001. Section 1251.202, Insurance Code, is
24 amended to correct cross-references to read as follows:

25 Sec. 1251.202. NOTICE REGARDING CERTAIN EMPLOYER HEALTH
26 BENEFIT PLANS. (a) In this section, "standard health benefit plan"
27 means a plan offered under [~~Article 3.80, Article 20A.09N, or~~]

1 Chapter 1507.

2 (b) If an employer offers to employees a standard health
3 benefit plan, the employer shall:

4 (1) provide a copy of the disclosure statement
5 provided to the employer by the plan issuer under [~~Section 6,~~
6 ~~Article 3.80, Article 20A.09N(g),~~] Section 1507.006[~~7~~] or
7 [~~Section~~] 1507.056 to:

8 (A) each employee:

9 (i) before the employee initially enrolls
10 in the plan, unless the employee received notice under Paragraph
11 (B) on or after the 90th day before the date the employee initially
12 enrolls; and

13 (ii) not later than the 30th day before the
14 date the employee renews enrollment in the plan; and

15 (B) each prospective employee before the
16 prospective employee is hired by the employer; and

17 (2) obtain a copy of the notice signed by the employee
18 or prospective employee at the time the notice is provided.

19 SECTION 2G.002. Section 1272.052(c), Insurance Code, is
20 amended to correct a cross-reference to read as follows:

21 (c) The parties to the delegation agreement shall determine
22 which party bears the expense of complying with a requirement of
23 this subchapter, including the cost of an examination required by
24 the department under Subchapter B, Chapter 401 [~~Article 1.15~~], if
25 applicable.

26 SECTION 2G.003. Section 1272.058, Insurance Code, is
27 amended to correct a cross-reference to read as follows:

1 Sec. 1272.058. INFORMATION RELATING TO DELEGATED THIRD
2 PARTY. A delegation agreement required by Section 1272.052 must
3 require the delegated entity to provide the license number of a
4 delegated third party performing a function that requires:

5 (1) a license as a third-party administrator under
6 Chapter 4151 or utilization review agent under Chapter 4201
7 [~~Article 21.58A~~]; or

8 (2) another license under this code or another
9 insurance law of this state.

10 SECTION 2G.004. Section 1272.060, Insurance Code, is
11 amended to correct a cross-reference to read as follows:

12 Sec. 1272.060. UTILIZATION REVIEW. A delegation agreement
13 required by Section 1272.052 must provide that:

14 (1) enrollees shall receive notification at the time
15 of enrollment of which entity is responsible for performing
16 utilization review;

17 (2) the delegated entity or third party performing
18 utilization review shall perform that review in accordance with
19 Chapter 4201 [~~Article 21.58A~~]; and

20 (3) the delegated entity or third party shall forward
21 utilization review decisions made by the entity or third party to
22 the health maintenance organization on a monthly basis.

23 SECTION 2G.005. Section 1272.301(d), Insurance Code, is
24 amended to correct a cross-reference to read as follows:

25 (d) A denial of out-of-network services under this section
26 is subject to appeal under Chapter 4201 [~~Article 21.58A~~].

27 SECTION 2G.006. Section 1274.004(b), Insurance Code, is

1 amended to correct a cross-reference to read as follows:

2 (b) Before adopting rules under this section, the
3 commissioner shall consult and receive advice from the technical
4 advisory committee on claims processing established under Chapter
5 1212 [~~Article 21.52Y~~].

6 SECTION 2G.007. Sections 1305.004(11), (12), (17), (27),
7 and (28), Insurance Code, are amended to correct cross-references
8 to read as follows:

9 (11) "Independent review organization" means an
10 entity that is certified by the commissioner to conduct independent
11 review under Chapter 4202 [~~Article 21.58C~~] and rules adopted by the
12 commissioner.

13 (12) "Life-threatening" has the meaning assigned by
14 Section 4201.002 [~~2, Article 21.58A~~].

15 (17) "Nurse" has the meaning assigned by Section
16 4201.002 [~~Section 2, Article 21.58A~~].

17 (27) "Utilization review" has the meaning assigned by
18 Section 4201.002 [~~2, Article 21.58A~~].

19 (28) "Utilization review agent" has the meaning
20 assigned by Section 4201.002 [~~Article 21.58A~~].

21 SECTION 2G.008. Section 1305.056(c), Insurance Code, is
22 amended to correct a cross-reference to read as follows:

23 (c) A network is subject to Chapters 441 and 443 [~~Articles~~
24 ~~21.28 and 21.28-A~~] and is considered an insurer or insurance
25 company, as applicable, for purposes of those laws.

26 SECTION 2G.009. Section 1305.154(c), Insurance Code, is
27 amended to correct a cross-reference to read as follows:

1 (c) A network's contract with a carrier must include:

2 (1) a description of the functions that the carrier
3 delegates to the network, consistent with the requirements of
4 Subsection (b), and the reporting requirements for each function;

5 (2) a statement that the network and any management
6 contractor or third party to which the network delegates a function
7 will perform all delegated functions in full compliance with all
8 requirements of this chapter, the Texas Workers' Compensation Act,
9 and rules of the commissioner or the commissioner of workers'
10 compensation;

11 (3) a provision that the contract:

12 (A) may not be terminated without cause by either
13 party without 90 days' prior written notice; and

14 (B) must be terminated immediately if cause
15 exists;

16 (4) a hold-harmless provision stating that the
17 network, a management contractor, a third party to which the
18 network delegates a function, and the network's contracted
19 providers are prohibited from billing or attempting to collect any
20 amounts from employees for health care services under any
21 circumstances, including the insolvency of the carrier or the
22 network, except as provided by Section 1305.451(b)(6);

23 (5) a statement that the carrier retains ultimate
24 responsibility for ensuring that all delegated functions and all
25 management contractor functions are performed in accordance with
26 applicable statutes and rules and that the contract may not be
27 construed to limit in any way the carrier's responsibility,

1 including financial responsibility, to comply with all statutory
2 and regulatory requirements;

3 (6) a statement that the network's role is to provide
4 the services described under Subsection (b) as well as any other
5 services or functions delegated by the carrier, including functions
6 delegated to a management contractor, subject to the carrier's
7 oversight and monitoring of the network's performance;

8 (7) a requirement that the network provide the
9 carrier, at least monthly and in a form usable for audit purposes,
10 the data necessary for the carrier to comply with reporting
11 requirements of the department and the division of workers'
12 compensation with respect to any services provided under the
13 contract, as determined by commissioner rules;

14 (8) a requirement that the carrier, the network, any
15 management contractor, and any third party to which the network
16 delegates a function comply with the data reporting requirements of
17 the Texas Workers' Compensation Act and rules of the commissioner
18 of workers' compensation;

19 (9) a contingency plan under which the carrier would,
20 in the event of termination of the contract or a failure to perform,
21 reassume one or more functions of the network under the contract,
22 including functions related to:

23 (A) payments to providers and notification to
24 employees;

25 (B) quality of care;

26 (C) utilization review;

27 (D) retrospective review; and

1 (E) continuity of care, including a plan for
2 identifying and transitioning employees to new providers;

3 (10) a provision that requires that any agreement by
4 which the network delegates any function to a management contractor
5 or any third party be in writing, and that such an agreement require
6 the delegated third party or management contractor to be subject to
7 all the requirements of this subchapter;

8 (11) a provision that requires the network to provide
9 to the department the license number of a management contractor or
10 any delegated third party who performs a function that requires a
11 license as a utilization review agent under Chapter 4201 [~~Article~~
12 ~~21.58A~~] or any other license under this code or another insurance
13 law of this state;

14 (12) an acknowledgment that:

15 (A) any management contractor or third party to
16 whom the network delegates a function must perform in compliance
17 with this chapter and other applicable statutes and rules, and that
18 the management contractor or third party is subject to the
19 carrier's and the network's oversight and monitoring of its
20 performance; and

21 (B) if the management contractor or the third
22 party fails to meet monitoring standards established to ensure that
23 functions delegated to the management contractor or the third party
24 under the delegation contract are in full compliance with all
25 statutory and regulatory requirements, the carrier or the network
26 may cancel the delegation of one or more delegated functions;

27 (13) a requirement that the network and any management

1 contractor or third party to which the network delegates a function
2 provide all necessary information to allow the carrier to provide
3 information to employees as required by Section 1305.451; and

4 (14) a provision that requires the network, in
5 contracting with a third party directly or through another third
6 party, to require the third party to permit the commissioner to
7 examine at any time any information the commissioner believes is
8 relevant to the third party's financial condition or the ability of
9 the network to meet the network's responsibilities in connection
10 with any function the third party performs or has been delegated.

11 SECTION 2G.010. Section 1305.351(a), Insurance Code, is
12 amended to correct cross-references to read as follows:

13 (a) The requirements of Chapter 4201 [~~Article 21.58A~~] apply
14 to utilization review conducted in relation to claims in a workers'
15 compensation health care network. In the event of a conflict
16 between Chapter 4201 [~~Article 21.58A~~] and this chapter, this
17 chapter controls.

18 SECTION 2G.011. Section 1305.355(a), Insurance Code, is
19 amended to correct a cross-reference to read as follows:

20 (a) The utilization review agent shall:

21 (1) permit the employee or person acting on behalf of
22 the employee and the employee's requesting provider whose
23 reconsideration of an adverse determination is denied to seek
24 review of that determination within the period prescribed by
25 Subsection (b) by an independent review organization assigned in
26 accordance with Chapter 4202 [~~Article 21.58C~~] and commissioner
27 rules; and

1 (2) provide to the appropriate independent review
2 organization, not later than the third business day after the date
3 the utilization review agent receives notification of the
4 assignment of the request to an independent review organization:

5 (A) any medical records of the employee that are
6 relevant to the review;

7 (B) any documents used by the utilization review
8 agent in making the determination;

9 (C) the response letter described by Section
10 1305.354(a)(4);

11 (D) any documentation and written information
12 submitted in support of the request for reconsideration; and

13 (E) a list of the providers who provided care to
14 the employee and who may have medical records relevant to the
15 review.

16 SECTION 2G.012. Section 1369.056, Insurance Code, is
17 amended to correct cross-references to read as follows:

18 Sec. 1369.056. ADVERSE DETERMINATION. (a) The refusal of a
19 group health benefit plan issuer to provide benefits to an enrollee
20 for a prescription drug is an adverse determination for purposes of
21 Section 4201.002 [~~2, Article 21.58A,~~] if:

22 (1) the drug is not included in a drug formulary used
23 by the group health benefit plan; and

24 (2) the enrollee's physician has determined that the
25 drug is medically necessary.

26 (b) The enrollee may appeal the adverse determination under
27 Subchapters H and I, Chapter 4201 [~~Sections 6 and 6A, Article~~

1 ~~21.58A~~].

2 SECTION 2G.013. Sections 1501.002(8) and (14), Insurance
3 Code, are amended to correct cross-references to read as follows:

4 (8) "Large employer" means a person who employed an
5 average of at least 51 eligible employees on business days during
6 the preceding calendar year and who employs at least two employees
7 on the first day of the plan year. The term includes a governmental
8 entity subject to Article 3.51-1, [~~3.51-2,~~] 3.51-4, or 3.51-5, to
9 Subchapter C, Chapter 1364, [~~or~~] to Chapter 1578, or to Chapter 177,
10 Local Government Code, that otherwise meets the requirements of
11 this subdivision. For purposes of this definition, a partnership
12 is the employer of a partner.

13 (14) "Small employer" means a person who employed an
14 average of at least two employees but not more than 50 eligible
15 employees on business days during the preceding calendar year and
16 who employs at least two employees on the first day of the plan
17 year. The term includes a governmental entity subject to Article
18 3.51-1, [~~3.51-2,~~] 3.51-4, or 3.51-5, to Subchapter C, Chapter 1364,
19 [~~or~~] to Chapter 1578, or to Chapter 177, Local Government Code, that
20 otherwise meets the requirements of this subdivision. For purposes
21 of this definition, a partnership is the employer of a partner.

22 SECTION 2G.014. Section 1501.009(b), Insurance Code, is
23 amended to correct cross-references to read as follows:

24 (b) An independent school district that is participating in
25 the uniform group coverage program established under Chapter 1579
26 [~~Article 3.50-7~~] may not participate in the small employer market
27 under this section for health insurance coverage and may not renew a

1 health insurance contract obtained in accordance with this section
2 after the date on which the program of coverages provided under
3 Chapter 1579 [~~Article 3.50-7~~] is implemented. This subsection does
4 not affect a contract for the provision of optional coverages not
5 included in a health benefit plan under this chapter.

6 SECTION 2G.015. Section 1501.257(c), Insurance Code, is
7 amended to correct a cross-reference to read as follows:

8 (c) Utilization review performed for any cost containment,
9 case management, or managed care arrangement must comply with
10 Chapter 4201 [~~Article 21.58A~~].

11 SECTION 2G.016. Section 1504.001(4), Insurance Code, is
12 amended to correct a cross-reference to read as follows:

13 (4) "Health benefit plan issuer" means:

14 (A) an insurance company, group hospital service
15 corporation, or health maintenance organization that delivers or
16 issues for delivery an individual, group, blanket, or franchise
17 insurance policy or agreement, a group hospital service contract,
18 or an evidence of coverage that provides benefits for medical or
19 surgical expenses incurred as a result of an accident or sickness;

20 (B) a governmental entity subject to Subchapter
21 D, Chapter 1355, Subchapter C, Chapter 1364, Chapter 1578, [~~ex~~]
22 Article 3.51-1, [~~3.51-2~~] 3.51-4, or 3.51-5, or Chapter 177, Local
23 Government Code;

24 (C) the issuer of a multiple employer welfare
25 arrangement as defined by Section 846.001; or

26 (D) the issuer of a group health plan as defined
27 by Section 607, Employee Retirement Income Security Act of 1974 (29

1 U.S.C. Section 1167).

2 SECTION 2G.017. Section 1506.109(a), Insurance Code, is
3 amended to correct a cross-reference to read as follows:

4 (a) The pool shall provide for and use cost containment
5 measures and requirements to make the coverage offered by the pool
6 more cost-effective. To the extent the board determines it is
7 cost-effective, the cost containment measures must include
8 individual case management and disease management. The cost
9 containment measures may include preadmission screening, the
10 requirement of a second surgical opinion, and concurrent
11 utilization review subject to Chapter 4201 [~~Article 21.58A~~].

12 SECTION 2G.018. Section 1551.003(12), Insurance Code, is
13 amended to correct a cross-reference to read as follows:

14 (12) "Serious mental illness" has the meaning assigned
15 by Section 1355.001 [~~1, Article 3.51-14~~].

16 SECTION 2G.019. Sections 1551.064(a) and (b), Insurance
17 Code, are amended to correct cross-references to read as follows:

18 (a) This section applies only to a group policy or contract
19 described by Section 1251.301 [~~3B(a), Article 3.51-6~~]. A policy or
20 contract executed under this chapter must provide that:

21 (1) premium payments must be:

22 (A) paid directly to the Employees Retirement
23 System of Texas; and

24 (B) postmarked or received not later than the
25 10th day of the month for which the premium is due;

26 (2) the premium for group continuation coverage under
27 Subchapter G, Chapter 1251 [~~Section 3B, Article 3.51-6~~], may not

1 exceed the level established for other surviving dependents of
2 deceased employees and annuitants;

3 (3) at the time the group policy or contract is
4 delivered, issued for delivery, renewed, amended, or extended, the
5 Employees Retirement System of Texas shall give notice of the
6 continuation option to each state agency covered by the group
7 benefits program; and

8 (4) each state agency shall give written notice of the
9 continuation option to each employee and dependent of an employee
10 who is covered by the group benefits program.

11 (b) A group policy or contract executed under this chapter
12 must provide that, not later than the 15th day after the date of any
13 severance of the family relationship that might activate the
14 continuation option under Subchapter G, Chapter 1251 [~~Section 3B,~~
15 ~~Article 3.51-6~~], the group member shall give written notice of the
16 severance to the employing state agency.

17 SECTION 2G.020. Section 1601.109(a), Insurance Code, is
18 amended to correct a cross-reference to read as follows:

19 (a) In this section, "serious mental illness" has the
20 meaning assigned by Section 1355.001 [~~1, Article 3.51-14~~].

21 PART H. CROSS-REFERENCE UPDATES: TITLE 10, INSURANCE CODE

22 SECTION 2H.001. Section 1805.001, Insurance Code, is
23 amended to correct cross-references to read as follows:

24 Sec. 1805.001. APPLICABILITY OF CHAPTER. This chapter
25 applies to the kinds of insurance and insurers subject to:

26 (1) Section 403.002;

27 (2) Section 941.003 with respect to the application of

1 a law described by Section 941.003(b)(1) [~~941.003(b)(3)~~] or (c);

2 (3) Section 942.003 with respect to the application of
3 a law described by Section 942.003(b)(1) [~~942.003(b)(3)~~] or (c);

4 (4) Subchapter A, B, or C, [~~or D,~~] Chapter 5;

5 (5) Subchapter H, Chapter 544;

6 (6) Subchapter A, Chapter 2301;

7 (7) Chapter 252, 253, 254, 255, 426, 1806, 1807, 2001,
8 2002, 2003, 2004, 2005, 2006, 2008, 2051, 2052, 2053, 2055, 2171,
9 2251, or 2252;

10 (8) Subtitle B or C, Title 10; or

11 (9) [~~Chapter 406A, Labor Code, or~~

12 [~~10~~] Chapter 2154, Occupations Code.

13 SECTION 2H.002. Section 1951.004(a), Insurance Code, is
14 amended to correct cross-references to read as follows:

15 (a) An insurer, or an officer or representative of an
16 insurer, commits an offense if the insurer, officer, or
17 representative violates:

18 (1) Section 1951.001, 1951.002, 1952.051, 1952.052,
19 1952.053, 1952.054, or 1952.055;

20 (2) Subchapter B, Chapter 1806;

21 (3) Subchapter C, Chapter 1953;

22 (4) Chapter 254; or

23 (5) [~~4~~] Article 5.01, [~~5.02,~~] 5.03, [~~5.05,~~] 5.06,
24 5.10, or 5.11.

25 SECTION 2H.003. Section 2051.002, Insurance Code, is
26 amended to correct cross-references to read as follows:

27 Sec. 2051.002. CONSTRUCTION OF CERTAIN LAWS. The following

1 shall be construed and applied independently of any other law that
2 relates to insurance rates and forms or prescribes the duties of the
3 commissioner or the department:

- 4 (1) this chapter;
- 5 (2) [~~Subchapter D, Chapter 5,~~
- 6 [~~3~~] Chapter 251, as that chapter relates to workers'
- 7 compensation insurance; and
- 8 (3) [~~4~~] Chapters 255, 426, 2052, [~~and~~] 2053, and
- 9 2055[~~, and~~
- 10 [~~5~~] Chapter 406A, Labor Code].

11 SECTION 2H.004. Section 2051.157, Insurance Code, is
12 amended to correct a cross-reference to read as follows:

13 Sec. 2051.157. PENALTY FOR CERTAIN VIOLATIONS. An officer
14 or other representative of an insurance company is subject to a fine
15 of not less than \$100 or more than \$500 if the officer or other
16 representative violates any provision of the following relating to
17 the company's business:

- 18 (1) Subchapter A or B;
- 19 (2) Section 2051.156 or 2051.201;
- 20 (3) Chapter 426 or 2052;
- 21 (4) Subchapter A, C, or D, Chapter 2053; or
- 22 (5) Section 2053.051, 2053.052, 2053.053, or
- 23 2053.055[~~, or~~
- 24 [~~6~~] Article 5.66].

25 SECTION 2H.005. Section 2052.004(a), Insurance Code, is
26 amended to correct a cross-reference to read as follows:

- 27 (a) Subject to Subsections (b) and (c), this subtitle [~~and~~

1 ~~Article 5.66~~] may not be construed to prohibit an insurance
2 company, including the Texas Mutual Insurance Company, from issuing
3 participating policies.

4 SECTION 2H.006. Section 2201.155(a), Insurance Code, is
5 amended to correct a cross-reference to read as follows:

6 (a) A risk retention group not chartered in this state is
7 liable for the payment of premium and maintenance taxes and taxes on
8 premiums of direct business for risks located in this state and
9 shall report to the commissioner the net premiums written for risks
10 located in this state. The group is subject to taxation, and any
11 fine or penalty related to that taxation, on the same basis as a
12 foreign admitted insurer in accordance with Chapters 4, 201, 202,
13 203, 221, 222, 224, 227, 228, and 251-257.

14 SECTION 2H.007. Section 2204.101(d), Insurance Code, is
15 amended to correct a cross-reference to read as follows:

16 (d) The exchange and the members are considered insurers for
17 purposes of:

- 18 (1) Sections 201.052, 201.053, and 201.054;
19 (2) Chapters 4, 202, 203, 221, 222, 224, 227, 228, 251,
20 257, and 1109; and
21 (3) Section 171.0525, Tax Code.

22 PART I. CROSS-REFERENCE UPDATES: TITLE 11, INSURANCE CODE

23 SECTION 2I.001. Section 2551.001(c), Insurance Code, is
24 amended to correct cross-references to read as follows:

25 (c) To the extent applicable, the following provisions of
26 this code apply to a title insurance company:

- 27 (1) Articles [~~1.01, 1.04A,~~] 1.09-1 and [~~1.12, 1.13,~~

1 ~~1.15-1.19, 21.31,~~ 21.47[, ~~and 21.49-8~~];

2 (2) Subsection (b), Article 1.04D;

3 (3) [~~Article 1.14-3, other than Section 8,~~

4 [~~(4) Subchapter F, Chapter 5,~~

5 [~~(5)~~] Chapters 33, 82, 83, 84, 86, 102, 261, 281, 401,
6 402, 493, 494, 541, 547, 555, 701, 801, 802, 824, [~~and~~] 828, 1805,
7 and 2204;

8 (4) [~~(6)~~] Chapter 31, other than Section 31.005;

9 (5) [~~(7)~~] Chapter 32, other than Section 32.022(b);

10 (6) [~~(8)~~] Chapter 36, other than Sections 36.003,
11 36.004, and 36.101-36.106;

12 (7) [~~(9)~~] Subchapter A, Chapter 38;

13 (8) [~~(10)~~] Subchapters A-G, Chapter 101;

14 (9) [~~(11)~~] Chapter 982, other than Sections 982.003,
15 982.051, 982.101, 982.105, 982.106(b), 982.109, and 982.113; and

16 (10) [~~(12)~~] Sections 37.052, 39.001, 39.002, 81.002,
17 81.004, 201.004, 201.005, 201.051, 201.055, 403.001, 403.051,
18 403.101, 521.002-521.004, 805.021, 822.001, 822.051, 822.052(1),
19 (2), and (3), 822.053, 822.057, except Subsection (a)(4), 822.058,
20 822.059, 822.060, 822.155, 822.157, 822.158, except Subsection
21 (a)(5), 841.004, 841.251, 841.252(a)-(c), and 4001.103.

22 SECTION 2I.002. Sections 2551.151(a) and (g), Insurance
23 Code, are amended to correct cross-references to read as follows:

24 (a) A title insurance company shall hold all investments in
25 cash or in the following:

26 (1) an abstract plant or plants, provided that:

27 (A) the corporation is organized under this title

1 and has the right to engage in the business of title insurance;

2 (B) except as provided by Subsection (b), the
3 investment is not more than 50 percent of the corporation's capital
4 stock; and

5 (C) the valuation of the plant or plants is
6 approved by the department;

7 (2) securities described by Subchapter D, Chapter 425,
8 other than Sections 425.202 and 425.229-425.232, [Article 3.39] or
9 investments authorized for title insurance companies under the laws
10 of any other state in which the company is authorized to engage in
11 business;

12 (3) real property or any real property interest that
13 is:

14 (A) required for the company's convenient
15 accommodation in the transaction of business with reasonable regard
16 to future needs;

17 (B) acquired in connection with a claim under a
18 title insurance policy;

19 (C) acquired in satisfaction or on account of
20 loans, mortgages, liens, judgments, or decrees previously owed to
21 the company in the course of business;

22 (D) acquired in partial payment of the
23 consideration of the sale of real property owned by the company if
24 the transaction results in a net reduction in the company's
25 investment in real property; or

26 (E) reasonably necessary to maintain or enhance
27 the sale value of real property previously acquired or held by the

1 company under this subdivision;

2 (4) a first mortgage note secured by any of the
3 following, provided that the amount of the note does not exceed 80
4 percent of the appraised value of the security for the note:

5 (A) an abstract plant and connected personal
6 property in or outside this state;

7 (B) stock of a title insurance agent in or
8 outside this state;

9 (C) a construction contract to build an abstract
10 plant and connected personal property; or

11 (D) any two or more of the items listed in this
12 subdivision;

13 (5) the shares of any federal home loan bank in an
14 amount necessary to qualify for membership and any additional
15 amounts approved by the commissioner;

16 (6) foreign securities that are substantially of the
17 same kinds, classes, and investment grade as securities otherwise
18 qualified for investment under this section, provided that, unless
19 the investment is also qualified under Subdivision (2), the
20 aggregate amount of foreign investments made under this subdivision
21 does not exceed:

22 (A) five percent of the insurer's admitted assets
23 at the end of the preceding year;

24 (B) two percent of the insurer's admitted assets
25 at the end of the preceding year invested in the securities of all
26 entities domiciled in any one foreign country; and

27 (C) one-half of one percent of the insurer's

1 admitted assets at the end of the preceding year invested in the
2 securities of any one individual entity domiciled in a foreign
3 country;

4 (7) securities lending, repurchase, reverse
5 repurchase, and dollar roll transactions, as described by Section
6 425.121 [~~4(q), Article 3.33~~]; or

7 (8) money market funds, as described by Section
8 425.123 [~~4(s), Article 3.33~~].

9 (g) A title insurance company may invest in a certified
10 capital company in the manner provided by Chapter 228 [~~Subchapter~~
11 ~~B, Chapter 4~~].

12 SECTION 2I.003. Section 2601.001, Insurance Code, is
13 amended to correct a cross-reference to read as follows:

14 Sec. 2601.001. SUPERVISION, LIQUIDATION, REHABILITATION,
15 REORGANIZATION, OR CONSERVATION OF TITLE INSURANCE COMPANIES AND
16 AGENTS. Each title insurance agent and title insurance company is
17 subject to Chapters 441 and 443 [~~Articles 21.28 and 21.28-A~~].

18 SECTION 2I.004. Section 2602.002(a), Insurance Code, is
19 amended to correct a cross-reference to read as follows:

20 (a) This chapter is for:

21 (1) the purposes and findings stated in Sections
22 441.001, 441.003, 441.005, and 441.006 [~~Section 1, Article~~
23 ~~21.28-A~~]; and

24 (2) the protection of holders of covered claims.

25 SECTION 2I.005. Section 2602.005(b), Insurance Code, is
26 amended to correct cross-references to read as follows:

27 (b) If this chapter conflicts with another law relating to

1 the subject matter of this chapter or its application, other than
2 Chapter 441 or 443 [~~Article 21.28 or 21.28-A~~], this chapter
3 controls. If this chapter conflicts with Chapter 441 or 443
4 [~~Article 21.28 or 21.28-A~~], that chapter [~~article~~] controls.

5 SECTION 2I.006. Section 2602.114(e), Insurance Code, is
6 amended to correct a cross-reference to read as follows:

7 (e) A board member may not disclose information received in
8 the meeting unless authorized by the commissioner or required as
9 witness in court. A board member and the meeting are subject to the
10 confidentiality standard imposed on an examiner under Sections
11 401.105 and 401.106 [~~Article 1.18~~], except that a bond is not
12 required of a board member.

13 SECTION 2I.007. Section 2602.254, Insurance Code, is
14 amended to correct a cross-reference to read as follows:

15 Sec. 2602.254. CERTAIN CONSERVATOR AND RECEIVER EXPENSES
16 COVERED. Reasonable and necessary administrative expenses
17 incurred by a conservator appointed by the commissioner or a
18 receiver appointed by a court for an unauthorized insurer operating
19 in this state are covered claims if the commissioner has notified
20 the association or the association has otherwise become aware that:

21 (1) the unauthorized insurer has insufficient liquid
22 assets to pay those expenses; and

23 (2) insufficient money is available from:

24 (A) abandoned money under Section 443.304 [~~87~~
25 ~~Article 21.28~~]; and

26 (B) department appropriations for use in paying
27 those expenses.

1 SECTION 2I.008. Section 2602.301(a), Insurance Code, is
2 amended to correct a cross-reference to read as follows:

3 (a) The association shall:

4 (1) investigate a claim brought against the
5 association, the commissioner, or a special deputy receiver
6 appointed under Chapter 443 [~~Article 21.28~~] if the claim involves
7 or may involve the association's rights and obligations under this
8 chapter; and

9 (2) adjust, compromise, settle, and pay a covered
10 claim to the extent of the association's obligation, and deny all
11 other claims.

12 PART J. CROSS-REFERENCE UPDATES: TITLE 13, INSURANCE CODE

13 SECTION 2J.001. Section 4001.002(a), Insurance Code, is
14 amended to correct a cross-reference to read as follows:

15 (a) Except as otherwise provided by this code, this title
16 applies to each person licensed under:

17 (1) Subchapter H, Chapter 885;

18 (2) Subchapter F, Chapter 911;

19 (3) Section 912.251;

20 (4) Section 961.005;

21 (5) Subchapter E, Chapter 981;

22 (6) [~~(5)~~] Subchapter D, Chapter 1152;

23 (7) [~~(6)~~] Subchapter C or D of this chapter;

24 (8) [~~(7)~~] Subtitle B, C, or D of this title;

25 [~~(8) Article 23.23A,~~] or

26 (9) Subsection (c), Article 5.13-1.

27 SECTION 2J.002. Section 4001.009(a), Insurance Code, is

1 amended to correct cross-references to read as follows:

2 (a) As referenced in Section 4001.003(9), a reference to an
3 agent in the following laws includes a subagent without regard to
4 whether a subagent is specifically mentioned:

5 (1) Chapters 281, 402, 421-423, 441, 444, 461-463,
6 523, 541-556, 558, 559, 702, 703, 705, 821, 823-825, 827, 828, 844,
7 963, 1108, 1205-1209, 1211-1214 [~~1211-1213~~], 1352, 1353, 1357,
8 1358, 1360-1363, 1369, 1453-1455, 1503, 1550, 1801, 1803,
9 2151-2154, 2201-2203, 2205-2213, 3501, 3502, 4007, [~~and~~] 4102, and
10 4201-4203;

11 (2) Chapter 403, excluding Section 403.002;

12 (3) Subchapter A, Chapter 491;

13 (4) Subchapter C, Chapter 521;

14 [~~(3) Subchapter F, Chapter 542;~~

15 [~~(4) Subchapters G and I, Chapter 544;~~]

16 (5) Subchapter A, Chapter 557;

17 (6) Subchapter B, Chapter 805;

18 (7) Subchapters D, E, and F, Chapter 982;

19 (8) [~~(7)~~] Subchapter D, Chapter 1103;

20 (9) [~~(8)~~] Subchapters B, C, D, and E, Chapter 1204,
21 excluding Sections 1204.153 and 1204.154;

22 (10) [~~(9)~~] Subchapter B, Chapter 1366;

23 (11) [~~(10)~~] Subchapters B, C, and D, Chapter 1367,
24 excluding Section 1367.053(c);

25 (12) [~~(11)~~] Subchapters A, C, D, E, F, H, and I,
26 Chapter 1451;

27 (13) [~~(12)~~] Subchapter B, Chapter 1452;

1 (14) [~~(13)~~] Sections 551.004, 841.303, 982.001,
2 982.002, 982.004, 982.052, 982.102, 982.103, 982.104, 982.106,
3 982.107, 982.108, 982.110, 982.111, [~~and~~] 982.112, and 1802.001;
4 and

5 (15) [~~(14)~~ ~~Subchapters D, E, and F, Chapter 982,~~
6 [~~(15)~~ ~~Section 1101.003(a), and~~
7 [~~(16)~~] Chapter 107, Occupations Code.

8 SECTION 2J.003. Section 4051.002, Insurance Code, is
9 amended to correct a cross-reference to read as follows:

10 Sec. 4051.002. REQUIREMENTS APPLICABLE TO CERTAIN AGENT
11 CONTRACTS. An agent's contract entered into on or after August 27,
12 1973, by an insurer engaged in the business of property and casualty
13 insurance in this state is subject to Chapter 444 [~~Article~~
14 ~~21.11-2~~].

15 SECTION 2J.004. Section 4051.101(a), Insurance Code, is
16 amended to correct cross-references to read as follows:

17 (a) Except as provided by Section 4051.052, a person is
18 required to hold a limited property and casualty license if the
19 person acts as an agent who writes:

20 (1) job protection insurance as defined by Section
21 962.002 [~~Article 25.01~~];

22 (2) exclusively, insurance on growing crops under
23 Subchapter F;

24 (3) any form of insurance authorized under Chapter 911
25 for a farm mutual insurance company;

26 (4) exclusively, any form of insurance authorized to
27 be solicited and written in this state that relates to:

1 (A) the ownership, operation, maintenance, or
2 use of a motor vehicle designed for use on the public highways,
3 including a trailer or semitrailer, and the motor vehicle's
4 accessories or equipment; or

5 (B) the ownership, occupancy, maintenance, or
6 use of a manufactured home classified as personal property under
7 Section 2.001, Property Code;

8 (5) a prepaid legal services contract under Article
9 5.13-1 or Chapter 961;

10 (6) exclusively, an industrial fire insurance policy:

11 (A) covering dwellings, household goods, and
12 wearing apparel;

13 (B) written on a weekly, monthly, or quarterly
14 basis on a continuous premium payment plan; and

15 (C) written for an insurer exclusively engaged in
16 the business as described by Section 912.310;

17 (7) credit insurance, except as otherwise provided by
18 Chapter 4055; or

19 (8) any other kind of insurance, if holding a limited
20 property and casualty license to write that kind of insurance is
21 determined necessary by the commissioner for the protection of the
22 insurance consumers of this state.

23 SECTION 2J.005. Section 4152.104(b), Insurance Code, is
24 amended to correct a cross-reference to read as follows:

25 (b) Expenses relating to an examination conducted under
26 this subchapter may be charged to the person examined in accordance
27 with Sections 401.151, 401.152, 401.155, and 401.156 [~~Article~~

1 ~~1.16~~].

2 SECTION 2J.006. Section 4152.152, Insurance Code, is
3 amended to correct cross-references to read as follows:

4 Sec. 4152.152. PLACEMENT OF REINSURANCE WITH UNAUTHORIZED
5 REINSURER. Unless the ceding insurer releases the broker in
6 writing from the broker's obligations under this section, a broker
7 who places reinsurance on behalf of an authorized ceding insurer
8 with a reinsurer that is not authorized, accredited, or trustee in
9 this state under Chapter 492 [~~Article 3.10~~] or 493 [~~5.75-1~~] shall:

10 (1) exercise due diligence in inquiring into the
11 financial condition of the reinsurer;

12 (2) disclose to the ceding insurer the broker's
13 findings in connection with the inquiry under Subdivision (1); and

14 (3) make available to the ceding insurer a copy of the
15 current financial statement of the reinsurer.

16 SECTION 2J.007. Section 4152.214(a), Insurance Code, is
17 amended to correct cross-references to read as follows:

18 (a) Unless the ceding insurer releases the manager in
19 writing from the manager's obligations under this section, a
20 manager who places reinsurance on behalf of an authorized ceding
21 insurer with a reinsurer that is not authorized, accredited, or
22 trustee in this state under Chapter 492 [~~Article 3.10~~] or 493
23 [~~5.75-1~~] shall:

24 (1) exercise due diligence in inquiring into the
25 financial condition of the reinsurer;

26 (2) disclose to the ceding insurer the manager's
27 findings in connection with the inquiry under Subdivision (1); and

1 (3) make available to the ceding insurer a copy of the
2 current financial statement of the reinsurer.

3 PART K. EFFECTIVE DATE

4 SECTION 2K.001. This article takes effect April 1, 2009.

5 ARTICLE 3. INSURANCE CODE UPDATE

6 PART A. GENERAL PROVISIONS

7 SECTION 3A.001. This article is enacted as part of the
8 state's continuing statutory revision program under Chapter 323,
9 Government Code. This article is a revision for purposes of Section
10 43, Article III, Texas Constitution, and has the purposes of:

11 (1) conforming codifications enacted by the 79th
12 Legislature to other Acts of that legislature that amended the laws
13 codified or added new law to subject matter codified;

14 (2) making necessary corrections to enacted
15 codifications; and

16 (3) renumbering titles, chapters, and sections of
17 codes that duplicate title, chapter, or section numbers.

18 SECTION 3A.002. (a) The repeal of a statute by this article
19 does not affect an amendment, revision, or reenactment of the
20 statute by the 80th Legislature, Regular Session, 2007. The
21 amendment, revision, or reenactment is preserved and given effect
22 as part of the code provision that revised the statute so amended,
23 revised, or reenacted.

24 (b) If any provision of this article conflicts with a
25 statute enacted by the 80th Legislature, Regular Session, 2007, the
26 statute controls.

27 SECTION 3A.003. (a) A transition or saving provision of a

1 law codified by this article applies to the codified law to the same
2 extent as it applied to the original law.

3 (b) The repeal of a transition or saving provision by this
4 article does not affect the application of the provision to the
5 codified law.

6 (c) In this section, "transition provision" includes any
7 temporary provision providing for a special situation in the
8 transition period between the existing law and the establishment or
9 implementation of the new law.

10 PART B. CHANGES UPDATING INSURANCE CODE

11 SECTION 3B.001. (a) Section 401.010(a), Insurance Code, is
12 amended to conform to Section 2, Chapter 408, Acts of the 79th
13 Legislature, Regular Session, 2005, to read as follows:

14 (a) An accountant must audit the financial reports provided
15 by an insurer or health maintenance organization for purposes of an
16 audit under this subchapter. The accountant who audits the reports
17 must conduct the audit in accordance with generally accepted
18 auditing standards or with standards adopted by the Public Company
19 Accounting Oversight Board, as applicable, and must consider the
20 standards specified [~~other procedures described~~] in the Financial
21 Condition Examiner's Handbook adopted by the National Association
22 of Insurance Commissioners or other analogous nationally
23 recognized standards adopted by commissioner rule.

24 (b) Section 2, Chapter 408, Acts of the 79th Legislature,
25 Regular Session, 2005, which amended former Subsection (b), Section
26 14, Article 1.15A, Insurance Code, is repealed.

27 SECTION 3B.002. (a) Section 401.011(d), Insurance Code, is

1 amended to conform to Section 1, Chapter 408, Acts of the 79th
2 Legislature, Regular Session, 2005, to read as follows:

3 (d) The commissioner may not accept an audited financial
4 report prepared wholly or partly by an individual or firm who the
5 commissioner finds:

6 (1) has been convicted of fraud, bribery, a violation
7 of the Racketeer Influenced and Corrupt Organizations Act (18
8 U.S.C. Section 1961 et seq.), or a state or federal criminal offense
9 involving dishonest conduct;

10 (2) has violated the insurance laws of this state with
11 respect to a report filed under this subchapter; [~~or~~]

12 (3) has demonstrated a pattern or practice of failing
13 to detect or disclose material information in reports filed under
14 this subchapter; or

15 (4) has directly or indirectly entered into an
16 agreement of indemnity or release of liability regarding an audit
17 of an insurer.

18 (b) Section 1, Chapter 408, Acts of the 79th Legislature,
19 Regular Session, 2005, which amended former Subsection (c), Section
20 12, Article 1.15A, Insurance Code, is repealed.

21 SECTION 3B.003. Subchapters A, B, C, D, E, F, G, H, I, J, K,
22 L, M, N, O, and P, Chapter 442, Insurance Code, and Section 6.069,
23 Chapter 265, Acts of the 79th Legislature, Regular Session, 2005,
24 which amended former Section 3A, Article 21.28, Insurance Code, are
25 repealed to conform to the repeal of Article 21.28, Insurance Code,
26 by Section 9, Chapter 995, Acts of the 79th Legislature, Regular
27 Session, 2005.

1 SECTION 3B.004. (a) The following changes are made to Title
2 1, Insurance Code, and Subtitle C, Title 4, Insurance Code, for
3 organizational purposes:

4 (1) Chapter 21A, Insurance Code, is redesignated as
5 Chapter 443, Subtitle C, Title 4, Insurance Code, and:

6 (A) Subchapter A in the redesignated chapter is
7 redesignated as Subchapter A, Chapter 443, Insurance Code, and the
8 sections in the redesignated subchapter, Sections 21A.001,
9 21A.002, 21A.003, 21A.004, 21A.005, 21A.006, 21A.007, 21A.008,
10 21A.009, 21A.010, 21A.011, 21A.012, 21A.013, 21A.0135, 21A.014,
11 21A.015, 21A.016, and 21A.017, are redesignated as Sections
12 443.001, 443.002, 443.003, 443.004, 443.005, 443.006, 443.007,
13 443.008, 443.009, 443.010, 443.011, 443.012, 443.013, 443.0135,
14 443.014, 443.015, 443.016, and 443.017, respectively;

15 (B) Subchapter B in the redesignated chapter is
16 redesignated as Subchapter B, Chapter 443, Insurance Code, and the
17 sections in the redesignated subchapter, Sections 21A.051 through
18 21A.059, are redesignated as Sections 443.051 through 443.059;

19 (C) Subchapter C in the redesignated chapter is
20 redesignated as Subchapter C, Chapter 443, Insurance Code, and the
21 sections in the redesignated subchapter, Sections 21A.101 through
22 21A.105, are redesignated as Sections 443.101 through 443.105;

23 (D) Subchapter D in the redesignated chapter is
24 redesignated as Subchapter D, Chapter 443, Insurance Code, and the
25 sections in the redesignated subchapter, Sections 21A.151 through
26 21A.156, are redesignated as Sections 443.151 through 443.156;

27 (E) Subchapter E in the redesignated chapter is

1 redesignated as Subchapter E, Chapter 443, Insurance Code, and the
2 sections in the redesignated subchapter, Sections 21A.201 through
3 21A.213, are redesignated as Sections 443.201 through 443.213;

4 (F) Subchapter F in the redesignated chapter is
5 redesignated as Subchapter F, Chapter 443, Insurance Code, and the
6 sections in the redesignated subchapter, Sections 21A.251 through
7 21A.261, are redesignated as Sections 443.251 through 443.261;

8 (G) Subchapter G in the redesignated chapter is
9 redesignated as Subchapter G, Chapter 443, Insurance Code, and the
10 sections in the redesignated subchapter, Sections 21A.301 through
11 21A.304, are redesignated as Sections 443.301 through 443.304;

12 (H) Subchapter H in the redesignated chapter is
13 redesignated as Subchapter H, Chapter 443, Insurance Code, and the
14 sections in the redesignated subchapter, Sections 21A.351 through
15 21A.355, are redesignated as Sections 443.351 through 443.355; and

16 (I) Subchapter I in the redesignated chapter is
17 redesignated as Subchapter I, Chapter 443, Insurance Code, and the
18 sections in the redesignated subchapter, Sections 21A.401 and
19 21A.402, are redesignated as Sections 443.401 and 443.402,
20 respectively; and

21 (2) Subchapter Q, Chapter 442, Insurance Code, is
22 redesignated as Chapter 444, Insurance Code, the heading of
23 Subchapter Q is amended to read as follows: "CHAPTER 444
24 [~~SUBCHAPTER Q~~]. AGENCY CONTRACTS WITH CERTAIN INSURERS", and
25 Sections 442.801, 442.802, 442.803, and 442.804 in the redesignated
26 subchapter are redesignated as Sections 444.001, 444.002, 444.003,
27 and 444.004, respectively.

1 (b) Sections 21A.004(a)(4), (11), (14), (17), and (26),
2 Insurance Code, redesignated as Sections 443.004(a)(4), (11),
3 (14), (17), and (26), Insurance Code, respectively, by Subsection
4 (a)(1)(A) of this section, are amended to conform to the additional
5 changes made by Subsection (a)(1) of this section and to the
6 recodification and repeal of Articles 21.28-C and 21.28-D,
7 Insurance Code, by Chapter 727, Acts of the 79th Legislature,
8 Regular Session, 2005, to read as follows:

9 (4) "Delinquency proceeding" means any proceeding
10 instituted against an insurer for the purpose of liquidating,
11 rehabilitating, or conserving the insurer, and any proceeding under
12 Section 443.051 [~~21A.051~~].

13 (11) "Guaranty association" means any mechanism
14 mandated by [~~Article 21.28-C or 21.28-D,~~] Chapter 462, 463, or
15 2602[7] or other laws of this state or a similar mechanism in
16 another state that is created for the payment of claims or
17 continuation of policy obligations of financially impaired or
18 insolvent insurers.

19 (14) "Insurer" means any person that has done,
20 purports to do, is doing, or is authorized to do the business of
21 insurance in this state, and is or has been subject to the authority
22 of or to liquidation, rehabilitation, reorganization, supervision,
23 or conservation by any insurance commissioner. For purposes of
24 this chapter, any other persons included under Section 443.003
25 [~~21A.003~~] are insurers.

26 (17) "Party in interest" means the commissioner, a 10
27 percent or greater equity security holder in the insolvent insurer,

1 any affected guaranty association, any nondomiciliary commissioner
2 for a jurisdiction in which the insurer has outstanding claims
3 liabilities, and any of the following parties that have filed a
4 request for inclusion on the service list under Section 443.007
5 [~~21A.007~~]:

6 (A) an insurer that ceded to or assumed business
7 from the insolvent insurer; and

8 (B) an equity shareholder, policyholder,
9 third-party claimant, creditor, and any other person, including any
10 indenture trustee, with a financial or regulatory interest in the
11 receivership proceeding.

12 (26) "Secured claim" means any claim secured by an
13 asset that is not a general asset. The term includes the right to
14 set off as provided in Section 443.209 [~~21A.209~~]. The term does not
15 include a claim arising from a constructive or resulting trust, a
16 special deposit claim, or a claim based on mere possession.

17 (c) Sections 21A.005(e), (h), and (i), Insurance Code,
18 redesignated as Sections 443.005(e), (h), and (i), Insurance Code,
19 respectively, by Subsection (a)(1)(A) of this section, are amended
20 to conform to the additional changes made by Subsection (a)(1) of
21 this section to read as follows:

22 (e) If, on motion of any party, the receivership court finds
23 that any action, as a matter of substantial justice, should be tried
24 in a forum outside this state, the receivership court may enter an
25 appropriate order to stay further proceedings on the action in this
26 state. Except as to claims against the estate, nothing in this
27 chapter deprives a party of any contractual right to pursue

1 arbitration. A party in arbitration may bring a claim or
2 counterclaim against the estate, but the claim or counterclaim is
3 subject to Section 443.209 [~~21A.209~~].

4 (h) At any time after an order is entered pursuant to
5 Section 443.051, 443.101, or 443.151 [~~21A.051, 21A.101, or~~
6 ~~21A.151~~], the commissioner or receiver may transfer the case to the
7 county of the principal office of the person proceeded against. In
8 the event of transfer, the court in which the proceeding was
9 commenced, upon application of the commissioner or receiver, shall
10 direct its clerk to transmit the court's file to the clerk of the
11 court to which the case is to be transferred. The proceeding, after
12 transfer, shall be conducted in the same manner as if it had been
13 commenced in the court to which the matter is transferred.

14 (i) A person may not intervene in any delinquency proceeding
15 in this state for the purpose of seeking or obtaining payment of any
16 judgment, lien, or other claim of any kind. The claims procedure
17 set forth in this chapter constitutes the exclusive means for
18 obtaining payment of claims from the receivership estate. This
19 provision is not intended to affect the rights conferred on the
20 guaranty associations by Section 443.008(1) [~~21A.008(1)~~].

21 (d) Section 21A.008(e), Insurance Code, redesignated as
22 Section 443.008(e), Insurance Code, by Subsection (a)(1)(A) 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 (e) Notwithstanding Subsection (c), the commencement of a
26 delinquency proceeding under this chapter does not operate as a
27 stay of:

1 (1) regulatory actions not described by Subsection
2 (c)(7) that are taken by the commissioners of nondomiciliary
3 states, including the suspension of licenses;

4 (2) criminal proceedings;

5 (3) any act to perfect or to maintain or continue the
6 perfection of an interest in property to the extent that the act is
7 accomplished within any relation back period under applicable law;

8 (4) set off as permitted by Section 443.209 [~~21A.209~~];

9 (5) pursuit and enforcement of nonmonetary
10 governmental claims, judgments, and proceedings;

11 (6) presentment of a negotiable instrument and the
12 giving of notice and protesting dishonor of the instrument;

13 (7) enforcement of rights against single beneficiary
14 trusts established pursuant to and in compliance with laws relating
15 to credit for reinsurance;

16 (8) termination, liquidation, and netting of
17 obligations under qualified financial contracts as provided for in
18 Section 443.261 [~~21A.261~~];

19 (9) discharge by a guaranty association of statutory
20 responsibilities under any law governing guaranty associations; or

21 (10) any of the following actions:

22 (A) an audit by a governmental unit to determine
23 tax liability;

24 (B) the issuance to the insurer by a governmental
25 unit of a notice of tax deficiency;

26 (C) a demand for tax returns; or

27 (D) the making of an assessment for any tax and

1 issuance of a notice and demand for payment of the assessment.

2 (e) Section 21A.009(c), Insurance Code, redesignated as
3 Section 443.009(c), Insurance Code, by Subsection (a)(1)(A) 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 (c) If applicable law, an order, or an agreement fixes a
7 period for commencing or continuing a civil action in a court other
8 than the receivership court on a claim against the insurer, and the
9 period has not expired before the date of the initial filing of the
10 petition in a delinquency proceeding, then the period does not
11 expire until the later of:

12 (1) the end of the period, including any suspension of
13 the period occurring on or after the filing of the initial petition
14 in the delinquency proceeding; or

15 (2) 30 days after termination or expiration of the
16 stay under Section 443.008 [~~21A.008~~] with respect to the claim.

17 (f) Section 21A.0135, Insurance Code, redesignated as
18 Section 443.0135, Insurance Code, by Subsection (a)(1)(A) 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 Sec. 443.0135 [~~21A.0135~~]. CONTRACTS FOR SPECIAL DEPUTIES.

22 (a) The receiver shall use a competitive bidding process in the
23 selection of any special deputies appointed under Section 443.102
24 or 443.154 [~~21A.102 or 21A.154~~]. The process must include
25 procedures to promote the participation of historically
26 underutilized businesses that have been certified by the Texas
27 Building and Procurement Commission under Section 2161.061,

1 Government Code.

2 (b) A proposal submitted in connection with a bid
3 solicitation under Subsection (a) must describe the efforts that
4 have been made to include historically underutilized businesses as
5 subcontractors and the plan for using the historically
6 underutilized businesses in the administration of the receivership
7 estate. A special deputy appointed under Section 443.102 or
8 443.154 [~~21A.102~~ or ~~21A.154~~] shall make a good faith effort to
9 implement the plan and shall report to the receiver the special
10 deputy's efforts to identify and subcontract with historically
11 underutilized businesses.

12 (g) Sections 21A.015(a), (c), and (i), Insurance Code,
13 redesignated as Sections 443.015(a), (c), and (i), Insurance Code,
14 respectively, by Subsection (a)(1)(A) 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) The receiver may pay any expenses under contracts,
18 leases, employment agreements, or other arrangements entered into
19 by the insurer prior to receivership, as the receiver deems
20 necessary for the purposes of this chapter. The receiver is not
21 required to pay any expenses that the receiver determines are not
22 necessary, and may reject any contract pursuant to Section 443.013
23 [~~21A.013~~].

24 (c) The receiver shall submit to the receivership court an
25 application pursuant to Section 443.007 [~~21A.007~~] to approve:

26 (1) the terms of compensation of each special deputy
27 or contractor with respect to which the total amount of the

1 compensation is reasonably expected by the receiver for the
2 duration of the delinquency proceeding to exceed \$250,000, or
3 another amount established by the receivership court; and

4 (2) any other anticipated expense in excess of
5 \$25,000, or another amount established by the receivership court.

6 (i) All expenses of receivership shall be paid from the
7 assets of the insurer, except as provided by this subsection. In
8 the event that the property of the insurer does not contain
9 sufficient cash or liquid assets to defray the expenses incurred,
10 the commissioner may advance funds from the account established
11 under Section 443.304(c) [~~21A.304(c)~~]. Any amounts advanced shall
12 be repaid to the account out of the first available money of the
13 insurer.

14 (h) Sections 21A.051(a), (b), and (i), Insurance Code,
15 redesignated as Sections 443.051(a), (b), and (i), Insurance Code,
16 respectively, by Subsection (a)(1)(B) 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 (a) The commissioner may file in a district court of Travis
20 County a petition with respect to an insurer domiciled in this
21 state, an unauthorized insurer, or, pursuant to Section 443.401
22 [~~21A.401~~], a foreign insurer:

23 (1) alleging that grounds exist that would justify a
24 court order for a formal delinquency proceeding against the insurer
25 under this chapter;

26 (2) alleging that the interests of policyholders,
27 creditors, or the public will be endangered by delay; and

1 (3) setting forth the contents of a seizure order
2 deemed to be necessary by the commissioner.

3 (b) Upon a filing under Subsection (a), the receivership
4 court may issue, ex parte and without notice or hearing, the
5 requested seizure order directing the commissioner to take
6 possession and control of all or a part of the property, books,
7 accounts, documents, and other records of an insurer, and of the
8 premises occupied by it for transaction of its business, and until
9 further order of the receivership court, enjoining the insurer and
10 its officers, managers, agents, and employees from disposition of
11 its property and from the transaction of its business except with
12 the written consent of the commissioner. Any person having
13 possession or control of and refusing to deliver any of the books,
14 records, or assets of a person against whom a seizure order has been
15 issued commits an offense. An offense under this subsection is
16 punishable in the manner described by Section 443.010(e)
17 [~~21A.010(e)~~].

18 (i) In all proceedings and judicial reviews under this
19 section, all records of the insurer, department files, court
20 records and papers, and other documents, so far as they pertain to
21 or are a part of the record of the proceedings, are confidential,
22 and all papers filed with the clerk of the court shall be held by the
23 clerk in a confidential file as permitted by law, except to the
24 extent necessary to obtain compliance with any order entered in
25 connection with the proceedings, unless and until:

26 (1) the court, after hearing argument in chambers,
27 orders otherwise;

1 (2) the insurer requests that the matter be made
2 public; or

3 (3) the commissioner applies for an order under
4 Section 443.057 [~~21A.057~~].

5 (i) Section 21A.052(b), Insurance Code, redesignated as
6 Section 443.052(b), Insurance Code, by Subsection (a)(1)(B) of this
7 section, is amended to conform to the additional changes made by
8 Subsection (a)(1) of this section to read as follows:

9 (b) The petition must state the grounds upon which the
10 proceeding is based and the relief requested and may include a
11 prayer for restraining orders and injunctive relief as described in
12 Section 443.008 [~~21A.008~~]. On the filing of the petition or order,
13 a copy shall be forwarded by first class mail or electronic
14 communication as permitted by the receivership court to the
15 insurance regulatory officials and guaranty associations in states
16 in which the insurer did business.

17 (j) Section 21A.056(a), Insurance Code, redesignated as
18 Section 443.056(a), Insurance Code, by Subsection (a)(1)(B) 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 (a) The commissioner, rehabilitator, or liquidator may
22 share documents, materials, or other information in the possession,
23 custody, or control of the department without regard to the
24 confidentiality of those documents, materials, or information,
25 pertaining to an insurer that is the subject of a proceeding under
26 this chapter with other state, federal, and international
27 regulatory agencies, with the National Association of Insurance

1 Commissioners and its affiliates and subsidiaries, with state,
2 federal, and international law enforcement authorities, with an
3 auditor appointed by the receivership court in accordance with
4 Section 443.355 [~~21A.355~~], and, pursuant to Section 443.105
5 [~~21A.105~~], with representatives of guaranty associations that may
6 have statutory obligations as a result of the insolvency of the
7 insurer, provided that the recipient agrees to maintain the
8 confidentiality, if any, of the documents, material, or other
9 information. Nothing in this section limits the power of the
10 commissioner to disclose information under other applicable law.

11 (k) Section 21A.057, Insurance Code, redesignated as
12 Section 443.057, Insurance Code, by Subsection (a)(1)(B) of this
13 section, is amended to conform to the additional changes made by
14 Subsection (a)(1) of this section and to the recodification and
15 repeal of Articles 1.15, 1.15A, 1.16, 1.32, and 21.28-A, Insurance
16 Code, by Chapter 727, Acts of the 79th Legislature, Regular
17 Session, 2005, to read as follows:

18 Sec. 443.057 [~~21A.057~~]. GROUNDS FOR CONSERVATION,
19 REHABILITATION, OR LIQUIDATION. The commissioner may file with a
20 court in this state a petition with respect to an insurer domiciled
21 in this state or an unauthorized insurer for an order of
22 rehabilitation or liquidation on any one or more of the following
23 grounds:

- 24 (1) the insurer is impaired;
25 (2) the insurer is insolvent;
26 (3) the insurer is about to become insolvent, with
27 "about to become insolvent" being defined as reasonably anticipated

1 that the insurer will not have liquid assets to meet its next 90
2 days' current obligations;

3 (4) the insurer has neglected or refused to comply
4 with an order of the commissioner to make good within the time
5 prescribed by law any deficiency, whenever its capital and minimum
6 required surplus, if a stock company, or its surplus, if a company
7 other than stock, has become impaired;

8 (5) the insurer, its parent company, its subsidiaries,
9 or its affiliates have converted, wasted, or concealed property of
10 the insurer or have otherwise improperly disposed of, dissipated,
11 used, released, transferred, sold, assigned, hypothecated, or
12 removed the property of the insurer;

13 (6) the insurer is in a condition such that it could
14 not meet the requirements for organization and authorization as
15 required by law, except as to the amount of the original surplus
16 required of a stock company under Title 6, and except as to the
17 amount of the surplus required of a company other than a stock
18 company in excess of the minimum surplus required to be maintained;

19 (7) the insurer, its parent company, its subsidiaries,
20 or its affiliates have concealed, removed, altered, destroyed, or
21 failed to establish and maintain books, records, documents,
22 accounts, vouchers, and other pertinent material adequate for the
23 determination of the financial condition of the insurer by
24 examination under Chapter 401 [~~Article 1.15, 1.15A, or 1.16~~] or has
25 failed to properly administer claims or maintain claims records
26 that are adequate for the determination of its outstanding claims
27 liability;

1 (8) at any time after the issuance of an order under
2 Section 404.003 or Chapter 441 [~~Article 1.32 or 21.28-A~~], or at the
3 time of instituting any proceeding under this chapter, it appears
4 to the commissioner that, upon good cause shown, it would not be in
5 the best interest of the policyholders, creditors, or the public to
6 proceed with the conduct of the business of the insurer;

7 (9) the insurer is in a condition such that the further
8 transaction of business would be hazardous financially, according
9 to Subchapter A, Chapter 404, [~~Article 1.32~~] or otherwise, to its
10 policyholders, creditors, or the public;

11 (10) there is reasonable cause to believe that there
12 has been embezzlement from the insurer, wrongful sequestration or
13 diversion of the insurer's property, forgery or fraud affecting the
14 insurer, or other illegal conduct in, by, or with respect to the
15 insurer that, if established, would endanger assets in an amount
16 threatening the solvency of the insurer;

17 (11) control of the insurer is in a person who is:

18 (A) dishonest or untrustworthy; or

19 (B) so lacking in insurance company managerial
20 experience or capability as to be hazardous to policyholders,
21 creditors, or the public;

22 (12) any person who in fact has executive authority in
23 the insurer, whether an officer, manager, general agent, director,
24 trustee, employee, shareholder, or other person, has refused to be
25 examined under oath by the commissioner concerning the insurer's
26 affairs, whether in this state or elsewhere or if examined under
27 oath, refuses to divulge pertinent information reasonably known to

1 the person; and after reasonable notice of the fact, the insurer has
2 failed promptly and effectively to terminate the employment and
3 status of the person and all the person's influence on management;

4 (13) after demand by the commissioner under Chapter
5 401 [~~Article 1.15, 1.15A, or 1.16~~] or under this chapter, the
6 insurer has failed promptly to make available for examination any
7 of its own property, books, accounts, documents, or other records,
8 or those of any subsidiary or related company within the control of
9 the insurer or of any person having executive authority in the
10 insurer, so far as they pertain to the insurer;

11 (14) without first obtaining the written consent of
12 the commissioner, the insurer has transferred, or attempted to
13 transfer, in a manner contrary to Chapter 823 or any law relating to
14 bulk reinsurance, substantially its entire property or business, or
15 has entered into any transaction the effect of which is to merge,
16 consolidate, or reinsure substantially its entire property or
17 business in or with the property or business of any other person;

18 (15) the insurer or its property has been or is the
19 subject of an application for the appointment of a receiver,
20 trustee, custodian, conservator, sequestrator, or similar
21 fiduciary of the insurer or its property otherwise than as
22 authorized under the insurance laws of this state;

23 (16) within the previous five years, the insurer has
24 wilfully and continuously violated its charter, articles of
25 incorporation or bylaws, any insurance law of this state, or any
26 valid order of the commissioner;

27 (17) the insurer has failed to pay within 60 days after

1 the due date any obligation to any state or political subdivision of
2 a state or any judgment entered in any state, if the court in which
3 the judgment was entered had jurisdiction over the subject matter,
4 except that nonpayment is not a ground until 60 days after any good
5 faith effort by the insurer to contest the obligation has been
6 terminated, whether it is before the commissioner or in the courts;

7 (18) the insurer has systematically engaged in the
8 practice of reaching settlements with and obtaining releases from
9 claimants, and then unreasonably delayed payment, failed to pay the
10 agreed-upon settlements, or systematically attempted to compromise
11 with claimants or other creditors on the ground that it is
12 financially unable to pay its claims or obligations in full;

13 (19) the insurer has failed to file its annual report
14 or other financial report required by statute within the time
15 allowed by law;

16 (20) the board of directors or the holders of a
17 majority of the shares entitled to vote, or a majority of those
18 individuals entitled to the control of those entities specified by
19 Section 443.003 [~~21A.003~~], request or consent to rehabilitation or
20 liquidation under this chapter;

21 (21) the insurer does not comply with its domiciliary
22 state's requirements for issuance to it of a certificate of
23 authority, or its certificate of authority has been revoked by its
24 state of domicile; or

25 (22) when authorized by department rules.

26 (1) Section 21A.058, Insurance Code, redesignated as
27 Section 443.058, 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 Sec. 443.058 [~~21A.058~~]. ENTRY OF ORDER. If the
4 commissioner establishes any of the grounds provided in Section
5 443.057 [~~21A.057~~], the receivership court shall grant the petition
6 and issue the order of rehabilitation or liquidation requested in
7 the petition.

8 (m) Section 21A.101(b), Insurance Code, redesignated as
9 Section 443.101(b), Insurance Code, by Subsection (a)(1)(C) 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 (b) Any order issued under this section must require
13 accountings to the receivership court by the rehabilitator.
14 Accountings must be at the intervals specified by the receivership
15 court in its order, but not less frequently than semi-annually.
16 Each accounting must include a report concerning the
17 rehabilitator's opinion as to the likelihood that a plan under
18 Section 443.103 [~~21A.103~~] will be prepared by the rehabilitator and
19 the timetable for doing so.

20 (n) Section 21A.102(a), Insurance Code, redesignated as
21 Section 443.102(a), Insurance Code, by Subsection (a)(1)(C) of this
22 section, is amended to conform to the additional changes made by
23 Subsection (a)(1) of this section to read as follows:

24 (a) The rehabilitator may appoint one or more special
25 deputies. A special deputy serves at the pleasure of the
26 rehabilitator and has all the powers and responsibilities of the
27 rehabilitator granted under this section, unless specifically

1 limited by the rehabilitator. The rehabilitator may employ or
2 contract with legal counsel, actuaries, accountants, appraisers,
3 consultants, clerks, assistants, and other personnel as may be
4 deemed necessary. Any special deputy or any other person with whom
5 the rehabilitator contracts under this subsection may act on behalf
6 of the commissioner only in the commissioner's capacity as
7 rehabilitator. Any person with whom the rehabilitator contracts
8 under this subsection is not considered an agent of the state, and
9 any contract entered into under this subsection does not constitute
10 a contract with the state. The provisions of any law governing the
11 procurement of goods and services by the state does not apply to any
12 contract entered into by the commissioner as rehabilitator. The
13 compensation of any special deputies, employees, and contractors
14 and all expenses of taking possession of the insurer and of
15 conducting the rehabilitation shall be fixed by the rehabilitator,
16 with the approval of the receivership court in accordance with
17 Section 443.015 [~~21A.015~~], and shall be paid out of the property of
18 the insurer. The persons appointed under this subsection serve at
19 the pleasure of the rehabilitator. If the rehabilitator deems it
20 necessary to the proper performance of the rehabilitator's duties
21 under this chapter, the rehabilitator may appoint an advisory
22 committee of policyholders, claimants, or other creditors,
23 including guaranty associations. The advisory committee serves at
24 the pleasure of the rehabilitator and without compensation or
25 reimbursement for expenses. The rehabilitator or the receivership
26 court in rehabilitation proceedings conducted under this chapter
27 may not appoint another committee of any nature.

1 (o) Section 21A.104, Insurance Code, redesignated as
2 Section 443.104, Insurance Code, by Subsection (a)(1)(C) 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. 443.104 [~~21A.104~~]. TERMINATION OF REHABILITATION. (a)
6 When the rehabilitator believes further attempts to rehabilitate an
7 insurer would substantially increase the risk of loss to creditors,
8 policyholders, or the public or would be futile, the rehabilitator
9 may move for an order of liquidation. In accordance with Section
10 443.105 [~~21A.105~~], the rehabilitator or the rehabilitator's
11 designated representative shall coordinate with the guaranty
12 associations that may become liable as a result of the liquidation
13 and any national association of guaranty associations to plan for
14 transition to liquidation.

15 (b) Because the protection of the interests of insureds,
16 claimants, and the public requires the timely performance of all
17 insurance policy obligations, if the payment of policy obligations
18 is suspended in substantial part for a period of six months at any
19 time after the appointment of the rehabilitator and the
20 rehabilitator has not filed an application for approval of a plan
21 under Section 443.103 [~~21A.103~~], the rehabilitator shall petition
22 the receivership court for an order of liquidation.

23 (c) The rehabilitator or the directors of the insurer may at
24 any time petition the receivership court for, or the receivership
25 court on its own motion may enter, an order terminating
26 rehabilitation of an insurer. Subject to the provisions of Section
27 443.351 [~~21A.351~~], if the receivership court finds that

1 rehabilitation has been accomplished and that grounds for
2 rehabilitation under Section 443.057 [~~21A.057~~] no longer exist, it
3 shall order that the insurer be restored to title and possession of
4 its property and the control of the business.

5 (p) Sections 21A.151(b) and (e), Insurance Code,
6 redesignated as Sections 443.151(b) and (e), Insurance Code,
7 respectively, by Subsection (a)(1)(D) 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 (b) Upon issuance of the order of liquidation, the rights
11 and liabilities of the insurer and of its creditors, policyholders,
12 shareholders, members, and all other persons interested in its
13 estate become fixed as of the date of entry of the order of
14 liquidation, except as provided by Sections 443.152 and 443.255
15 [~~21A.152 and 21A.255~~], unless otherwise fixed by the court.

16 (e) In the event an order of liquidation is set aside on
17 appeal, the company may not be released from delinquency
18 proceedings except in accordance with Section 443.351 [~~21A.351~~].

19 (q) Sections 21A.152(b), (c), and (d), Insurance Code,
20 redesignated as Sections 443.152(b), (c), and (d), Insurance Code,
21 respectively, by Subsection (a)(1)(D) of this section, are amended
22 to conform to the additional changes made by Subsection (a)(1) of
23 this section to read as follows:

24 (b) Notwithstanding any policy or contract language or any
25 other statute, all policies, insurance contracts other than
26 reinsurance by which the insurer has ceded insurance obligations to
27 another person, and surety bonds or surety undertakings, other than

1 life or health insurance or annuities, in effect at the time of
2 issuance of an order of liquidation, unless further extended by the
3 receiver with the approval of the receivership court, continue in
4 force only until the earlier of:

5 (1) the 30th day after the date of entry of the
6 liquidation order;

7 (2) the date of expiration of the policy coverage;

8 (3) the date the insured has replaced the insurance
9 coverage with equivalent insurance with another insurer or
10 otherwise terminated the policy;

11 (4) the date the liquidator has effected a transfer of
12 the policy obligation pursuant to Section 443.154(h) [~~21A.154(h)~~];
13 or

14 (5) the date proposed by the liquidator and approved
15 by the receivership court to cancel coverage.

16 (c) An order of liquidation under Section 443.151 [~~21A.151~~]
17 must terminate coverages at the time specified by Subsections (a)
18 and (b) for purposes of any other statute.

19 (d) Policies of life or health insurance or annuities
20 covered by a guaranty association and any portion of policies of
21 life or health insurance or annuities covered by a guaranty
22 association continue in force for the period and under the terms
23 provided for by any applicable guaranty association law. Policies
24 of life or health insurance or annuities not covered by a guaranty
25 association and any portion of policies of life or health insurance
26 or annuities not covered by a guaranty association terminate under
27 Subsection (b), except to the extent the liquidator proposes and

1 the receivership court approves the use of property of the estate,
2 consistent with Section 443.301 [~~21A.301~~], for the purpose of
3 continuing the contracts or coverage by transferring them to an
4 assuming reinsurer.

5 (r) Sections 21A.154(a), (b), (h), (k), (l), (y), and (z),
6 Insurance Code, redesignated as Sections 443.154(a), (b), (h), (k),
7 (l), (y), and (z), Insurance Code, respectively, by Subsection
8 (a)(1)(D) of this section, are amended to conform to the additional
9 changes made by Subsection (a)(1) of this section to read as
10 follows:

11 (a) The liquidator may appoint a special deputy or deputies
12 to act for the liquidator under this chapter and employ or contract
13 with legal counsel, actuaries, accountants, appraisers,
14 consultants, clerks, assistants, and other personnel the
15 liquidator may deem necessary to assist in the liquidation. A
16 special deputy has all powers of the liquidator granted by this
17 section, unless specifically limited by the liquidator, and serves
18 at the pleasure of the liquidator. A special deputy or any other
19 person with whom the liquidator contracts under this subsection may
20 act on behalf of the commissioner only in the commissioner's
21 capacity as liquidator. Any person with whom the liquidator
22 contracts is not considered to be an agent of the state and any
23 contract under this subsection is not a contract with the state.
24 The provisions of any law governing the procurement of goods and
25 services by the state do not apply to any contract entered into by
26 the commissioner as liquidator. This subsection does not waive any
27 immunity granted by Section 443.014 [~~21A.014~~] or create any cause

1 of action against the state.

2 (b) The liquidator may determine the reasonable
3 compensation for any special deputies, employees, or contractors
4 retained by the liquidator as provided in Subsection (a) and pay
5 compensation in accordance with Section 443.015 [~~21A.015~~].

6 (h) The liquidator may use property of the estate of an
7 insurer under a liquidation order to transfer to a solvent assuming
8 insurer policy obligations or the insurer's obligations under
9 surety bonds and surety undertakings as well as collateral held by
10 the insurer with respect to the reimbursement obligations of the
11 principals under those surety bonds and surety undertakings, if the
12 transfer can be arranged without prejudice to applicable priorities
13 under Section 443.301 [~~21A.301~~]. If all insureds, principals,
14 third-party claimants, and obligees under the policies, surety
15 bonds, and surety undertakings consent or if the receivership court
16 so orders, the estate has no further liability under the
17 transferred policies, surety bonds, or surety undertakings after
18 the transfer is made.

19 (k) The liquidator may enter into contracts as necessary to
20 carry out the order to liquidate and, subject to the provisions of
21 Section 443.013 [~~21A.013~~], may assume or reject any executory
22 contract or unexpired lease to which the insurer is a party.

23 (l) The liquidator may continue to prosecute and institute
24 in the name of the insurer or in the liquidator's own name any and
25 all suits and other legal proceedings, in this state or elsewhere,
26 and abandon the prosecution of claims the liquidator deems
27 unprofitable to pursue further. If the insurer is dissolved under

1 Section 443.153 [~~21A.153~~], the liquidator has the power to apply to
2 any court in this state or elsewhere for leave to substitute the
3 liquidator for the insurer as a party.

4 (y) The liquidator may hypothecate, encumber, lease, sell,
5 transfer, abandon, or otherwise dispose of or deal with any
6 property of the insurer, settle or resolve any claim brought by the
7 liquidator on behalf of the insurer, or commute or settle any claim
8 of reinsurance under any contract of reinsurance, as follows:

9 (1) if the property or claim has a market or settlement
10 value that does not exceed the lesser of \$1 million or 10 percent of
11 the general assets of the estate as shown on the receivership's
12 financial statements, the liquidator may take action at the
13 liquidator's discretion, provided that the receivership court may,
14 upon petition of the liquidator, increase the threshold upon a
15 showing that compliance with this requirement is burdensome to the
16 liquidator in administering the estate and is unnecessary to
17 protect the material interests of creditors;

18 (2) in all instances other than those described in
19 Subdivision (1), the liquidator may take the action only after
20 obtaining approval of the receivership court as provided by Section
21 443.007 [~~21A.007~~];

22 (3) the liquidator may, at the liquidator's
23 discretion, request the receivership court to approve a proposed
24 action as provided by Section 443.007 [~~21A.007~~] if the value of the
25 property or claim appears to be less than the threshold provided by
26 Subdivision (1) but cannot be ascertained with certainty, or for
27 any other reason as determined by the liquidator; and

1 (4) after obtaining approval of the receivership court
2 as provided in Section 443.007 [~~21A.007~~], the liquidator may,
3 subject to Subsection (z), transfer rights to payment under ceding
4 reinsurance agreements covering policies to a third-party
5 transferee.

6 (z) The transferee of a right to payment under Subsection
7 (y)(4) has the rights to collect and enforce collection of the
8 reinsurance for the amount payable to the ceding insurer or to its
9 receiver, without diminution because of the insolvency or because
10 the receiver has failed to pay all or a portion of the claim, based
11 on the amounts paid or allowed pursuant to Section 443.211
12 [~~21A.211~~]. The transfer of the rights does not give rise to any
13 defense regarding the reinsurer's obligations under the
14 reinsurance agreement regardless of whether an agreement or other
15 applicable law prohibits the transfer of rights under the
16 reinsurance agreement. Except as provided in this subsection, any
17 transfer of rights pursuant to Subsection (y)(4) does not impair
18 any rights or defenses of the reinsurer that existed prior to the
19 transfer or that would have existed in the absence of the transfer.
20 Except as otherwise provided in this subsection, any transfer of
21 rights pursuant to Subsection (y)(4) does not relieve the
22 transferee or the liquidator from obligations owed to the reinsurer
23 pursuant to the reinsurance or other agreement.

24 (s) Section 21A.155(b), Insurance Code, redesignated as
25 Section 443.155(b), Insurance Code, by Subsection (a)(1)(D) of this
26 section, is amended to conform to the additional changes made by
27 Subsection (a)(1) of this section to read as follows:

1 (b) The notice of the entry of an order of liquidation must
2 contain or provide directions for obtaining the following
3 information:

4 (1) a statement that the insurer has been placed in
5 liquidation;

6 (2) a statement that certain acts are stayed under
7 Section 443.008 [~~21A.008~~] and describe any additional injunctive
8 relief ordered by the receivership court;

9 (3) a statement whether, and to what extent, the
10 insurer's policies continue in effect;

11 (4) to the extent applicable, a statement that
12 coverage by state guaranty associations may be available for all or
13 part of policy benefits in accordance with applicable state
14 guaranty laws;

15 (5) a statement of the deadline for filing claims, if
16 established, and the requirements for filing a proof of claim
17 pursuant to Section 443.251 [~~21A.251~~] on or before that date;

18 (6) a statement of the date, time, and location of any
19 initial status hearing scheduled at the time the notice is sent;

20 (7) a description of the process for obtaining notice
21 of matters before the receivership court; and

22 (8) any other information the liquidator or the
23 receivership court deems appropriate.

24 (t) Section 21A.156(a), Insurance Code, redesignated as
25 Section 443.156(a), Insurance Code, by Subsection (a)(1)(D) of this
26 section, is amended to conform to the additional changes made by
27 Subsection (a)(1) of this section to read as follows:

1 (a) Every person who represented the insurer as an agent and
2 receives notice in the form prescribed in Section 443.155 [~~21A.155~~]
3 that the insurer is the subject of a liquidation order, not later
4 than the 30th day after the date of the notice, shall provide to the
5 liquidator, in addition to the information the agent may be
6 required to provide pursuant to Section 443.010 [~~21A.010~~], the
7 information in the agent's records related to any policy issued by
8 the insurer through the agent and any policy issued by the insurer
9 through an agent under contract to the agent, including the name and
10 address of any subagent. For purposes of this subsection, a policy
11 is issued through an agent if the agent has a property interest in
12 the expiration of the policy or if the agent has had in the agent's
13 possession a copy of the declarations of the policy at any time
14 during the life of the policy, except where the ownership of the
15 expiration of the policy has been transferred to another.

16 (u) Sections 21A.207(a), (d), and (f), Insurance Code,
17 redesignated as Sections 443.207(a), (d), and (f), Insurance Code,
18 respectively, by Subsection (a)(1)(E) of this section, are amended
19 to conform to the additional changes made by Subsection (a)(1) of
20 this section to read as follows:

21 (a) Except as otherwise provided in this section, to the
22 extent that the receiver obtains an order under Section 443.201
23 [~~21A.201~~] or avoids a transfer under Section 443.202, 443.203,
24 443.204, 443.205, or 443.206 [~~Sections 21A.202, 21A.203, 21A.204,
25 ~~21A.205, or 21A.206~~], the receiver may recover the property
26 transferred, or the value of the property, from:~~

27 (1) the initial transferee of the transfer or the

1 entity for whose benefit the transfer was made; or

2 (2) any immediate or mediate transferee of the initial
3 transferee.

4 (d) In addition to the remedies specifically provided under
5 Sections 443.201-443.206 [~~21A.201-21A.206~~] and Subsection (a), if
6 the receiver is successful in establishing a claim to the property
7 or any part of the property, the receiver is entitled to recover
8 judgment for:

9 (1) rental for the use of the tangible property from
10 the later of the entry of the receivership order or the date of the
11 transfer;

12 (2) in the case of funds or intangible property, the
13 greater of:

14 (A) the actual interest or income earned by the
15 property; or

16 (B) interest at the statutory rate for judgments
17 from the later of the date of the entry of the receivership order or
18 the date of the transfer; and

19 (3) except as to recoveries from guaranty
20 associations, all costs, including investigative costs and other
21 expenses necessary to the recovery of the property or funds, and
22 reasonable attorney's fees.

23 (f) In any action under Sections 443.201-443.206
24 [~~21A.201-21A.206~~], the receiver has the burden of proving the
25 avoidability of a transfer, and the person against whom recovery or
26 avoidance is sought has the burden of proving the nature and extent
27 of any affirmative defense.

1 (v) Section 21A.208(b), Insurance Code, redesignated as
2 Section 443.208(b), Insurance Code, by Subsection (a)(1)(E) 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 (b) A claim allowable under Subsection (a) by reason of the
6 avoidance, whether voluntary or involuntary, or a preference, lien,
7 conveyance, transfer, assignment, or encumbrance, may be filed as
8 an excused late filing under Section 443.251(b) [~~21A.251(b)~~] if
9 filed not later than the 30th day after the date of the avoidance,
10 or within the further time allowed by the receivership court under
11 Subsection (a).

12 (w) Section 21A.210(j), Insurance Code, redesignated as
13 Section 443.210(j), Insurance Code, by Subsection (a)(1)(E) of this
14 section, is amended to conform to the additional changes made by
15 Subsection (a)(1) of this section to read as follows:

16 (j) Any claim filed by an assessee who fails to pay an
17 assessment, after the conclusion of any legal action by the
18 assessee objecting to the assessment, is deemed a late filed claim
19 under Section 443.251 [~~21A.251~~].

20 (x) Sections 21A.211(b) and (f), Insurance Code,
21 redesignated as Sections 443.211(b) and (f), Insurance Code,
22 respectively, by Subsection (a)(1)(E) of this section, are amended
23 to conform to the additional changes made by Subsection (a)(1) of
24 this section and to the recodification and repeal of Articles
25 21.28-C and 21.28-D, Insurance Code, by Chapter 727, Acts of the
26 79th Legislature, Regular Session, 2005, to read as follows:

27 (b) Except as provided by Subsection (a), any reinsurance

1 shall be payable to the receiver under a policy reinsured by the
2 assuming insurer on the basis of claims:

3 (1) allowed under Section 443.253 [~~21A.253~~]; and

4 (2) paid under:

5 (A) Chapter 462, 463, or [~~Article 21.28-C or~~
6 ~~21.28-D,~~

7 [~~(B) Chapter~~] 2602; or

8 (B) [~~(C)~~] the guaranty associations of other
9 states.

10 (f) Nothing in this chapter shall be construed as
11 authorizing the receiver, or other entity, to compel payment from a
12 non-life reinsurer on the basis of estimated incurred but not
13 reported losses or outstanding reserves, except outstanding
14 reserves with respect to claims made pursuant to Section 443.255
15 [~~21A.255~~] and approved workers compensation claims filed under
16 Section 443.252(d) [~~21A.252(d)~~].

17 (y) Sections 21A.212(a), (b), and (c), Insurance Code,
18 redesignated as Sections 443.212(a), (b), and (c), Insurance Code,
19 respectively, by Subsection (a)(1)(E) of this section, are amended
20 to conform to the additional changes made by Subsection (a)(1) of
21 this section to read as follows:

22 (a) An insured shall pay, either directly to the receiver or
23 to any agent that has paid or is obligated to pay the receiver on
24 behalf of the insured, any unpaid earned premium or retrospectively
25 rated premium due the insurer based on the termination of coverage
26 under Section 443.152 [~~21A.152~~]. Premium on surety business is
27 deemed earned at inception if a policy term cannot be determined.

1 All other premium is deemed earned and is prorated equally over the
2 determined policy term, regardless of any provision in the bond,
3 guaranty, contract or other agreement.

4 (b) Any person, other than the insured, shall turn over to
5 the receiver any unpaid premium due and owing as shown on the
6 records of the insurer, including any amount representing
7 commissions, for the full policy term due the insurer at the time of
8 the entry of the receivership order, whether earned or unearned,
9 based on the termination of coverage under Section 443.152
10 [~~21A.152~~]. The unpaid premium due the receiver from any person
11 other than the insured excludes any premium not collected from the
12 insured and not earned based on the termination of coverage under
13 Section 443.152 [~~21A.152~~].

14 (c) Any person, other than the insured, responsible for the
15 remittance of a premium, shall turn over to the receiver any
16 unearned commission of the person based on the termination of
17 coverage under Section 443.152 [~~21A.152~~]. Credits, setoffs, or
18 both may not be allowed to an agent, broker, premium finance
19 company, or any other person for any amounts advanced to the insurer
20 by the person on behalf of, but in the absence of a payment by, the
21 insured, or for any other amount paid by the person to any other
22 person after the entry of the order of receivership.

23 (z) Sections 21A.213(h) and (i), Insurance Code,
24 redesignated as Sections 443.213(h) and (i), Insurance Code,
25 respectively, by Subsection (a)(1)(E) 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 (h) To the extent a guaranty association is required by
2 applicable law to pay any claims for which the insurer would have
3 been entitled to reimbursement from the policyholder, the following
4 provisions apply:

5 (1) The receiver shall promptly invoice the
6 policyholder for the reimbursement due under the agreement, and the
7 policyholder is obligated to pay the amount invoiced to the
8 receiver for the benefit of the guaranty associations that paid the
9 claims. Neither the insolvency of the insurer nor the insurer's
10 inability to perform any obligations under the deductible agreement
11 is a defense to the policyholder's reimbursement obligation under
12 the deductible agreement. At the time the policyholder
13 reimbursements are collected, the receiver shall promptly forward
14 those amounts to the guaranty association, based on the claims paid
15 by the guaranty association that were subject to the deductible.

16 (2) If the collateral is insufficient to reimburse the
17 guaranty association for claims paid within the deductible, the
18 receiver shall use any existing collateral to make a partial
19 reimbursement to the guaranty association, subject to any
20 allocation under Subsection (d), (e), or (f). If more than one
21 guaranty association has a claim against the same collateral, the
22 receiver shall prorate payments to each guaranty association based
23 on the amount of the claims each guaranty association has paid.

24 (3) The receiver is entitled to deduct from
25 reimbursements owed to a guaranty association or collateral to be
26 returned to a policyholder reasonable actual expenses incurred in
27 fulfilling the receiver's responsibilities under this section.

1 Expenses incurred to collect reimbursements for the benefit of a
2 guaranty association are subject to the approval of the guaranty
3 association. Any remaining expenses that are not deducted from the
4 reimbursements are payable subject to Section 443.015 [~~21A.015~~].

5 (4) The receiver shall provide any affected guaranty
6 associations with a complete accounting of the receiver's
7 deductible billing and collection activities on a quarterly basis,
8 or at other intervals as may be agreed to between the receiver and
9 the guaranty associations. Accountings under this subdivision must
10 include copies of the policyholder billings, the reimbursements
11 collected, the available amounts and use of collateral for each
12 account, and any prorating of payments.

13 (5) If the receiver fails to make a good faith effort
14 to collect reimbursements due from a policyholder under a
15 deductible agreement within 120 days of receipt of claims payment
16 reports from a guaranty association, the guaranty association may,
17 after notice to the receiver, collect the reimbursements that are
18 due, and, in so doing, the guaranty association shall have the same
19 rights and remedies as the receiver. A guaranty association shall
20 report any amounts collected under this subdivision and expenses
21 incurred in collecting those amounts to the receiver.

22 (6) The receiver shall periodically adjust the
23 collateral held as the claims subject to the deductible agreement
24 are paid, provided that adequate collateral is maintained. The
25 receiver is not required to adjust the collateral more than once a
26 year. The receiver shall inform the guaranty associations of all
27 collateral reviews, including the basis for the adjustment.

1 (7) Reimbursements received or collected by a guaranty
2 association under this section may not be considered a distribution
3 of the insurer's assets. A guaranty association shall provide the
4 receiver with an accounting of any amounts it has received or
5 collected under this section and any expenses incurred in
6 connection with that receipt or collection. The amounts received,
7 net of any expenses incurred in connection with collection of the
8 amounts, must be set off against the guaranty association's claim
9 filed under Section 443.251 [~~21A.251~~] for the payments that were
10 reimbursed.

11 (8) To the extent that a guaranty association pays a
12 claim within the deductible amount that is not reimbursed by either
13 the receiver or by policyholder payments, the guaranty association
14 has a claim for those amounts in the delinquency proceeding in
15 accordance with Section 443.251 [~~21A.251~~].

16 (9) Nothing in this section limits any rights of a
17 guaranty association under applicable law to obtain reimbursement
18 for claims payments made by the guaranty association under policies
19 of the insurer or for the association's related expenses.

20 (i) If a claim that is subject to a deductible agreement and
21 secured by collateral is not covered by any guaranty association,
22 the following provisions apply:

23 (1) The receiver is entitled to retain as an asset of
24 the estate any collateral or deductible reimbursements obtained by
25 the receiver.

26 (2) If a policyholder fails to assume an obligation
27 under a deductible agreement to pay a claim, the receiver shall use

1 the collateral to adjust and pay the claim to the extent that the
2 available collateral, after any allocation under Subsection (d),
3 (e), or (f), is sufficient to pay all outstanding and anticipated
4 claims within the deductible. If the collateral is exhausted and
5 all reasonable means of collection against the insured have been
6 exhausted, the remaining claims shall be subject to the provisions
7 of Sections 443.251 and 443.301 [~~21A.251 and 21A.301~~].

8 (3) The receiver is entitled to deduct from collateral
9 reasonable actual expenses incurred in fulfilling the receiver's
10 responsibilities under this section. Any remaining expenses that
11 are not deducted from the reimbursements are payable subject to
12 Section 443.015 [~~21A.015~~].

13 (aa) Sections 21A.251(a) and (b), Insurance Code,
14 redesignated as Sections 443.251(a) and (b), Insurance Code,
15 respectively, by Subsection (a)(1)(F) 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) Except as provided by this subsection, proof of all
19 claims must be filed with the liquidator in the form required by
20 Section 443.252 [~~21A.252~~] on or before the last day for filing
21 specified in the notice required under Section 443.155 [~~21A.155~~],
22 which date may not be later than 18 months after entry of the order
23 of liquidation, unless the receivership court, for good cause
24 shown, extends the time, except that proofs of claims for cash
25 surrender values or other investment values in life insurance and
26 annuities and for any other policies insuring the lives of persons
27 need not be filed unless the liquidator expressly so requires. The

1 receivership court, only upon application of the liquidator, may
2 allow alternative procedures and requirements for the filing of
3 proofs of claim or for allowing or proving claims. Upon
4 application, if the receivership court dispenses with the
5 requirements of filing a proof of claim by a person or a class or
6 group of persons, a proof of claim for the person, class, or group
7 is deemed to have been filed for all purposes, except that the
8 receivership court's waiver of proof of claim requirements does not
9 impact guaranty association proof of claim filing requirements or
10 coverage determinations to the extent the guaranty fund statute or
11 filing requirements are inconsistent with the receivership court's
12 waiver of proof.

13 (b) The liquidator shall permit a claimant that makes a late
14 filing to share ratably in distributions, whether past or future,
15 as if the claim were not filed late, to the extent that the payment
16 will not prejudice the orderly administration of the liquidation,
17 under the following circumstances:

18 (1) the eligibility to file a proof of claim was not
19 known to the claimant, and the claimant filed a proof of claim not
20 later than the 90th day after the date of first learning of the
21 eligibility;

22 (2) a transfer to a creditor was avoided under Section
23 443.202, 443.203, 443.204, or 443.206 [~~21A.202, 21A.203, 21A.204,~~
24 ~~or 21A.206~~], or was voluntarily surrendered under Section 443.208
25 [~~21A.208~~], and the filing satisfies the conditions of Section
26 443.208 [~~21A.208~~]; or

27 (3) the valuation under Section 443.260 [~~21A.260~~], of

1 security held by a secured creditor shows a deficiency, and the
2 claim for the deficiency is filed not later than the 30th day after
3 the valuation.

4 (bb) Sections 21A.253(b), (d), (i), and (k), Insurance
5 Code, redesignated as Sections 443.253(b), (d), (i), and (k),
6 Insurance Code, respectively, by Subsection (a)(1)(F) of this
7 section, are amended to conform to the additional changes made by
8 Subsection (a)(1) of this section to read as follows:

9 (b) Pursuant to the review, the liquidator shall provide
10 written notice of the claim determination by any means authorized
11 by Section 443.007 [~~21A.007~~] to the claimant or the claimant's
12 attorney and may provide notice to any reinsurer that is or may be
13 liable in respect of the claim. The notice must set forth the
14 amount of the claim allowed by the liquidator, if any, and the
15 priority class of the claim as established in Section 443.301
16 [~~21A.301~~].

17 (d) A claim that has not become mature as of the coverage
18 termination date established under Section 443.201 [~~21A.201~~]
19 because payment on the claim is not yet due may be allowed as if it
20 were mature. A claim that is allowed under this subsection may be
21 discounted to present value based upon a reasonable estimated date
22 of the payment, if the liquidator determines that the present value
23 of the payment is materially less than the amount of the payment.

24 (i) A claim that does not contain all the applicable
25 information required by Section 443.252 [~~21A.252~~] need not be
26 further reviewed or adjudicated, and may be denied or disallowed by
27 the liquidator subject to the notice and objection procedures in

1 this section.

2 (k) The liquidator is not required to process claims for any
3 class until it appears reasonably likely that property will be
4 available for a distribution to that class. If there are
5 insufficient assets to justify processing all claims for any class
6 listed in Section 443.301 [~~21A.301~~], the liquidator shall report
7 the facts to the receivership court and make such recommendations
8 as may be appropriate for handling the remainder of the claims.

9 (cc) Section 21A.254, Insurance Code, redesignated as
10 Section 443.254, Insurance Code, by Subsection (a)(1)(F) of this
11 section, is amended to conform to the additional changes made by
12 Subsection (a)(1) of this section to read as follows:

13 Sec. 443.254 [~~21A.254~~]. CLAIMS UNDER OCCURRENCE POLICIES,
14 SURETY BONDS, AND SURETY UNDERTAKINGS. (a) Subject to the
15 provisions of Section 443.253 [~~21A.253~~], any insured has the right
16 to file a claim for the protection afforded under the insured's
17 policy, regardless of whether a claim is known at the time of
18 filing, if the policy is an occurrence policy.

19 (b) Subject to the provisions of Section 443.253 [~~21A.253~~],
20 an obligee under a surety bond or surety undertaking has the right
21 to file a claim for the protection afforded under the surety bond or
22 surety undertaking issued by the insurer under which the obligee is
23 the beneficiary, regardless of whether a claim is known at the time
24 of filing.

25 (c) After a claim is filed under Subsection (a) or (b), at
26 the time that a specific claim is made by or against the insured or
27 by the obligee, the insured or the obligee shall supplement the

1 claim, and the receiver shall treat the claim as a contingent or
2 unliquidated claim under Section 443.255 [~~21A.255~~].

3 (dd) Sections 21A.255(a) and (c), Insurance Code,
4 redesignated as Sections 443.255(a) and (c), Insurance Code,
5 respectively, by Subsection (a)(1)(F) of this section, are amended
6 to conform to the additional changes made by Subsection (a)(1) of
7 this section to read as follows:

8 (a) A claim of an insured or third party may be allowed under
9 Section 443.253 [~~21A.253~~], regardless of the fact that the claim
10 was contingent or unliquidated, if any contingency is removed in
11 accordance with Subsection (b) and the value of the claim is
12 determined. For purposes of this section, a claim is contingent if:

13 (1) the accident, casualty, disaster, loss, event, or
14 occurrence insured, reinsured, or bonded or reinsured against
15 occurred on or before the date fixed under Section 443.151
16 [~~21A.151~~]; and

17 (2) the act or event triggering the insurer's
18 obligation to pay has not occurred as of the date fixed under
19 Section 443.151 [~~21A.151~~].

20 (c) The liquidator may petition the receivership court to
21 set a date before which all claims under this section are final. In
22 addition to the notice requirements of Section 443.007 [~~21A.007~~],
23 the liquidator shall give notice of the filing of the petition to
24 all claimants with claims that remain contingent or unliquidated
25 under this section.

26 (ee) Section 21A.256(c), Insurance Code, redesignated as
27 Section 443.256(c), Insurance Code, by Subsection (a)(1)(F) 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 (c) The liquidator may make recommendations to the
4 receivership court for the allowance of an insured's claim after
5 consideration of the probable outcome of any pending action against
6 the insured on which the claim is based, the probable damages
7 recoverable in the action, and the probable costs and expenses of
8 defense. After allowance by the receivership court, the liquidator
9 shall withhold any distribution payable on the claim, pending the
10 outcome of litigation and negotiation between the insured and the
11 third party. The liquidator may reconsider the claim as provided in
12 Section 443.253(j) [~~21A.253(j)~~]. As claims against the insured are
13 settled or barred, the insured or third party, as appropriate,
14 shall be paid from the amount withheld the same percentage
15 distribution as was paid on other claims of like priority, based on
16 the lesser of the amount actually due from the insured by action or
17 paid by agreement plus the reasonable costs and expense of defense,
18 or the amount allowed on the claims by the receivership court.
19 After all claims are settled or barred, any sum remaining from the
20 amount withheld shall revert to the undistributed property of the
21 insurer.

22 (ff) Section 21A.257(a), Insurance Code, redesignated as
23 Section 443.257(a), Insurance Code, by Subsection (a)(1)(F) of this
24 section, is amended to conform to the additional changes made by
25 Subsection (a)(1) of this section to read as follows:

26 (a) When objections to the liquidator's proposed treatment
27 of a claim are filed and the liquidator does not alter the

1 determination of the claim as a result of the objections, the
2 liquidator shall ask the receivership court for a hearing pursuant
3 to Section 443.007 [~~21A.007~~].

4 (gg) Section 21A.258, Insurance Code, redesignated as
5 Section 443.258, 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 Sec. 443.258 [~~21A.258~~]. LIQUIDATOR'S RECOMMENDATIONS TO
9 RECEIVERSHIP COURT. The liquidator shall present to the
10 receivership court, for approval, reports of claims settled or
11 determined by the liquidator under Section 443.253 [~~21A.253~~]. The
12 reports must be presented from time to time as determined by the
13 liquidator and must include information identifying the claim and
14 the amount and priority class of the claim.

15 (hh) Sections 21A.260(e) and (g), Insurance Code,
16 redesignated as Sections 443.260(e) and (g), Insurance Code,
17 respectively, by Subsection (a)(1)(F) of this section, are amended
18 to conform to the additional changes made by Subsection (a)(1) of
19 this section to read as follows:

20 (e) If collateral is insufficient to satisfy in full all
21 potential claims against it under Subsections (c) and (g), the
22 claims against the collateral must be paid on a pro rata basis, and
23 an obligee or completion contractor under Subsection (c) has a
24 claim, subject to allowance under Section 443.253 [~~21A.253~~], for
25 any deficiency.

26 (g) To the extent that a guaranty association has made a
27 payment relating to a claim against a surety bond, the guaranty

1 association shall first be reimbursed for that payment and related
2 expenses out of the available collateral or proceeds related to the
3 surety bond. To the extent that the collateral is sufficient, the
4 guaranty association shall be reimbursed 100 percent of its
5 payment. If the collateral is insufficient to satisfy in full all
6 potential claims against the collateral under Subsection (c) and
7 this subsection, a guaranty association that has paid claims on the
8 surety bond is entitled to a pro rata share of the available
9 collateral in accordance with Subsection (e), and the guaranty
10 association has claims against the general assets of the estate in
11 accordance with Section 443.253 [~~21A.253~~] for any deficiency. Any
12 payment made to a guaranty association under this subsection from
13 collateral may not be deemed early access or otherwise deemed a
14 distribution out of the general assets or property of the estate,
15 and the guaranty association receiving payment shall subtract any
16 payment from the collateral from the association's final claims
17 against the estate.

18 (ii) Sections 21A.261(a) and (e), Insurance Code,
19 redesignated as Sections 443.261(a) and (e), Insurance Code,
20 respectively, by Subsection (a)(1)(F) of this section, are amended
21 to conform to the additional changes made by Subsection (a)(1) of
22 this section to read as follows:

23 (a) Notwithstanding any other provision of this chapter,
24 including any other provision of this chapter permitting the
25 modification of contracts, or other law of this state, a person may
26 not be stayed or prohibited from exercising:

27 (1) a contractual right to terminate, liquidate, or

1 close out any netting agreement or qualified financial contract
2 with an insurer because of:

3 (A) the insolvency, financial condition, or
4 default of the insurer at any time, provided that the right is
5 enforceable under applicable law other than this chapter; or

6 (B) the commencement of a formal delinquency
7 proceeding under this chapter;

8 (2) any right under a pledge, security, collateral, or
9 guarantee agreement, or any other similar security arrangement or
10 credit support document, relating to a netting agreement or
11 qualified financial contract; or

12 (3) subject to any provision of Section 443.209(b)
13 [~~21A.209(b)~~], any right to set off or net out any termination value,
14 payment amount, or other transfer obligation arising under or in
15 connection with a netting agreement or qualified financial contract
16 where the counterparty or its guarantor is organized under the laws
17 of the United States or a state or foreign jurisdiction approved by
18 the Securities Valuation Office of the National Association of
19 Insurance Commissioners as eligible for netting.

20 (e) Notwithstanding any other provision of this chapter, a
21 receiver may not avoid a transfer of money or other property arising
22 under or in connection with a netting agreement or qualified
23 financial contract, or any pledge, security, or collateral or
24 guarantee agreement or any other similar security arrangement or
25 credit support document relating to a netting agreement or
26 qualified financial contract, that is made before the commencement
27 of a formal delinquency proceeding under this chapter. However, a

1 transfer may be avoided under Section 443.205(a) [~~21A.205(a)~~] if
2 the transfer was made with actual intent to hinder, delay, or
3 defraud the insurer, a receiver appointed for the insurer, or
4 existing or future creditors.

5 (jj) Section 21A.301, Insurance Code, redesignated as
6 Section 443.301, Insurance Code, by Subsection (a)(1)(G) of this
7 section, is amended to conform to the additional changes made by
8 Subsection (a)(1) of this section and to the recodification and
9 repeal of Section 2(3), Article 21.28-C, and Section 12, Article
10 21.28-D, Insurance Code, by Chapter 727, Acts of the 79th
11 Legislature, Regular Session, 2005, to read as follows:

12 Sec. 443.301 [~~21A.301~~]. PRIORITY OF DISTRIBUTION. The
13 priority of payment of distributions on unsecured claims must be in
14 accordance with the order in which each class of claims is set forth
15 in this section. Every claim in each class shall be paid in full, or
16 adequate funds retained for their payment, before the members of
17 the next class receive payment, and all claims within a class must
18 be paid substantially the same percentage of the amount of the
19 claim. Except as provided by Subsections (a)(2), (a)(3), (i), and
20 (k), subclasses may not be established within a class. No claim by
21 a shareholder, policyholder, or other creditor shall be permitted
22 to circumvent the priority classes through the use of equitable
23 remedies. The order of distribution of claims shall be:

24 (a) Class 1. (1) The costs and expenses of administration
25 expressly approved or ratified by the liquidator, including the
26 following:

27 (A) the actual and necessary costs of preserving

1 or recovering the property of the insurer;

2 (B) reasonable compensation for all services
3 rendered on behalf of the administrative supervisor or receiver;

4 (C) any necessary filing fees;

5 (D) the fees and mileage payable to witnesses;

6 (E) unsecured loans obtained by the receiver; and

7 (F) expenses, if any, approved by the
8 rehabilitator of the insurer and incurred in the course of the
9 rehabilitation that are unpaid at the time of the entry of the order
10 of liquidation.

11 (2) The reasonable expenses of a guaranty association,
12 including overhead, salaries and other general administrative
13 expenses allocable to the receivership to include administrative
14 and claims handling expenses and expenses in connection with
15 arrangements for ongoing coverage, other than expenses incurred in
16 the performance of duties under Section 462.002(3), 463.108,
17 463.111, 463.113, 463.353, or 2602.113~~[, Section 2(3) of Article~~
18 ~~21.28-C, and Section 12 of Article 21.28-D]~~ or similar duties under
19 the statute governing a similar organization in another state. In
20 the case of the Texas Property and Casualty Insurance Guaranty
21 Association and other property and casualty guaranty associations,
22 the expenses shall include loss adjustment expenses, including
23 adjusting and other expenses and defense and cost containment
24 expenses. In the event that there are insufficient assets to pay
25 all of the costs and expenses of administration under Subsection
26 (a)(1) and the expenses of a guaranty association, the costs and
27 expenses under Subsection (a)(1) shall have priority over the

1 expenses of a guaranty association. In this event, the expenses of
2 a guaranty association shall be paid on a pro rata basis after the
3 payment of costs and expenses under Subsection (a)(1) in full.

4 (3) For purposes of Subsection (a)(1)(E), any
5 unsecured loan obtained by the receiver, unless by its terms it
6 otherwise provides, has priority over all other costs of
7 administration. Absent agreement to the contrary, all claims in
8 this subclass share pro rata.

9 (4) Except as expressly approved by the receiver, any
10 expenses arising from a duty to indemnify the directors, officers,
11 or employees of the insurer are excluded from this class and, if
12 allowed, are Class 5 claims.

13 (b) Class 2. All claims under policies of insurance,
14 including third-party claims, claims under nonassessable policies
15 for unearned premium, claims of obligees and, subject to the
16 discretion of the receiver, completion contractors under surety
17 bonds and surety undertakings other than bail bonds, mortgage or
18 financial guaranties, or other forms of insurance offering
19 protection against investment risk, claims by principals under
20 surety bonds and surety undertakings for wrongful dissipation of
21 collateral by the insurer or its agents, and claims incurred during
22 the extension of coverage provided for in Section 443.152
23 [~~21A.152~~]. All other claims incurred in fulfilling the statutory
24 obligations of a guaranty association not included in Class 1,
25 including indemnity payments on covered claims and, in the case of
26 the Life, Accident, Health, and Hospital Service Insurance Guaranty
27 Association or another life and health guaranty association, all

1 claims as a creditor of the impaired or insolvent insurer for all
2 payments of and liabilities incurred on behalf of covered claims or
3 covered obligations of the insurer and for the funds needed to
4 reinsure those obligations with a solvent insurer. Notwithstanding
5 any provision of this chapter, the following claims are excluded
6 from Class 2 priority:

7 (1) obligations of the insolvent insurer arising out
8 of reinsurance contracts;

9 (2) obligations, excluding unearned premium claims on
10 policies other than reinsurance agreements, incurred after:

11 (A) the expiration date of the insurance policy;

12 (B) the policy has been replaced by the insured
13 or canceled at the insured's request; or

14 (C) the policy has been canceled as provided by
15 this chapter;

16 (3) obligations to insurers, insurance pools, or
17 underwriting associations and their claims for contribution,
18 indemnity, or subrogation, equitable or otherwise;

19 (4) any claim that is in excess of any applicable
20 limits provided in the insurance policy issued by the insurer;

21 (5) any amount accrued as punitive or exemplary
22 damages unless expressly covered under the terms of the policy;

23 (6) tort claims of any kind against the insurer and
24 claims against the insurer for bad faith or wrongful settlement
25 practices; and

26 (7) claims of the guaranty associations for
27 assessments not paid by the insurer, which must be paid as claims in

1 Class 5.

2 (c) Class 3. Claims of the federal government not included
3 in Class 3.

4 (d) Class 4. Debts due employees for services or benefits
5 to the extent that the debts do not exceed \$5,000 or two months
6 salary, whichever is the lesser, and represent payment for services
7 performed within one year before the entry of the initial order of
8 receivership. This priority is in lieu of any other similar
9 priority that may be authorized by law as to wages or compensation
10 of employees.

11 (e) Class 5. Claims of other unsecured creditors not
12 included in Classes 1 through 4, including claims under reinsurance
13 contracts, claims of guaranty associations for assessments not paid
14 by the insurer, and other claims excluded from Class 2.

15 (f) Class 6. Claims of any state or local governments,
16 except those specifically classified elsewhere in this section.
17 Claims of attorneys for fees and expenses owed them by an insurer
18 for services rendered in opposing a formal delinquency proceeding.
19 In order to prove the claim, the claimant must show that the insurer
20 that is the subject of the delinquency proceeding incurred the fees
21 and expenses based on its best knowledge, information, and belief,
22 formed after reasonable inquiry, indicating opposition was in the
23 best interests of the insurer, was well grounded in fact, and was
24 warranted by existing law or a good faith argument for the
25 extension, modification, or reversal of existing law, and that
26 opposition was not pursued for any improper purpose, such as to
27 harass or to cause unnecessary delay or needless increase in the

1 cost of the litigation.

2 (g) Class 7. Claims of any state or local government for a
3 penalty or forfeiture, but only to the extent of the pecuniary loss
4 sustained from the act, transaction, or proceeding out of which the
5 penalty or forfeiture arose, with reasonable and actual costs
6 occasioned thereby. The balance of the claims must be treated as
7 Class 9 claims under Subsection (i).

8 (h) Class 8. Except as provided in Sections 443.251(b)
9 [~~21A.251(b)~~] and (d), late filed claims that would otherwise be
10 classified in Classes 2 through 7.

11 (i) Class 9. Surplus notes, capital notes or contribution
12 notes or similar obligations, premium refunds on assessable
13 policies, and any other claims specifically assigned to this class.
14 Claims in this class are subject to any subordination agreements
15 related to other claims in this class that existed before the entry
16 of the liquidation order.

17 (j) Class 10. Interest on allowed claims of Classes 1
18 through 9, according to the terms of a plan proposed by the
19 liquidator and approved by the receivership court.

20 (k) Class 11. Claims of shareholders or other owners
21 arising out of their capacity as shareholders or other owners, or
22 any other capacity, except as they may be qualified in Class 2, 5,
23 or 10. Claims in this class are subject to any subordination
24 agreements related to other claims in this class that existed
25 before the entry of the liquidation order.

26 (kk) Section 21A.302(f), Insurance Code, redesignated as
27 Section 443.302(f), Insurance Code, by Subsection (a)(1)(G) 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 (f) Any claim payments made under Subsection (d) and any
4 related expenses must be treated as early access payments under
5 Section 443.303 [~~21A.303~~] to the guaranty association responsible
6 for the claims.

7 (11) Sections 21A.303(a), (b), (c), (e), (f), and (g),
8 Insurance Code, redesignated as Sections 443.303(a), (b), (c), (e),
9 (f), and (g), Insurance Code, respectively, by Subsection (a)(1)(G)
10 of this section, are amended to conform to the additional changes
11 made by Subsection (a)(1) of this section to read as follows:

12 (a) For purposes of this section, "distributable assets"
13 means all general assets of the liquidation estate less:

14 (1) amounts reserved, to the extent necessary and
15 appropriate, for the entire Section 443.301(a) [~~21A.301(a)~~]
16 expenses of the liquidation through and after its closure; and

17 (2) to the extent necessary and appropriate, reserves
18 for distributions on claims other than those of the guaranty
19 associations falling within the priority classes of claims
20 established in Section 443.301(c) [~~21A.301(c)~~].

21 (b) Early access payments to guaranty associations must be
22 made as soon as possible after the entry of a liquidation order and
23 as frequently as possible after the entry of the order, but at least
24 annually if distributable assets are available to be distributed to
25 the guaranty associations, and must be in amounts consistent with
26 this section. Amounts advanced to an affected guaranty association
27 pursuant to this section shall be accounted for as advances against

1 distributions to be made under Section 443.302 [~~21A.302~~]. Where
2 sufficient distributable assets are available, amounts advanced
3 are not limited to the claims and expenses paid to date by the
4 guaranty associations; however, the liquidator may not distribute
5 distributable assets to the guaranty associations in excess of the
6 anticipated entire claims of the guaranty associations falling
7 within the priority classes of claims established in Sections
8 443.301(b) [~~21A.301(b)~~] and (c).

9 (c) Within 120 days after the entry of an order of
10 liquidation by the receivership court, and at least annually after
11 the entry of the order, the liquidator shall apply to the
12 receivership court for approval to make early access payments out
13 of the general assets of the insurer to any guaranty associations
14 having obligations arising in connection with the liquidation or
15 shall report that there are no distributable assets at that time
16 based on financial reporting as required in Section 443.016
17 [~~21A.016~~]. The liquidator may apply to the receivership court for
18 approval to make early access payments more frequently than
19 annually based on additional information or the recovery of
20 material assets.

21 (e) Notice of each application for early access payments, or
22 of any report required pursuant to this section, must be given in
23 accordance with Section 443.007 [~~21A.007~~] to the guaranty
24 associations that may have obligations arising from the
25 liquidation. Notwithstanding the provisions of Section 443.007
26 [~~21A.007~~], the liquidator shall provide these guaranty
27 associations with at least 30 days' actual notice of the filing of

1 the application and with a complete copy of the application prior to
2 any action by the receivership court. Any guaranty association
3 that may have obligations arising in connection with the
4 liquidation has:

5 (1) the right to request additional information from
6 the liquidator, who may not unreasonably deny such request; and

7 (2) the right to object as provided by Section 443.007
8 [~~21A.007~~] to any part of each application or to any report filed by
9 the liquidator pursuant to this section.

10 (f) In each application regarding early access payments,
11 the liquidator shall, based on the best information available to
12 the liquidator at the time, provide, at a minimum, the following:

13 (1) to the extent necessary and appropriate, the
14 amount reserved for the entire expenses of the liquidation through
15 and after its closure and for distributions on claims falling
16 within the priority classes of claims established in Sections
17 443.301(b) [~~21A.301(b)~~] and (c);

18 (2) the computation of distributable assets and the
19 amount and method of equitable allocation of early access payments
20 to each of the guaranty associations; and

21 (3) the most recent financial information filed with
22 the National Association of Insurance Commissioners by the
23 liquidator.

24 (g) Each guaranty association that receives any payments
25 pursuant to this section agrees, upon depositing the payment in any
26 account to its benefit, to return to the liquidator any amount of
27 these payments that may be required to pay claims of secured

1 creditors and claims falling within the priority classes of claims
2 established in Section 443.301(a) [~~21A.301(a)~~], (b), or (c). No
3 bond may be required of any guaranty association.

4 (mm) Sections 21A.304(a), (b), and (d), Insurance Code,
5 redesignated as Sections 443.304(a), (b), and (d), Insurance Code,
6 respectively, by Subsection (a)(1)(G) of this section, are amended
7 to conform to the additional changes made by Subsection (a)(1) of
8 this section to read as follows:

9 (a) If any funds of the receivership estate remain unclaimed
10 after the final distribution under Section 443.302 [~~21A.302~~], the
11 funds must be placed in a segregated unclaimed funds account held by
12 the commissioner. If the owner of any of the unclaimed funds
13 presents proof of ownership satisfactory to the commissioner before
14 the second anniversary of the date of the termination of the
15 delinquency proceeding, the commissioner shall remit the funds to
16 the owner. The interest earned on funds held in the unclaimed funds
17 account may be used to pay any administrative costs related to the
18 handling or return of unclaimed funds.

19 (b) If any amounts held in the unclaimed funds account
20 remain unclaimed on or after the second anniversary of the date of
21 the termination of the delinquency proceeding, the commissioner may
22 file a motion for an order directing the disposition of the funds in
23 the court in which the delinquency proceeding was pending. Any
24 costs incurred in connection with the motion may be paid from the
25 unclaimed funds account. The motion shall identify the name of the
26 insurer, the names and last known addresses of the persons entitled
27 to the unclaimed funds, if known, and the amount of the funds.

1 Notice of the motion shall be given as directed by the court. Upon a
2 finding by the court that the funds have not been claimed before the
3 second anniversary of the date of the termination of the
4 delinquency proceeding, the court shall order that any claims for
5 unclaimed funds and any interest earned on the unclaimed funds that
6 has not been expended under Subsection (a) are abandoned and that
7 the funds must be disbursed under one of the following methods:

8 (1) the amounts may be deposited in the general
9 receivership expense account under Subsection (c);

10 (2) the amounts may be transferred to the comptroller,
11 and deposited into the general revenue fund; or

12 (3) the amounts may be used to reopen the receivership
13 in accordance with Section 443.353 [~~21A.353~~] and be distributed to
14 the known claimants with approved claims.

15 (d) Any advance to a receivership under Subsection (c)(2)
16 may be treated as a claim under Section 443.301 [~~21A.301~~] as agreed
17 at the time the advance is made or, in the absence of an agreement,
18 in the priority determined to be appropriate by the court.

19 (nn) Section 21A.352, Insurance Code, redesignated as
20 Section 443.352, Insurance Code, by Subsection (a)(1)(H) of this
21 section, is amended to conform to the additional changes made by
22 Subsection (a)(1) of this section to read as follows:

23 Sec. 443.352 [~~21A.352~~]. TERMINATION OF LIQUIDATION
24 PROCEEDINGS. When all property justifying the expense of
25 collection and distribution has been collected and distributed
26 under this chapter, the liquidator shall apply to the receivership
27 court for an order discharging the liquidator and terminating the

1 proceeding. The receivership court may grant the application and
2 make any other orders, including orders to transfer any remaining
3 funds that are uneconomic to distribute, or pursuant to Section
4 443.302(c) [~~21A.302(c)~~], assign any assets that remain
5 unliquidated, including claims and causes of action, as may be
6 deemed appropriate.

7 (oo) Section 21A.354(b), Insurance Code, redesignated as
8 Section 443.354(b), Insurance Code, by Subsection (a)(1)(H) of this
9 section, is amended to conform to the additional changes made by
10 Subsection (a)(1) of this section to read as follows:

11 (b) If the receiver determines that any records should be
12 maintained after the closing of the delinquency proceeding, the
13 receiver may reserve property from the receivership estate for the
14 maintenance of the records, and any amounts so retained are
15 administrative expenses of the estate under Section 443.301(a)
16 [~~21A.301(a)~~]. Any records retained pursuant to this subsection
17 must be transferred to the custody of the commissioner, and the
18 commissioner may retain or dispose of the records as appropriate,
19 at the commissioner's discretion. Any records of a delinquent
20 insurer that are transferred to the commissioner may not be
21 considered records of the department for any purposes, and Chapter
22 552, Government Code, does not apply to those records.

23 (pp) Sections 21A.401(a) and (d), Insurance Code,
24 redesignated as Sections 443.401(a) and (d), Insurance Code,
25 respectively, by Subsection (a)(1)(I) of this section, are amended
26 to conform to the changes made by Subsection (a)(1) of this section
27 and to the recodification and repeal of Section 17, Article

1 21.28-C, and Section 18, Article 21.28-D, Insurance Code, by
2 Chapter 727, Acts of the 79th Legislature, Regular Session, 2005,
3 to read as follows:

4 (a) The commissioner may initiate an action against a
5 foreign insurer pursuant to Section 443.051 [~~21A.051~~] on any of the
6 grounds stated in that section or on the basis that:

7 (1) any of the foreign insurer's property has been
8 sequestered, garnished, or seized by official action in its
9 domiciliary state or in any other state;

10 (2) the foreign insurer's certificate of authority to
11 do business in this state has been revoked or was never issued and
12 there are residents of this state with unpaid claims or in-force
13 policies; or

14 (3) initiation of the action is necessary to enforce a
15 stay under Section 462.309, 463.404, or [~~17, Article 21.28-C,~~
16 ~~Section 18, Article 21.28-D, or Section~~] 2602.259.

17 (d) Notwithstanding Section 443.201(c) [~~21A.201(c)~~], the
18 conservator shall hold and conserve the assets located in this
19 state until the commissioner in the insurer's domiciliary state is
20 appointed its receiver or until an order terminating conservation
21 is entered under Subsection (g). Once a domiciliary receiver is
22 appointed, the conservator shall turn over to the domiciliary
23 receiver all property subject to an order under this section.

24 (qq) Sections 21A.402(a) and (c), Insurance Code,
25 redesignated as Sections 443.402(a) and (c), Insurance Code,
26 respectively, by Subsection (a)(1)(I) 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 (a) A domiciliary receiver appointed in another state is
3 vested by operation of law with title to, and may summarily take
4 possession of, all property and records of the insurer in this
5 state. Notwithstanding any other provision of law regarding
6 special deposits, special deposits held in this state shall be,
7 upon the entry of an order of liquidation with a finding of
8 insolvency, distributed to the guaranty associations in this state
9 as early access payments subject to Section 443.303 [~~21A.303~~], in
10 relation to the lines of business for which the special deposits
11 were made. The holder of any special deposit shall account to the
12 domiciliary receiver for all distributions from the special deposit
13 at the time of the distribution. The statutory provisions of
14 another state and all orders entered by courts of competent
15 jurisdiction in relation to the appointment of a domiciliary
16 receiver of an insurer and any related proceedings in another state
17 must be given full faith and credit in this state. For purposes of
18 this section, "another state" means any state other than this
19 state. This state shall treat any other state than this state as a
20 reciprocal state.

21 (c) Except as provided in Subsection (a), the domiciliary
22 receiver shall handle special deposits and special deposit claims
23 in accordance with federal law and the statutes pursuant to which
24 the special deposits are required. All amounts in excess of the
25 estimated amount necessary to administer the special deposit and
26 pay the unpaid special deposit claims are deemed general assets of
27 the estate. If there is a deficiency in any special deposit so that

1 the claims secured by the special deposit are not fully discharged
2 from the deposit, the claimants may share in the general assets of
3 the insurer to the extent of the deficiency at the same priority as
4 other claimants in their class of priority under Section 443.301
5 [~~21A.301~~], but the sharing must be deferred until the other
6 claimants of their class have been paid percentages of their claims
7 equal to the percentage paid from the special deposit. The intent
8 of this provision is to equalize to this extent the advantage gained
9 by the security provided by the special deposits.

10 (rr) Section 442.801, Insurance Code, redesignated as
11 Section 444.001, Insurance Code, by Subsection (a)(2) of this
12 section, is amended to conform to the repeal of Article 21.28,
13 Insurance Code, and the enactment of Chapter 21A, Insurance Code,
14 by Chapter 995, Acts of the 79th Legislature, Regular Session,
15 2005, and to the changes made by Subsection (a)(1) of this section
16 to read as follows:

17 Sec. 444.001 [~~442.801~~]. REQUIRED CONTRACT PROVISION. An
18 agency contract entered into on or after August 27, 1973, by an
19 insurer writing fire and casualty insurance in this state must
20 contain, or shall be construed to contain, the following provision:

21 Notwithstanding any other provision of this contract, the
22 obligation of the agent to remit written premiums to the insurer
23 shall be changed on the commencement of a delinquency proceeding as
24 defined by Chapter 443 [~~442~~], Insurance Code, as amended. After the
25 commencement of the delinquency proceeding, the obligation of the
26 agent to remit premiums is limited to premiums earned before the
27 cancellation date of insurance policies stated in the order of a

1 court of competent jurisdiction under Chapter 443 [~~442~~], Insurance
2 Code, canceling the policies. The agent does not owe and may not be
3 required to remit to the insurer or to the receiver any premiums
4 that are unearned as of the cancellation date stated in the order.

5 (ss) Section 442.803, Insurance Code, redesignated as
6 Section 444.003, Insurance Code, by Subsection (a)(2) of this
7 section, is amended to conform to the additional changes made by
8 Subsection (a)(2) of this section to read as follows:

9 Sec. 444.003 [~~442.803~~]. EFFECT OF CHAPTER [~~SUBCHAPTER~~] ON
10 ACTION BY RECEIVER AGAINST AGENT. This chapter [~~subchapter~~] does
11 not prejudice a cause of action by the receiver against an agent to
12 recover:

13 (1) unearned premiums that were not returned to
14 policyholders; or

15 (2) earned premiums that were not promptly remitted to
16 the receiver.

17 (tt) Section 442.804, Insurance Code, redesignated as
18 Section 444.004, Insurance Code, by Subsection (a)(2) of this
19 section, is amended to conform to the additional changes made by
20 Subsection (a)(2) of this section to read as follows:

21 Sec. 444.004 [~~442.804~~]. AGENT NOT RECEIVER'S AGENT. This
22 chapter [~~subchapter~~] does not render the agent an agent of the
23 receiver for earned or unearned premiums.

24 SECTION 3B.005. (a) Section 462.007(b), Insurance Code,
25 is amended to conform to Section 2, Chapter 995, Acts of the 79th
26 Legislature, Regular Session, 2005, to read as follows:

27 (b) Except as provided by Subchapter F, this chapter does

1 not apply to:

2 (1) life, annuity, health, or disability insurance;

3 (2) mortgage guaranty, financial guaranty, or other
4 kinds of insurance offering protection against investment risks;

5 (3) a fidelity or surety bond, or any other bonding
6 obligation;

7 (4) credit insurance, vendors' single-interest
8 insurance, collateral protection insurance, or similar insurance
9 protecting a creditor's interest arising out of a creditor-debtor
10 transaction;

11 (5) insurance of warranties or service contracts;

12 (6) title insurance;

13 (7) ocean marine insurance;

14 (8) a transaction or combination of transactions
15 between a person, including an affiliate of the person, and an
16 insurer, including an affiliate of the insurer, that involves the
17 transfer of investment or credit risk unaccompanied by the transfer
18 of insurance risk, including transactions, except for workers'
19 compensation insurance, involving captive insurers, policies in
20 which deductible or self-insured retention is substantially equal
21 in amount to the limit of the liability under the policy, and
22 transactions in which the insured retains a substantial portion of
23 the risk; or

24 (9) insurance provided by or guaranteed by government.

25 (b) Section 2, Chapter 995, Acts of the 79th Legislature,
26 Regular Session, 2005, which amended former Subsection (a),
27 Section 3, Article 21.28-C, Insurance Code, is repealed.

1 SECTION 3B.006. (a) Section 462.207, Insurance Code, is
2 amended to conform to Section 3, Chapter 995, Acts of the 79th
3 Legislature, Regular Session, 2005, to read as follows:

4 Sec. 462.207. CLAIMS NOT COVERED: AMOUNTS DUE CERTAIN
5 ENTITIES. (a) Any amount directly or indirectly due any
6 reinsurer, insurer, self-insurer, insurance pool, or underwriting
7 association, as a subrogation recovery, reinsurance recovery,
8 contribution, or indemnification, or otherwise, is not a covered
9 claim.

10 (b) An impaired insurer's insured is not liable, and the
11 reinsurer, insurer, self-insurer, insurance pool, or underwriting
12 association is not entitled to sue or continue a suit against the
13 insured, for a subrogation recovery, reinsurance recovery,
14 contribution, [~~or~~] indemnification, or any other claim asserted
15 directly or indirectly by a reinsurer, insurer, insurance pool, or
16 underwriting association to the extent of the applicable liability
17 limits of the insurance policy written and issued to the insured by
18 the insolvent insurer.

19 (b) Section 3, Chapter 995, Acts of the 79th Legislature,
20 Regular Session, 2005, which amended former Subdivision (8),
21 Section 5, Article 21.28-C, Insurance Code, is repealed.

22 SECTION 3B.007. (a) Section 462.211, Insurance Code, is
23 amended to conform to Section 4, Chapter 995, Acts of the 79th
24 Legislature, Regular Session, 2005, and Section 6.070, Chapter 265,
25 Acts of the 79th Legislature, Regular Session, 2005, to read as
26 follows:

27 Sec. 462.211. CLAIMS NOT COVERED: LATE FILED CLAIMS. (a)

1 Notwithstanding any other provision of this chapter or any other
2 law to the contrary, and subject to [~~except as provided by~~]
3 Subsection (b), a claim that is filed with the association on a date
4 that is later than 18 months after the date of the order of
5 liquidation or that is unknown and unreported as of the date is not
6 a covered claim.

7 (b) This section does not apply to a claim for workers'
8 compensation benefits governed by Title 5, Labor Code, and the
9 applicable rules of the commissioner of workers' compensation
10 [~~Texas Workers' Compensation Commission~~].

11 (b) Subchapter C, Chapter 462, Insurance Code, is amended to
12 conform to Section 4, Chapter 995, Acts of the 79th Legislature,
13 Regular Session, 2005, by adding Section 462.1121 to read as
14 follows:

15 Sec. 462.1121. ACTION TO OBTAIN INFORMATION CONCERNING
16 INSURER IN RECEIVERSHIP AUTHORIZED. (a) The association may bring
17 an action against any third-party administrator, agent, attorney,
18 or other representative of an insurer for which a receiver has been
19 appointed to obtain custody and control of all information,
20 including files, records, and electronic data, related to the
21 insurer that is appropriate or necessary for the association, or a
22 similar association in other states, to carry out its duties under
23 this chapter or a similar law of another state. The association has
24 the absolute right to obtain information under this section through
25 emergency equitable relief, regardless of where the information is
26 physically located.

27 (b) In bringing an action under this section, the

1 association is not subject to any defense, possessory lien or other
2 type of lien, or other legal or equitable ground for refusal to
3 surrender the information that may be asserted against the receiver
4 of the insurer.

5 (c) The association is entitled to an award of reasonable
6 attorney's fees and costs incurred by the association in any action
7 to obtain information under this section.

8 (d) The rights granted to the association under this section
9 do not affect the receiver's title to information, and information
10 obtained under this section remains the property of the receiver
11 while in the custody of the association.

12 (c) The following are repealed:

13 (1) Section 4, Chapter 995, Acts of the 79th
14 Legislature, Regular Session, 2005, which amended former Section 8,
15 Article 21.28-C, Insurance Code, by amending Subsection (d) and
16 adding Subsection (i); and

17 (2) Section 6.070, Chapter 265, Acts of the 79th
18 Legislature, Regular Session, 2005, which amended former
19 Subsection (d), Section 8, Article 21.28-C, Insurance Code.

20 SECTION 3B.008. (a) Section 462.017(b), Insurance Code,
21 is amended to conform to Section 5, Chapter 995, Acts of the 79th
22 Legislature, Regular Session, 2005, to read as follows:

23 (b) Venue in a suit by or against the commissioner or
24 association relating to an action or ruling of the commissioner or
25 association under this chapter is in Travis County. The
26 commissioner or association is not required to give an appeal bond
27 in an appeal of a cause of action arising under this chapter.

1 (b) Section 5, Chapter 995, Acts of the 79th Legislature,
2 Regular Session, 2005, which amended former Subsection (g), Section
3 10, Article 21.28-C, Insurance Code, is repealed.

4 SECTION 3B.009. (a) Sections 462.308(a) and (c),
5 Insurance Code, are amended to conform to Section 6, Chapter 995,
6 Acts of the 79th Legislature, Regular Session, 2005, to read as
7 follows:

8 (a) The association is entitled to recover:

9 (1) the amount of a covered claim and the cost of
10 defense paid on behalf of [~~under this chapter from the person on~~
11 ~~whose behalf the payment was made if the person is:~~

12 [~~(1)~~] a person:

13 (A) who is an affiliate of the impaired insurer;

14 and

15 (B) whose liability obligations to other persons
16 are satisfied wholly or partly by payment made under this chapter;
17 and [~~or~~]

18 (2) the amount of a covered claim for workers'
19 compensation insurance benefits and the costs of administration and
20 defense of the claim paid under this chapter from an insured
21 employer [~~+~~

22 [~~(A)~~] whose net worth on December 31 of the year
23 preceding the date the insurer becomes an impaired insurer exceeds
24 \$50 million [~~, and~~

25 [~~(B) whose obligations under a liability policy~~
26 ~~or contract of insurance written, issued, and placed in force after~~
27 ~~January 1, 1992, are satisfied wholly or partly by payment made~~

1 ~~under this chapter].~~

2 (c) For purposes of Subsection (a)(2), an insured's net
3 worth is deemed to include ~~[includes]~~ the aggregate net worth of the
4 insured and of the insured's parent, subsidiary, and affiliated
5 companies~~[7]~~ computed on a consolidated basis.

6 (b) Section 6, Chapter 995, Acts of the 79th Legislature,
7 Regular Session, 2005, which amended former Subsection (b), Section
8 11, Article 21.28-C, Insurance Code, is repealed.

9 SECTION 3B.010. (a) Section 462.212, Insurance Code, is
10 amended to conform to Section 7, Chapter 995, Acts of the 79th
11 Legislature, Regular Session, 2005, to read as follows:

12 Sec. 462.212. NET WORTH EXCLUSION. (a) Except for a
13 workers' compensation claim governed by Title 5, Labor Code, a
14 covered claim does not include, and the association is not liable
15 for, any claim arising from an insurance policy of any ~~[The~~
16 ~~association is not liable to pay a first-party claim of an]~~ insured
17 whose net worth on December 31 of the year preceding the date the
18 insurer becomes an impaired insurer exceeds \$50 million.

19 (b) For purposes of this section, an insured's net worth
20 includes the aggregate net worth of the insured and of the insured's
21 parent, subsidiary, and affiliated companies~~[7]~~ computed on a
22 consolidated basis.

23 (c) This section does not apply:

24 (1) to third-party claims against an insured that has:

25 (A) applied for or consented to the appointment
26 of a receiver, trustee, or liquidator for all or a substantial part
27 of the insurer's assets;

1 (B) filed a voluntary petition in bankruptcy; or
2 (C) filed a petition or an answer seeking a
3 reorganization or arrangement with creditors or to take advantage
4 of any insolvency law; or

5 (2) if an order, judgment, or decree is entered by a
6 court of competent jurisdiction, on the application of a creditor,
7 adjudicating the insured bankrupt or insolvent or approving a
8 petition seeking reorganization of the insured or of all or a
9 substantial part of its assets.

10 (d) In an instance described by Subsection (c), the
11 association is entitled to assert a claim in the bankruptcy or
12 receivership proceeding to recover the amount of any covered claim
13 and costs of defense paid on behalf of the insured.

14 (e) The association may establish procedures for requesting
15 financial information from an insured or claimant on a confidential
16 basis for the purpose of applying sections concerning the net worth
17 of first-party and third-party claimants, subject to any
18 information requested under this subsection being shared with any
19 other association similar to the association and with the
20 liquidator for the impaired insurer on the same confidential basis.
21 If the insured or claimant refuses to provide the requested
22 financial information, the association requests an auditor's
23 certification of that information, and the auditor's certification
24 is available but not provided, the association may deem the net
25 worth of the insured or claimant to be in excess of \$50 million at
26 the relevant time.

27 (f) In any lawsuit contesting the applicability of Section

1 462.308 or this section when the insured or claimant has declined to
2 provide financial information under the procedure provided in the
3 plan of operation under Section 462.103, the insured or claimant
4 bears the burden of proof concerning its net worth at the relevant
5 time. If the insured or claimant fails to prove that its net worth
6 at the relevant time was less than the applicable amount, the court
7 shall award the association its full costs, expenses, and
8 reasonable attorney's fees in contesting the claim [~~This section~~
9 ~~does not exclude the payment of a covered claim for workers'~~
10 ~~compensation benefits otherwise payable under this chapter~~].

11 (b) Section 7, Chapter 995, Acts of the 79th Legislature,
12 Regular Session, 2005, which amended former Section 11A, Article
13 21.28-C, Insurance Code, is repealed.

14 SECTION 3B.011. (a) Sections 462.309(c) and (e),
15 Insurance Code, are amended to conform to Section 8, Chapter 995,
16 Acts of the 79th Legislature, Regular Session, 2005, to read as
17 follows:

18 (c) A deadline imposed under the Texas Rules of Civil
19 Procedure or the Texas Rules of Appellate Procedure is tolled
20 during the stay. Statutes of limitation or repose are not tolled
21 during the stay, and any action filed during the stay is stayed upon
22 the filing of the action.

23 (e) The commissioner may bring an ancillary conservation
24 [~~delinquency~~] proceeding under Section 443.401 [~~Sections 442.751,~~
25 ~~442.752, and 442.754~~] for the [~~limited~~] purpose of determining the
26 application, enforcement, and extension of the stay to an impaired
27 insurer that is not domiciled in this state.

1 (b) Section 8, Chapter 995, Acts of the 79th Legislature,
2 Regular Session, 2005, which amended former Subsection (a), Section
3 17, Article 21.28-C, Insurance Code, is repealed.

4 SECTION 3B.012. (a) The heading to Chapter 463, Insurance
5 Code, is amended to conform to Section 9, Chapter 753, Acts of the
6 79th Legislature, Regular Session, 2005, to read as follows:

7 CHAPTER 463. TEXAS LIFE, ACCIDENT, HEALTH, AND HOSPITAL SERVICE
8 INSURANCE GUARANTY ASSOCIATION

9 (b) Section 463.001, Insurance Code, is amended to conform
10 to Section 9, Chapter 753, Acts of the 79th Legislature, Regular
11 Session, 2005, to read as follows:

12 Sec. 463.001. SHORT TITLE. This chapter may be cited as
13 the Texas Life, Accident, Health, and Hospital Service Insurance
14 Guaranty Association Act.

15 SECTION 3B.013. (a) Section 463.003, Insurance Code, is
16 amended to conform to Sections 2 and 3, Chapter 753, Acts of the
17 79th Legislature, Regular Session, 2005, and to more closely
18 conform to the source law from which the section was derived, to
19 read as follows:

20 Sec. 463.003. GENERAL DEFINITIONS. In this chapter:

21 (1) "Association" means the Texas Life, Accident,
22 Health, and Hospital Service Insurance Guaranty Association.

23 (1-a) "Benefit plan" means a specific employee, union,
24 or association of natural persons benefit plan.

25 (2) "Board" means the board of directors of the
26 association.

27 (3) "Contractual obligation" means an obligation

1 under a policy or contract or certificate under a group policy or
2 contract, or part of a policy or contract or certificate, for which
3 coverage is provided under Subchapter E.

4 (4) "Covered policy" means a policy or contract, or
5 portion of a policy or contract, with respect to which this chapter
6 provides coverage as determined under Subchapter E.

7 (5) "Impaired insurer" means a member insurer that is
8 designated an "impaired insurer" by the commissioner and is:

9 (A) ~~[is]~~ placed by a court in this state or
10 another state under an order of supervision, liquidation,
11 rehabilitation, or conservation ~~[under Chapter 441 or 442 and is~~
12 ~~designated by the commissioner as an impaired insurer];~~ ~~[or]~~

13 (B) placed under an order of liquidation or
14 rehabilitation under Chapter 443; or

15 (C) placed under an order of supervision or
16 conservation by the commissioner under Chapter 441 ~~[is determined~~
17 ~~in good faith by the commissioner to be unable or potentially unable~~
18 ~~to fulfill the insurer's contractual obligations].~~

19 (6) "Insolvent insurer" means a member insurer that ~~[+~~

20 ~~[(A)]~~ has been placed under an order of
21 liquidation with a finding of insolvency by a court in this state or
22 another state ~~[a minimum free surplus, if a mutual insurance~~
23 ~~company, or required capital, if a stock insurance company, that is~~
24 ~~impaired to an extent prohibited by law, and~~

25 ~~[(B) the commissioner designates as an insolvent~~
26 ~~insurer].~~

27 (7) "Member insurer" means an insurer that is required

1 to participate in the association under Section 463.052.

2 (7-a) "Owner" means the owner of a policy or contract
3 and "policy owner" and "contract owner" mean the person who is
4 identified as the legal owner under the terms of the policy or
5 contract or who is otherwise vested with legal title to the policy
6 or contract through a valid assignment completed in accordance with
7 the terms of the policy or contract and is properly recorded as the
8 owner on the books of the insurer. The terms "owner," "contract
9 owner," and "policy owner" do not include persons with a mere
10 beneficial interest in a policy or contract.

11 (8) "Person" means an individual, corporation,
12 limited liability company, partnership, association, governmental
13 body or entity, or voluntary organization.

14 (8-a) "Plan sponsor" means:

15 (A) the employer in the case of a benefit plan
16 established or maintained by a single employer;

17 (B) the employee organization in the case of a
18 benefit plan established or maintained by an employee organization;
19 or

20 (C) in a case of a benefit plan established or
21 maintained by two or more employers or jointly by one or more
22 employers and one or more employee organizations, the association,
23 committee, joint board of trustees, or other similar group of
24 representatives of the parties who establish or maintain the
25 benefit plan.

26 (9) "Premium" means an amount received on a covered
27 policy, less any premium, consideration, or deposit returned on the

1 policy, and any dividend or experience credit on the policy. The
2 term does not include:

3 (A) an amount received for a policy or contract
4 or part of a policy or contract for which coverage is not provided
5 under Section 463.202, except that assessable premiums may not be
6 reduced because of:

7 (i) an interest limitation provided by
8 Section 463.203(b)(3); or

9 (ii) a limitation provided by Section
10 463.204 with respect to a single individual, participant,
11 annuitant, or contract owner [~~holder~~];

12 (B) premiums in excess of \$5 million on an
13 unallocated annuity contract not issued under a governmental
14 benefit [~~retirement~~] plan established under Section 401, 403(b),
15 or 457, Internal Revenue Code of 1986; [~~or~~]

16 (C) premiums received from the state treasury or
17 the United States treasury for insurance for which this state or the
18 United States contracts to:

19 (i) provide welfare benefits to designated
20 welfare recipients; or

21 (ii) implement Title 2, Human Resources
22 Code, or the Social Security Act (42 U.S.C. Section 301 et seq.); or

23 (D) premiums in excess of \$5 million with respect
24 to multiple nongroup policies of life insurance owned by one owner,
25 regardless of whether the policy owner is an individual, firm,
26 corporation, or other person and regardless of whether the persons
27 insured are officers, managers, employees, or other persons,

1 regardless of the number of policies or contracts held by the owner.

2 (10) "Resident" means a person who resides in this
3 state on the earlier of the date a member insurer becomes an
4 impaired insurer or the date of entry of a court order that
5 determines a member insurer to be an impaired insurer or the date of
6 entry of a court order that determines a member insurer to be an
7 insolvent insurer and to whom the [at the time a] member insurer
8 [that] owes a contractual obligation [to the person is determined
9 to be impaired or insolvent]. For the purposes of this subdivision:

10 (A) a person is considered to be a resident of
11 only one state; ~~and~~

12 (B) a person other than an individual is
13 considered to be a resident of the state in which the person's
14 principal place of business is located; and

15 (C) a United States citizen who is either a
16 resident of a foreign country or a resident of a United States
17 possession, territory, or protectorate that does not have an
18 association similar to the association created by this chapter is
19 considered a resident of the state of domicile of the insurer that
20 issued the policy or contract.

21 (10-a) "Structured settlement annuity" means an
22 annuity purchased to fund periodic payments for a plaintiff or
23 other claimant in payment for or with respect to personal injury
24 suffered by the plaintiff or other claimant.

25 (11) "Supplemental contract" means a written ~~an~~
26 agreement for the distribution of policy or contract proceeds.

27 (12) "Unallocated annuity contract" means an annuity

1 contract or group annuity certificate that is not issued to and
2 owned by an individual, except to the extent of any annuity benefits
3 guaranteed to an individual by an insurer under the contract or
4 certificate.

5 (b) Subchapter A, Chapter 463, Insurance Code, is amended to
6 conform to Section 3, Chapter 753, Acts of the 79th Legislature,
7 Regular Session, 2005, by adding Section 463.0031 to read as
8 follows:

9 Sec. 463.0031. DEFINITION OF PRINCIPAL PLACE OF BUSINESS OF
10 PLAN SPONSOR OR OTHER PERSON. (a) Except as otherwise provided by
11 this section, in this chapter, the "principal place of business" of
12 a plan sponsor or a person other than an individual means the single
13 state in which the individuals who establish policy for the
14 direction, control, and coordination of the operations of the plan
15 sponsor or person as a whole primarily exercise that function, as
16 determined by the association in its reasonable judgment by
17 considering the following factors:

18 (1) the state in which the primary executive and
19 administrative headquarters of the plan sponsor or person is
20 located;

21 (2) the state in which the principal office of the
22 chief executive officer of the plan sponsor or person is located;

23 (3) the state in which the board of directors, or
24 similar governing person or persons, of the plan sponsor or person
25 conduct the majority of their meetings;

26 (4) the state in which the executive or management
27 committee of the board of directors, or similar governing person or

1 persons, of the plan sponsor or person conduct the majority of their
2 meetings;

3 (5) the state from which the management of the overall
4 operations of the plan sponsor or person is directed; and

5 (6) in the case of a benefit plan sponsored by
6 affiliated companies comprising a consolidated corporation, the
7 state in which the holding company or controlling affiliate has its
8 principal place of business as determined using the factors
9 described by Subdivisions (1)-(5).

10 (b) In the case of a plan sponsor, if more than 50 percent of
11 the participants in the benefit plan are employed in a single state,
12 that state is the principal place of business of the plan sponsor.

13 (c) The principal place of business of a plan sponsor of a
14 benefit plan described in Section 463.003(8-a)(C) is the principal
15 place of business of the association, committee, joint board of
16 trustees, or other similar group of representatives of the parties
17 who establish or maintain the benefit plan that, in lieu of a
18 specific or clear designation of a principal place of business,
19 shall be deemed to be the principal place of business of the
20 employer or employee organization that has the largest investment
21 in that benefit plan.

22 (c) Section 463.052(b), Insurance Code, is amended to
23 conform to Section 2, Chapter 753, Acts of the 79th Legislature,
24 Regular Session, 2005, to read as follows:

25 (b) The following do not participate as member insurers:

26 (1) a health maintenance organization;

27 (2) a fraternal benefit society;

1 (3) a mandatory state pooling plan;

2 (4) a reciprocal or interinsurance exchange; ~~and~~

3 (5) an organization which has a certificate of
4 authority or license limited to the issuance of charitable gift
5 annuities, as defined by this code or rules adopted by the
6 commissioner; and

7 (6) an entity similar to an entity described by
8 Subdivision (1), (2), (3), ~~or~~ (4), or (5).

9 (d) Section 463.204, Insurance Code, is amended to conform
10 to Section 2, Chapter 753, Acts of the 79th Legislature, Regular
11 Session, 2005, to read as follows:

12 Sec. 463.204. OBLIGATIONS EXCLUDED. A contractual
13 obligation does not include:

14 (1) death benefits in an amount in excess of \$300,000
15 or a net cash surrender or net cash withdrawal value in an amount in
16 excess of \$100,000 ~~[in the aggregate]~~ under one or more policies on
17 a single life;

18 (2) an amount in excess of:

19 (A) \$100,000 in the present value ~~[aggregate]~~
20 under one or more annuity contracts issued with respect to a single
21 life under ~~[to the same holder of]~~ individual annuity policies or
22 ~~[to the same annuitant or participant under]~~ group annuity
23 policies; or

24 (B) \$5 million in unallocated annuity contract
25 benefits with respect to a single contract owner ~~[holder]~~
26 regardless of the number of those contracts;

27 (3) an amount in excess of the following amounts,

1 including any net cash surrender or cash withdrawal values,
2 [\$200,000 in the aggregate] under one or more accident, health,
3 [or] accident and health, or long-term care insurance policies on a
4 single life;

5 (A) \$500,000 for basic hospital,
6 medical-surgical, or major medical insurance, as those terms are
7 defined by this code or rules adopted by the commissioner;

8 (B) \$300,000 for disability and long-term care
9 insurance, as those terms are defined by this code or rules adopted
10 by the commissioner; or

11 (C) \$200,000 for coverages that are not defined
12 as basic hospital, medical-surgical, major medical, disability, or
13 long-term care insurance;

14 (4) an amount in excess of \$100,000 in present value
15 annuity benefits, in the aggregate, including any net cash
16 surrender and net cash withdrawal values, with respect to each
17 individual participating in a governmental retirement benefit plan
18 established under Section 401, 403(b), or 457, Internal Revenue
19 Code of 1986 (26 U.S.C. Sections 401, 403(b), and 457), covered by
20 an unallocated annuity contract or the beneficiary or beneficiaries
21 of the individual if the individual is deceased;

22 (5) an amount in excess of \$100,000 in present value
23 annuity benefits, in the aggregate, including any net cash
24 surrender and net cash withdrawal values, with respect to each
25 payee of a structured settlement annuity or the beneficiary or
26 beneficiaries of the payee if the payee is deceased;

27 (6) aggregate benefits in an amount in excess of

1 \$300,000 with respect to a single life, except with respect to:

2 (A) benefits paid under basic hospital,
3 medical-surgical, or major medical insurance policies, described
4 by Subdivision (3)(A), in which case the aggregate benefits are
5 \$500,000; and

6 (B) benefits paid to one owner of multiple
7 nongroup policies of life insurance, whether the policy owner is an
8 individual, firm, corporation, or other person, and whether the
9 persons insured are officers, managers, employees, or other
10 persons, in which case the maximum benefits are \$5 million
11 regardless of the number of policies and contracts held by the
12 owner;

13 (7) an amount in excess of \$5 million in benefits, with
14 respect to either one plan sponsor whose plans own directly or in
15 trust one or more unallocated annuity contracts not included in
16 Subdivision (4) irrespective of the number of contracts with
17 respect to the contract owner or plan sponsor or one contract owner
18 provided coverage under Section 463.201(a)(3)(B), except that, if
19 one or more unallocated annuity contracts are covered contracts
20 under this chapter and are owned by a trust or other entity for the
21 benefit of two or more plan sponsors, coverage shall be afforded by
22 the association if the largest interest in the trust or entity
23 owning the contract or contracts is held by a plan sponsor whose
24 principal place of business is in this state, and in no event shall
25 the association be obligated to cover more than \$5 million in
26 benefits with respect to all these unallocated contracts;

27 (8) any contractual obligations of the insolvent or

1 impaired insurer under a covered policy or contract that do not
2 materially affect the economic value of economic benefits of the
3 covered policy or contract; or

4 (9) [~~4~~] punitive, exemplary, extracontractual, or
5 bad faith damages, regardless of whether the damages are:

6 (A) agreed to or assumed by an insurer or
7 insured; or

8 (B) imposed by a court.

9 (e) The following are repealed:

10 (1) Section 2, Chapter 753, Acts of the 79th
11 Legislature, Regular Session, 2005, which amended former Section 5,
12 Article 21.28-D, Insurance Code, by amending Subdivisions (2), (3),
13 (4), (5), (6), (7), (9), (10), (11), and (12) and adding
14 Subdivisions (2-a), (8-a), (9-a), and (11-a); and

15 (2) Section 3, Chapter 753, Acts of the 79th
16 Legislature, Regular Session, 2005, which added Section 5A to
17 former Article 21.28-D, Insurance Code.

18 SECTION 3B.014. (a) Section 463.051(a), Insurance Code,
19 is amended to conform to Section 4, Chapter 753, Acts of the 79th
20 Legislature, Regular Session, 2005, to read as follows:

21 (a) The Texas Life, Accident, Health, and Hospital Service
22 Insurance Guaranty Association is a nonprofit legal entity existing
23 to pay benefits and continue coverage as provided by this chapter.

24 (b) Section 4, Chapter 753, Acts of the 79th Legislature,
25 Regular Session, 2005, which amended former Subsection (a), Section
26 6, Article 21.28-D, Insurance Code, is repealed.

27 SECTION 3B.015. (a) Section 463.101(a), Insurance Code,

1 is amended to conform to Section 5, Chapter 753, Acts of the 79th
2 Legislature, Regular Session, 2005, to read as follows:

3 (a) The association may:

4 (1) enter into contracts as necessary or proper to
5 carry out this chapter and the purposes of this chapter;

6 (2) sue or be sued, including taking:

7 (A) necessary or proper legal action to:

8 (i) recover an unpaid assessment under
9 Subchapter D; or

10 (ii) settle a claim or potential claim
11 against the association; or

12 (B) necessary legal action to avoid payment of an
13 improper claim;

14 (3) borrow money to effect the purposes of this
15 chapter;

16 (4) exercise, for the purposes of this chapter and to
17 the extent approved by the commissioner, the powers of a domestic
18 life, accident, or health insurance company or a group hospital
19 service corporation, except that the association may not issue an
20 insurance policy or annuity contract other than to perform the
21 association's obligations under this chapter; ~~and~~

22 (5) to further the association's purposes, exercise
23 the association's powers, and perform the association's duties,
24 join an organization of one or more state associations that have
25 similar purposes;

26 (6) request information from a person seeking coverage
27 from the association in determining its obligations under this

1 chapter with respect to the person, and the person shall promptly
2 comply with the request; and

3 (7) take any other necessary or appropriate action to
4 discharge the association's duties and obligations under this
5 chapter or to exercise the association's powers under this chapter.

6 (b) Subchapter E, Chapter 463, Insurance Code, is amended to
7 conform to Section 5, Chapter 753, Acts of the 79th Legislature,
8 Regular Session, 2005, by adding Section 463.206 to read as
9 follows:

10 Sec. 463.206. ASSOCIATION DISCRETION IN MANNER OF PROVIDING
11 BENEFITS. (a) The board shall have discretion and may exercise
12 reasonable business judgment to determine the means by which the
13 association is to provide the benefits of this chapter in an
14 economical and efficient manner.

15 (b) If the association arranges or offers to provide the
16 benefits of this chapter to a covered person under a plan or
17 arrangement that fulfills the association's obligations under this
18 chapter, the person is not entitled to benefits from the
19 association in addition to or other than those provided under the
20 plan or arrangement.

21 (c) Section 463.259, Insurance Code, is amended to conform
22 to Section 5, Chapter 753, Acts of the 79th Legislature, Regular
23 Session, 2005, to read as follows:

24 Sec. 463.259. PREMIUM DUE DURING RECEIVERSHIP. After a
25 court enters an order of receivership with respect to an impaired or
26 insolvent insurer, a premium due for coverage issued by the insurer
27 is owned by and is payable at the direction of the association. The

1 association is liable for an unearned premium owed to a policy or
2 contract owner that arises after the court enters the order.

3 (d) Section 463.261, Insurance Code, is amended to conform
4 to Section 5, Chapter 753, Acts of the 79th Legislature, Regular
5 Session, 2005, by adding Subsections (d) and (e) to read as follows:

6 (d) The rights of the association under Subsection (c)
7 include, in the case of a structured settlement annuity, any rights
8 of the owner, beneficiary, or payee of the annuity, to the extent of
9 benefits received under this chapter, against any person originally
10 or by succession responsible for the losses arising from the
11 personal injury relating to the annuity or payment for the annuity,
12 other than a person responsible solely by reason of serving as an
13 assignee in respect of a qualified assignment under Section 130,
14 Internal Revenue Code of 1986 (26 U.S.C. Section 130).

15 (e) If a provision of this section is invalid or ineffective
16 with respect to any person or claim for any reason, the amount
17 payable by the association with respect to the related covered
18 obligations is reduced by the amount realized by any other person
19 with respect to the person or claim that is attributable to the
20 policies, or portion of the policies, covered by the association.
21 If the association has provided benefits with respect to a covered
22 obligation and a person recovers amounts as to which the
23 association has rights described in this section, the person shall
24 pay to the association the portion of the recovery attributable to
25 the policies, or portion of the policies, covered by the
26 association.

27 (e) Subchapter F, Chapter 463, Insurance Code, is amended to

1 conform to Section 5, Chapter 753, Acts of the 79th Legislature,
2 Regular Session, 2005, by adding Section 463.263 to read as
3 follows:

4 Sec. 463.263. DEPOSIT TO BE PAID TO ASSOCIATION. (a) A
5 deposit in this state, held under law or required by the
6 commissioner for the benefit of creditors, including policy owners,
7 that is not turned over to the domiciliary receiver on the entry of
8 a final order of liquidation or order approving a rehabilitation
9 plan of an insurer domiciled in this state or a reciprocal state in
10 accordance with Section 443.402 shall be promptly paid to the
11 association.

12 (b) The association is entitled to retain a portion of any
13 amount paid to the association under this section equal to the
14 percentage determined by dividing the aggregate amount of policy
15 owners' claims related to that insolvency for which the association
16 has provided statutory benefits by the aggregate amount of all
17 policy owners' claims in this state related to that insolvency and
18 shall remit to the domiciliary receiver the amount paid to the
19 association and retained under this section.

20 (c) The amount paid to the association under this section,
21 less the amount retained by the association under this section, is
22 treated as a distribution of estate assets under Section 443.303 or
23 the similar law of the state of domicile of the impaired or
24 insolvent insurer.

25 (f) Section 5, Chapter 753, Acts of the 79th Legislature,
26 Regular Session, 2005, which amended former Section 8, Article
27 21.28-D, Insurance Code, by amending Subsections (e), (n), and (v)

1 and adding Subsections (u-1), (u-2), (u-3), (x), and (y), is
2 repealed.

3 SECTION 3B.016. (a) Section 463.151, Insurance Code, is
4 amended to conform to Section 6, Chapter 753, Acts of the 79th
5 Legislature, Regular Session, 2005, by amending Subsection (a) and
6 adding Subsection (a-1) to read as follows:

7 (a) The association shall assess member insurers,
8 separately for each account under Section 463.105, in the amounts
9 and at the times the board determines necessary to provide money for
10 the association to exercise the association's powers, perform the
11 association's duties, and carry out the purposes of this chapter.
12 The association may not authorize and call ~~make~~ an assessment to
13 meet the requirements of the association with respect to an
14 impaired or insolvent insurer until the assessment is necessary to
15 carry out the purposes of this chapter. The board shall classify
16 assessments under Section 463.152 and determine the amount of
17 assessments with reasonable accuracy, recognizing that exact
18 determinations may not always be possible.

19 (a-1) The association shall notify each member insurer of
20 its anticipated pro rata share of an authorized assessment not yet
21 called not later than the 180th day after the date the assessment is
22 authorized.

23 (b) Section 463.152, Insurance Code, is amended to conform
24 to Section 6, Chapter 753, Acts of the 79th Legislature, Regular
25 Session, 2005, by amending Subsections (b) and (c) and adding
26 Subsection (d) to read as follows:

27 (b) Class A assessments are authorized and called ~~made~~ to

1 pay:

- 2 (1) the association's administrative costs;
- 3 (2) administrative expenses that:
- 4 (A) are properly incurred under this chapter; and
- 5 (B) relate to an unauthorized insurer or to an
- 6 entity that is not a member insurer; and
- 7 (3) other general expenses not related to a particular
- 8 impaired or insolvent insurer.

9 (c) Class B assessments are authorized and called ~~made~~ to

10 the extent necessary for the association to carry out the

11 association's powers and duties under Sections 463.101, 463.103,

12 463.109, and 463.111(c) and Subchapter F with regard to an impaired

13 or insolvent insurer.

14 (d) For purposes of this section, an assessment is

15 authorized at the time a resolution by the board is passed under

16 which an assessment will be called immediately or in the future from

17 member insurers for a specified amount and an assessment is called

18 at the time a notice has been issued by the association to member

19 insurers requiring that an authorized assessment be paid within a

20 period stated in the notice. An authorized assessment becomes a

21 called assessment at the time notice is mailed by the association to

22 member insurers.

23 (c) Sections 463.153(b) and (c), Insurance Code, are

24 amended to conform to Section 6, Chapter 753, Acts of the 79th

25 Legislature, Regular Session, 2005, to read as follows:

26 (b) Class B assessments against a member insurer for each

27 account under Section 463.105 shall be authorized and called ~~made~~

1 in the proportion that the premiums received on [~~all~~] business in
2 this state by the insurer on policies or contracts covered by each
3 account for the three most recent calendar years for which
4 information is available preceding the year in which the insurer
5 became impaired or insolvent bear to [~~the~~] premiums received on
6 [~~all~~] business in this state for those calendar years by all
7 assessed member insurers. The amount of a Class B assessment shall
8 be allocated [~~divided~~] among the separate accounts in accordance
9 with an allocation formula that may be based on:

10 (1) the premiums or reserves of the impaired or
11 insolvent insurer; or

12 (2) any other standard deemed by the board in the
13 board's sole discretion as being fair and reasonable under the
14 circumstances [~~the proportion that the premiums on the policies~~
15 ~~covered by each account were received by the impaired or insolvent~~
16 ~~insurer from all covered policies during the year preceding the~~
17 ~~date of the impairment, as shown in the annual statements for the~~
18 ~~year preceding the date of the assessment)].~~

19 (c) The total amount of assessments on a member insurer for
20 each account under Section 463.105 may not exceed two [~~one~~] percent
21 of the insurer's premiums on the policies covered by the account
22 during the three [~~in a single~~] calendar years preceding the year in
23 which the insurer became an impaired or insolvent insurer. If two
24 or more assessments are authorized in a calendar year with respect
25 to insurers that become impaired or insolvent in different calendar
26 years, the average annual premiums for purposes of the aggregate
27 assessment percentage limitation described by this subsection

1 shall be equal to the higher of the three-year average annual
2 premiums for the applicable subaccount or account as computed in
3 accordance with this section [~~year~~]. If the maximum assessment and
4 the other assets of the association do not provide in a year an
5 amount sufficient to carry out the association's responsibilities,
6 the association shall make necessary additional assessments as soon
7 as this chapter permits.

8 (d) Section 6, Chapter 753, Acts of the 79th Legislature,
9 Regular Session, 2005, which amended former Section 9, Article
10 21.28-D, Insurance Code, by amending Subsections (b), (d), (f),
11 (g), and (h) and adding Subsection (b-1), is repealed.

12 SECTION 3B.017. (a) Section 463.161(a), Insurance Code, is
13 amended to conform to Section 7, Chapter 753, Acts of the 79th
14 Legislature, Regular Session, 2005, to read as follows:

15 (a) A member insurer is entitled to show as an admitted
16 asset a certificate of contribution in the form the commissioner
17 approves under Section 463.156. Unless the commissioner requires a
18 longer period, the certificate may be shown at:

19 (1) for the calendar year of issuance, an amount equal
20 to the certificate's original face value approved by the
21 commissioner; and

22 (2) beginning with the year following the calendar
23 year of issuance, an amount equal to the certificate's original
24 face value, reduced by 20 [~~10~~] percent a year for each year after
25 the year of issuance, for a period of five [~~10~~] years.

26 (b) Section 7, Chapter 753, Acts of the 79th Legislature,
27 Regular Session, 2005, which amended former Subsection (a), Section

1 (13), Article 21.28-D, Insurance Code, is repealed.

2 SECTION 3B.018. (a) Section 463.201, Insurance Code, is
3 amended to conform to Section 1, Chapter 753, Acts of the 79th
4 Legislature, Regular Session, 2005, and to conform more closely to
5 the source law from which the section was derived to read as
6 follows:

7 Sec. 463.201. INSUREDS COVERED. (a) Subject to Subsections
8 (b) and (c), this [This] chapter provides coverage for a policy or
9 contract described by Section 463.202 to a person who is:

10 (1) a person, other than a certificate holder under a
11 group policy or contract who is not a resident, who is a
12 beneficiary, assignee, or payee of a person described by
13 Subdivision (2);

14 (2) a person who is [subject to Subsection (b),] an
15 owner of or certificate holder under a policy or contract specified
16 by Section 463.202, other than [or a contract holder under] an
17 unallocated annuity contract or structured settlement annuity, and
18 who is:

19 (A) a resident; or

20 (B) not a resident, but only under all of the
21 following conditions:

22 (i) the insurers that issued the policies
23 or contracts are domiciled in this state;

24 (ii) the state in which the person resides
25 has an association similar to the association; and

26 (iii) the person is not eligible for
27 coverage by an association in any other state because the insurer

1 was not licensed in the state at the time specified in that state's
2 guaranty association law;

3 (3) a person who is the owner of an unallocated annuity
4 contract issued to or in connection with:

5 (A) a benefit plan whose plan sponsor has the
6 sponsor's principal place of business in this state; or

7 (B) a government lottery, if the owner is a
8 resident; or

9 (4) a person who is the payee under a structured
10 settlement annuity, or beneficiary of the payee if the payee is
11 deceased, if:

12 (A) the payee is a resident, regardless of where
13 the contract owner resides;

14 (B) the payee is not a resident, the contract
15 owner of the structured settlement annuity is a resident, and the
16 payee is not eligible for coverage by the association in the state
17 in which the payee resides; or

18 (C) the payee and the contract owner are not
19 residents, the insurer that issued the structured settlement
20 annuity is domiciled in this state, the state in which the contract
21 owner resides has an association similar to the association, and
22 neither the payee or, if applicable, the payee's beneficiary, nor
23 the contract owner is eligible for coverage by the association in
24 the state in which the payee or contract owner resides [~~(2) a~~
25 beneficiary, assignee, or payee, other than a certificate holder
26 under a group policy or contract who is not a resident, of a person
27 described by Subdivision (1)].

1 (b) This chapter does not provide coverage to:

2 (1) a person who is a payee or the beneficiary of a
3 payee with respect to a contract the owner of which is a resident of
4 this state, if the payee or the payee's beneficiary is afforded any
5 coverage by the association of another state; or

6 (2) a person otherwise described by Subsection (a)(3),
7 if any coverage is provided by the association of another state to
8 that person.

9 (c) This chapter is intended to provide coverage to persons
10 who are residents of this state, and in those limited circumstances
11 as described in this chapter, to nonresidents. In order to avoid
12 duplicate coverage, if a person who would otherwise receive
13 coverage under this chapter is provided coverage under the laws of
14 any other state, the person may not be provided coverage under this
15 chapter. In determining the application of the provisions of this
16 subsection in situations in which a person could be covered by the
17 association of more than one state, whether as an owner, payee,
18 beneficiary, or assignee, this chapter shall be construed in
19 conjunction with other state laws to result in coverage by only one
20 association. [~~Coverage under Subsection (a)(1) applies to a person~~
21 who is not a resident, only if:

22 ~~[(1) the insurer that issued the policy or contract is~~
23 ~~domiciled in this state,~~

24 ~~[(2) the insurer never held a certificate of authority~~
25 ~~in the state in which the person resides,~~

26 ~~[(3) the state in which the person resides has an~~
27 ~~association similar to the association; and~~

1 ~~[(4) the person is not eligible for coverage by the~~
2 ~~association in the state in which the person resides.]~~

3 (b) Sections 463.202(a) and (c), Insurance Code, are
4 amended to conform to Section 1, Chapter 753, Acts of the 79th
5 Legislature, Regular Session, 2005, to read as follows:

6 (a) Except as limited by this chapter, the coverage provided
7 by this chapter to a person specified by Section 463.201, subject to
8 Sections 463.201(b) and (c), applies with respect to the following
9 policies and contracts issued by a member insurer:

10 (1) a direct, nongroup life, health, accident,
11 annuity, or supplemental policy or contract;

12 (2) a certificate under a direct group policy or
13 contract;

14 (3) a group hospital service contract; and

15 (4) an unallocated annuity contract.

16 (c) For the purposes of this section, an annuity contract or
17 a certificate under a group annuity contract includes:

18 (1) a guaranteed investment contract;

19 (2) a deposit administration contract;

20 (3) an allocated or unallocated funding agreement;

21 (4) a structured settlement annuity ~~[agreement]~~;

22 (5) an annuity issued to or in connection with a
23 government lottery ~~[a lottery contract]~~; and

24 (6) an immediate or deferred annuity contract.

25 (c) Section 463.203, Insurance Code, is amended to conform
26 to Section 1, Chapter 753, Acts of the 79th Legislature, Regular
27 Session, 2005, by amending Subsection (b) and adding Subsection (c)

1 to read as follows:

2 (b) This chapter does not provide coverage for:

3 (1) any part of a policy or contract not guaranteed by
4 the insurer or under which the risk is borne by the policy or
5 contract owner [~~holder~~];

6 (2) a policy or contract of reinsurance, unless an
7 assumption certificate has been issued;

8 (3) any part of a policy or contract to the extent that
9 the rate of interest on which that part is based:

10 (A) as averaged over the period of four years
11 before the date the member insurer becomes impaired or insolvent
12 under this chapter, whichever is earlier [~~association became~~
13 ~~obligated with respect to the policy or contract~~], exceeds a rate of
14 interest determined by subtracting two percentage points from
15 Moody's Corporate Bond Yield Average averaged for the same
16 four-year period or for a lesser period if the policy or contract
17 was issued less than four years before the date the member insurer
18 becomes impaired or insolvent under this chapter, whichever is
19 earlier [~~association became obligated~~]; and

20 (B) on and after the date the member insurer
21 becomes impaired or insolvent under this chapter, whichever is
22 earlier [~~association became obligated with respect to the policy or~~
23 ~~contract~~], exceeds the rate of interest determined by subtracting
24 three percentage points from Moody's Corporate Bond Yield Average
25 as most recently available;

26 (4) a portion of a policy or contract issued to a plan
27 or program of an employer, association, [~~or~~] similar entity, or

1 other person to provide life, health, or annuity benefits to the
2 entity's employees, ~~[or]~~ members, or others, to the extent that the
3 plan or program is self-funded or uninsured, including benefits
4 payable by an employer, association, or similar entity under:

5 (A) a multiple employer welfare arrangement as
6 defined by Section 3, Employee Retirement Income Security Act of
7 1974 (29 U.S.C. Section 1002);

8 (B) a minimum premium group insurance plan;

9 (C) a stop-loss group insurance plan; or

10 (D) an administrative services-only contract;

11 (5) any part of a policy or contract to the extent that
12 the part provides dividends, ~~[or]~~ experience rating credits, or
13 voting rights, or provides that fees or allowances be paid to any
14 person, including the policy or contract owner ~~[holder]~~, in
15 connection with the service to or administration of the policy or
16 contract;

17 (6) a policy or contract issued in this state by a
18 member insurer at a time the insurer was not authorized to issue the
19 policy or contract in this state;

20 (7) an unallocated annuity contract issued to or in
21 connection with a ~~[an employee]~~ benefit plan protected under the
22 federal Pension Benefit Guaranty Corporation, regardless of
23 whether the Pension Benefit Guaranty Corporation has not yet become
24 liable to make any payments with respect to the benefit plan;

25 (8) any part of an unallocated annuity contract that
26 is not issued to or in connection with a specific employee, a
27 benefit plan for a union or association of individuals, or a

1 governmental lottery; ~~[or]~~

2 (9) any part of a financial guarantee, funding
3 agreement, or guaranteed investment contract that:

4 (A) does not contain a mortality guarantee; and

5 (B) is not issued to or in connection with a
6 specific employee, a benefit plan, or a governmental lottery;

7 (10) a part of a policy or contract to the extent that
8 the assessments required by Subchapter D with respect to the policy
9 or contract are preempted by federal or state law;

10 (11) a contractual agreement that established the
11 member insurer's obligations to provide a book value accounting
12 guaranty for defined contribution benefit plan participants by
13 reference to a portfolio of assets that is owned by the benefit plan
14 or the plan's trustee in a case in which neither the benefit plan
15 sponsor nor its trustee is an affiliate of the member insurer; or

16 (12) a part of a policy or contract to the extent the
17 policy or contract provides for interest or other changes in value
18 that are to be determined by the use of an index or external
19 reference stated in the policy or contract, but that have not been
20 credited to the policy or contract, or as to which the policy or
21 contract owner's rights are subject to forfeiture, as of the date
22 the member insurer becomes an impaired or insolvent insurer under
23 this chapter, whichever date is earlier, subject to Subsection (c).

24 (c) For purposes of determining the values that have been
25 credited and are not subject to forfeiture as described by
26 Subsection (b)(12), if a policy's or contract's interest or changes
27 in value are credited less frequently than annually, the interest

1 or change in value determined by using the procedures defined in the
2 policy or contract is credited as if the contractual date of
3 crediting interest or changing values is the earlier of the date of
4 impairment or the date of insolvency, and is not subject to
5 forfeiture.

6 (d) Section 463.260(a), Insurance Code, is amended to
7 conform to Section 1, Chapter 753, Acts of the 79th Legislature,
8 Regular Session, 2005, to read as follows:

9 (a) The association is not liable for benefits that exceed
10 the contractual obligations for which the insurer is liable or
11 would have been liable if not impaired or insolvent. The
12 association has no obligation to provide benefits outside the
13 express written terms of the policy or contract, including:

14 (1) claims based on marketing materials;

15 (2) claims based on side letters, riders, or other
16 documents that were issued without meeting applicable policy form
17 filing or approval requirements;

18 (3) claims based on misrepresentation of or regarding
19 policy benefits;

20 (4) extracontractual claims; or

21 (5) claims for penalties or consequential or
22 incidental damages.

23 (e) Subchapter F, Chapter 463, Insurance Code, is amended to
24 conform to Section 1, Chapter 753, Acts of the 79th Legislature,
25 Regular Session, 2005, by adding Section 463.262 to read as
26 follows:

27 Sec. 463.262. EFFECT OF SUBROGATION AND ASSIGNMENT OF

1 RIGHTS AND AVAILABLE ASSETS ON ASSOCIATION OBLIGATION. (a) The
2 limitations set forth in this chapter are limitations on the
3 benefits for which the association is obligated before taking into
4 account either the association's subrogation and assignment rights
5 or the extent to which those benefits could be provided out of the
6 assets of the impaired or insolvent insurer attributable to covered
7 policies.

8 (b) The costs of the association's obligations under this
9 chapter may be met by the use of assets attributable to covered
10 policies or reimbursed to the association pursuant to the
11 association's subrogation and assignment rights.

12 (f) Section 1, Chapter 753, Acts of the 79th Legislature,
13 Regular Session, 2005, which amended former Section 3, Article
14 21.28-D, Insurance Code, is repealed.

15 SECTION 3B.019. (a) Section 463.302(d), Insurance Code,
16 is amended to conform to Section 8, Chapter 753, Acts of the 79th
17 Legislature, Regular Session, 2005, to read as follows:

18 (d) The maximum amount recoverable under Subsections (b)
19 and (c) is the amount needed in excess of all other available assets
20 of the impaired or insolvent insurer to pay the insurer's
21 contractual obligations.

22 (b) Section 463.304, Insurance Code, is amended to conform
23 to Section 8, Chapter 753, Acts of the 79th Legislature, Regular
24 Session, 2005, to read as follows:

25 Sec. 463.304. DISTRIBUTION OF OWNERSHIP RIGHTS OF IMPAIRED
26 OR INSOLVENT INSURER. In making an equitable distribution of the
27 ownership rights of an impaired or insolvent insurer before the

1 termination of a receivership, the court:

2 (1) shall consider the welfare of the policyholders of
3 the continuing or successor insurer; and

4 (2) may consider the contributions of the respective
5 parties, including the association, the shareholders and
6 policyholders of the impaired or insolvent insurer, and any other
7 party with a bona fide interest.

8 (c) Section 8, Chapter 753, Acts of the 79th Legislature,
9 Regular Session, 2005, which amended former Subsections (d) and
10 (i), Section 14, Article 21.28-D, Insurance Code, is repealed.

11 SECTION 3B.020. (a) Article 21.79H, Insurance Code, is
12 transferred to Chapter 542, Insurance Code, redesignated as
13 Subchapter G of that chapter, and amended to read as follows:

14 SUBCHAPTER G. INSURER'S RECOVERY FROM UNINSURED THIRD PARTY

15 Sec. 542.301. APPLICABILITY OF SUBCHAPTER [~~Art. 21.79H.~~
16 ~~RECOVERY OF CERTAIN COSTS FROM THIRD PARTY~~]. [~~(a)~~] This subchapter
17 [~~article~~] applies to any insurer that delivers, issues for
18 delivery, or renews a private passenger automobile insurance policy
19 in this state, including a county mutual, a reciprocal or
20 interinsurance exchange, or a Lloyd's plan.

21 Sec. 542.302. RECOVERY IN SUIT OR OTHER ACTION. [~~(b)~~] An
22 insurer that brings suit or takes other action described by Section
23 542.202 [~~of this code~~] against a responsible third party relating
24 to a loss that is covered under a private passenger automobile
25 insurance policy issued by the insurer and for which the
26 responsible third party is uninsured is entitled to recover, in
27 addition to payments made by the insurer or insured, the costs of

1 bringing the suit or taking the action, including reasonable
2 attorney's fees and court costs.

3 (b) For organizational purposes, the heading to Subchapter
4 E, Chapter 542, Insurance Code, is amended to read as follows:

5 SUBCHAPTER E. RECOVERY OF DEDUCTIBLE [~~COLLECTION~~] FROM THIRD
6 PARTIES UNDER CERTAIN AUTOMOBILE INSURANCE POLICIES

7 SECTION 3B.021. (a) Section 544.303, Insurance Code, is
8 amended to conform to Section 1, Chapter 149, Acts of the 79th
9 Legislature, Regular Session, 2005, to read as follows:

10 Sec. 544.303. PROHIBITION OF CERTAIN UNDERWRITING
11 DECISIONS BASED ON PREVIOUS MOLD CLAIM OR DAMAGE. An insurer may
12 not make an underwriting decision regarding a residential property
13 insurance policy based on previous mold damage or a claim for mold
14 damage if:

15 (1) the applicant for insurance coverage has property
16 eligible for coverage under a residential property policy;

17 (2) the property has had mold damage;

18 (3) mold remediation has been performed on the
19 property; and

20 (4) the property was:

21 (A) remediated, as evidenced by a certificate of
22 mold remediation issued to the property owner under Section
23 1958.154, Occupations Code, that establishes with reasonable
24 certainty that the underlying cause of the mold at the property has
25 been remediated; or

26 (B) inspected by an independent assessor or
27 adjustor who determined, based on the inspection, that the property

1 does not contain evidence of mold damage.

2 (b) Section 1, Chapter 149, Acts of the 79th Legislature,
3 Regular Session, 2005, which amended former Section 3, Article
4 21.21-11, Insurance Code, is repealed.

5 SECTION 3B.022. (a) Section 544.352, Insurance Code, is
6 amended to conform to Section 1, Chapter 528, Acts of the 79th
7 Legislature, Regular Session, 2005, and further amended to read as
8 follows:

9 Sec. 544.352. DEFINITIONS. In this subchapter:

10 (1) "Appliance" means a household device operated by
11 gas or electric current, including hoses directly attached to the
12 device. The term includes air conditioning units, heating units,
13 refrigerators, dishwashers, icemakers, clothes washers, water
14 heaters, and disposals.

15 (2) "Insurer" means an insurance company, reciprocal
16 or interinsurance exchange, mutual insurance company, capital
17 stock company, county mutual insurance company, farm mutual
18 insurance company, association, Lloyd's plan, or other entity
19 writing residential property insurance in this state. The term
20 includes an affiliate, as described by Section 823.003(a), if that
21 affiliate is authorized to write and is writing residential
22 property insurance in this state. The term does not include:

23 (A) the Texas Windstorm Insurance Association
24 created and operated under Chapter 2210 [~~Article 21.49~~]; or

25 (B) the FAIR Plan created and operated under
26 Chapter 2211 [~~Article 21.49A~~].

27 (3) [~~(2)~~] "Residential property insurance" means

1 insurance against loss to residential real property at a fixed
2 location or tangible personal property provided in a homeowners
3 policy, which includes a tenant policy, a condominium owners
4 policy, or a residential fire and allied lines policy.

5 (4) [~~(3)~~] "Underwriting guideline" means a rule,
6 standard, guideline, or practice, whether written, oral, or
7 electronic, that is used by an insurer or an agent of an insurer to:

8 (A) decide whether to accept or reject an
9 application for a residential property insurance policy; or

10 (B) determine how to classify the risks that are
11 accepted for the purpose of determining a rate.

12 (b) Section 1, Chapter 528, Acts of the 79th Legislature,
13 Regular Session, 2005, which added Subdivision (4) to former
14 Section 2, Article 5.35-4, Insurance Code, is repealed.

15 SECTION 3B.023. (a) Chapter 544, Insurance Code, is
16 amended to codify Article 21.53X, Insurance Code, as added by
17 Section 8, Chapter 97, Acts of the 79th Legislature, Regular
18 Session, 2005, by adding Subchapter J and is further amended to read
19 as follows:

20 SUBCHAPTER J. PROHIBITED PRACTICES RELATING TO EXPOSURE TO

21 ASBESTOS OR SILICA

22 Sec. 544.451. DEFINITION. In this subchapter, "health
23 benefit plan" means a plan that provides benefits for medical,
24 surgical, or other treatment expenses incurred as a result of a
25 health condition, a mental health condition, an accident, sickness,
26 or substance abuse, including an individual, group, blanket, or
27 franchise insurance policy or insurance agreement, a group hospital

1 service contract, or an individual or group evidence of coverage or
2 similar coverage document. The term includes:

3 (1) a small employer health benefit plan or a health
4 benefit plan written to provide coverage with a cooperative under
5 Chapter 1501;

6 (2) a standard health benefit plan offered under
7 Subchapter A or Subchapter B, Chapter 1507; and

8 (3) a health benefit plan offered under Chapter 1551,
9 1575, 1579, or 1601.

10 Sec. 544.452. APPLICABILITY OF SUBCHAPTER. This subchapter
11 applies to any entity that offers a health benefit plan or an
12 annuity or life insurance policy or contract in this state,
13 including:

14 (1) a stock or mutual life, health, or accident
15 insurance company;

16 (2) a group hospital service corporation operating
17 under Chapter 842;

18 (3) a fraternal benefit society operating under
19 Chapter 885;

20 (4) a stipulated premium insurance company operating
21 under Chapter 884;

22 (5) a Lloyd's plan operating under Chapter 941;

23 (6) an exchange operating under Chapter 942;

24 (7) a health maintenance organization operating under
25 Chapter 843;

26 (8) a multiple employer welfare arrangement that holds
27 a certificate of authority under Chapter 846;

1 (9) an approved nonprofit health corporation that
2 holds a certificate of authority under Chapter 844;

3 (10) a statewide mutual assessment company operating
4 under Chapter 881;

5 (11) a local mutual aid association operating under
6 Chapter 886; and

7 (12) a local mutual burial association operating under
8 Chapter 888.

9 Sec. 544.453. PROHIBITION. An entity that offers a health
10 benefit plan or an annuity or life insurance policy or contract may
11 not use the fact that a person has been exposed to asbestos fibers
12 or silica or has filed a claim governed by Chapter 90, Civil
13 Practice and Remedies Code, to reject, deny, limit, cancel, refuse
14 to renew, increase the premiums for, or otherwise adversely affect
15 the person's eligibility for or coverage under the policy or
16 contract.

17 (b) Article 21.53X, Insurance Code, as added by Section 8,
18 Chapter 97, Acts of the 79th Legislature, Regular Session, 2005, is
19 repealed.

20 SECTION 3B.024. Section 551.004, Insurance Code, is amended
21 to correct references to read as follows:

22 Sec. 551.004. TRANSFER NOT CONSIDERED A REFUSAL TO RENEW.
23 For purposes of this chapter and Subchapters C and D, Chapter 1952
24 [Articles 5.06-1 and 5.06-3 of this code], the transfer of a
25 policyholder between admitted companies within the same insurance
26 group is not considered a refusal to renew.

27 SECTION 3B.0245. (a) Subchapter A, Chapter 551, Insurance

1 Code, is amended to conform to the enactment of Article 21.49-2V,
2 Insurance Code, by Section 8.02, Chapter 206, Acts of the 78th
3 Legislature, Regular Session, 2003, by adding Section 551.005 to
4 read as follows:

5 Sec. 551.005. MEMBERSHIP DUES. (a) In this section,
6 "insurer" includes a county mutual insurance company, a Lloyd's
7 plan, and a reciprocal or interinsurance exchange.

8 (b) Except as otherwise provided by law, an insurer may
9 require that membership dues in its sponsoring organization be paid
10 as a condition for issuance or renewal of a policy.

11 (b) Article 21.49-2V, Insurance Code, as added by Section
12 8.02, Chapter 206, Acts of the 78th Legislature, Regular Session,
13 2003, is repealed.

14 SECTION 3B.025. Section 843.318(a), Insurance Code, is
15 amended to conform more closely to the source law from which the
16 section was derived to read as follows:

17 (a) This chapter and this code do not prohibit a physician
18 or provider who is participating in a health maintenance
19 organization delivery network, whether by contracting with a health
20 maintenance organization under Section 843.101 or by
21 subcontracting with a physician or provider in the health
22 maintenance organization delivery network, from entering into a
23 contractual arrangement [~~authorized by this section~~] within a
24 health maintenance organization delivery network described by
25 Subsections (b)-(e).

26 SECTION 3B.026. Section 941.003(b), Insurance Code, as
27 amended by Chapters 631 and 1295, Acts of the 79th Legislature,

1 Regular Session, 2005, is reenacted and is amended to correct
2 references to read as follows:

3 (b) A Lloyd's plan is subject to:

4 (1) Subchapter [~~Section 5, Article 1.10,~~

5 [~~2) Article 1.15A,~~

6 [~~3) Subchapters] A, [~~Q, T, and U,~~ Chapter 5, Chapter
7 254, Subchapters A and B, Chapter 1806, and Subtitle C, Title 10;~~

8 (2) [(4)] Articles [5.20,] 5.35, [5.38,] 5.39, and
9 5.40;

10 (3) [(5) Article 21.49-8,

11 [~~6) Sections 822.203, 822.205, 822.210, and 822.212,~~

12 [(7)] Article 5.13-2, as provided by that article,
13 Subchapters A-D, Chapter 2251, as provided by that chapter, and
14 Chapter 2301, as provided by that chapter;

15 (4) [(8)] Chapters 251, 252, 402, [~~and] 541, and 2253;~~

16 (5) Subchapter A, Chapter 401;

17 (6) Subchapter B, Chapter 404;

18 (7) Subchapter C, Chapter 1806; and

19 (8) Sections [(9) Section] 38.001, 501.159, 822.203,
20 822.205, 822.210, 822.212, 2002.005, 2002.051, and 2002.052.

21 SECTION 3B.027. Section 942.003(b), Insurance Code, as
22 amended by Chapters 631 and 1295, Acts of the 79th Legislature,
23 Regular Session, 2005, is reenacted and is amended to correct
24 references to read as follows:

25 (b) An exchange is subject to:

26 (1) Subchapter [~~Section 5, Article 1.10,~~

27 [~~2) Articles 1.15, 1.15A, and 1.16,~~

1 ~~[(3) Subchapters]~~ A, ~~[Q, T, and U,]~~ Chapter 5, Chapter
2 254, Subchapters A and B, Chapter 1806, and Subtitle C, Title 10;

3 (2) [(4)] Articles [5.20,] 5.35, [5.37, 5.38,] 5.39,
4 and 5.40;

5 (3) [(5) Article 21.49-8,
6 [(6) Sections 822.203, 822.205, 822.210, 822.212,
7 861.254(a)-(f), 861.255, 862.001(b), and 862.003;

8 [(7)] Article 5.13-2, as provided by that article,
9 Subchapters A-D, Chapter 2251, as provided by that chapter, and
10 Chapter 2301, as provided by that chapter;

11 (4) Chapters 402, [(8) Chapter] 541, and 2253;

12 (5) Subchapter A, Chapter 401, and Sections 401.051,
13 401.052, 401.054, 401.055, 401.056, 401.057, 401.058, 401.059,
14 401.060, 401.061, 401.062, 401.151, 401.152, 401.155, and 401.156;

15 (6) Subchapter B, Chapter 404;

16 (7) Subchapter C, Chapter 1806; and

17 (8) Sections [(9) Section] 38.001, 501.159, 822.203,
18 822.205, 822.210, 822.212, 861.254(a)-(f), 861.255, 862.001(b),
19 862.003, 2002.002, 2002.005, 2002.051, and 2002.052.

20 SECTION 3B.0271. (a) Section 1301.004, Insurance Code, to
21 conform more closely to the source law from which it was derived, is
22 transferred to Section 1301.061, Insurance Code, redesignated as
23 Subsection (c) of that section, and amended to read as follows:

24 (c) [Sec. 1301.004. COMPLIANCE WITH CHAPTER
25 REQUIRED.] Each preferred provider benefit plan offered in this
26 state must comply with this chapter.

27 (b) Subchapter A, Chapter 1301, Insurance Code, is amended

1 to conform more closely to the source law from which Chapter 1301
2 was derived by adding Section 1301.0041 to read as follows:

3 Sec. 1301.0041. APPLICABILITY. This chapter applies to any
4 preferred provider benefit plan in which an insurer provides,
5 through the insurer's health insurance policy, for the payment of a
6 level of coverage that is different from the basic level of coverage
7 provided by the health insurance policy if the insured uses a
8 preferred provider.

9 SECTION 3B.028. Section 1365.004, Insurance Code, is
10 amended to conform more closely to the source law from which the
11 section was derived to read as follows:

12 Sec. 1365.004. RIGHT TO REJECT COVERAGE OR SELECT
13 ALTERNATIVE BENEFITS [~~COVERAGE~~]. An offer of coverage required
14 under Section 1365.003 is subject to the right of the group contract
15 holder to reject the coverage or to select an alternative level of
16 benefits [~~coverage~~] that is offered by or negotiated with the group
17 health benefit plan issuer.

18 SECTION 3B.0281. Section 1367.053(c), Insurance Code, is
19 amended to conform more closely to the source law from which the
20 section was derived to read as follows:

21 (c) In addition to the immunizations required under
22 Subsection (a), a health maintenance organization that issues a
23 health benefit plan shall provide under the plan coverage for
24 immunization against rotovirus and any other immunization required
25 for a child by law.

26 SECTION 3B.029. (a) Section 1507.003(b), Insurance Code,
27 is amended to conform to Section 2, Chapter 577, Acts of the 79th

1 Legislature, Regular Session, 2005, to read as follows:

2 (b) For purposes of this subchapter, "state-mandated health
3 benefits" does not include benefits that are mandated by federal
4 law or standard provisions or rights required under this code or
5 other laws of this state to be provided in an individual, blanket,
6 or group policy for accident and health insurance that are
7 unrelated to a specific health illness, injury, or condition of an
8 insured, including provisions related to:

9 (1) continuation of coverage under:

10 (A) Subchapters F and G, Chapter 1251;

11 (B) Section 1201.059; and

12 (C) Subchapter B, Chapter 1253;

13 (2) termination of coverage under Sections 1202.051
14 and 1501.108;

15 (3) preexisting conditions under Subchapter D,
16 Chapter 1201, and Sections 1501.102-1501.105;

17 (4) coverage of children, including newborn or adopted
18 children, under:

19 (A) Subchapter D, Chapter 1251;

20 (B) Sections 1201.053, 1201.061,
21 1201.063-1201.065, and Subchapter A, Chapter 1367;

22 (C) Chapter 1504;

23 (D) Chapter 1503;

24 (E) Section 1501.157;

25 (F) Section 1501.158; and

26 (G) Sections 1501.607-1501.609;

27 (5) services of practitioners under:

1 (A) Subchapters A, B, and C, Chapter 1451; or

2 (B) Section 1301.052;

3 (6) supplies and services associated with the
4 treatment of diabetes under Subchapter B, Chapter 1358;

5 (7) coverage for serious mental illness under
6 Subchapter A, Chapter 1355 [~~, if the standard health benefit plan is
7 issued to a large employer as defined by Section 1501.002~~];

8 (8) coverage for childhood immunizations and hearing
9 screening as required by Subchapters B and C, Chapter 1367, other
10 than Section 1367.053(c) and Chapter 1353;

11 (9) coverage for reconstructive surgery for certain
12 craniofacial abnormalities of children as required by Subchapter D,
13 Chapter 1367;

14 (10) coverage for the dietary treatment of
15 phenylketonuria as required by Chapter 1359;

16 (11) coverage for referral to a non-network physician
17 or provider when medically necessary covered services are not
18 available through network physicians or providers, as required by
19 Section 1271.055; and

20 (12) coverage for cancer screenings under:

21 (A) Chapter 1356;

22 (B) Chapter 1362; [~~and~~]

23 (C) Chapter 1363; and

24 (D) Chapter 1370.

25 (b) Section 2, Chapter 577, Acts of the 79th Legislature,
26 Regular Session, 2005, which amended former Subsection (b), Section
27 3, Article 3.80, Insurance Code, is repealed.

1 SECTION 3B.030. (a) Section 1507.053(b), Insurance Code,
2 is amended to conform to Section 3, Chapter 577, Acts of the 79th
3 Legislature, Regular Session, 2005, to read as follows:

4 (b) For purposes of this subchapter, "state-mandated health
5 benefits" does not include coverage that is mandated by federal law
6 or standard provisions or rights required under this code or other
7 laws of this state to be provided in an evidence of coverage that
8 are unrelated to a specific health illness, injury, or condition of
9 an enrollee, including provisions related to:

10 (1) continuation of coverage under Subchapter G,
11 Chapter 1251;

12 (2) termination of coverage under Sections 1202.051
13 and 1501.108;

14 (3) preexisting conditions under Subchapter D,
15 Chapter 1201, and Sections 1501.102-1501.105;

16 (4) coverage of children, including newborn or adopted
17 children, under:

18 (A) Chapter 1504;

19 (B) Chapter 1503;

20 (C) Section 1501.157;

21 (D) Section 1501.158; and

22 (E) Sections 1501.607-1501.609;

23 (5) services of providers under Section 843.304;

24 (6) coverage for serious mental health illness under
25 Subchapter A, Chapter 1355[~~if the standard health benefit plan is~~
26 ~~issued to a large employer as defined by Section 1501.002~~]; and

27 (7) coverage for cancer screenings under:

- 1 (A) Chapter 1356;
- 2 (B) Chapter 1362; ~~and~~
- 3 (C) Chapter 1363; and
- 4 (D) Chapter 1370.

5 (b) Section 3, Chapter 577, Acts of the 79th Legislature,
6 Regular Session, 2005, which amended former Subsection (d), Article
7 20A.09N, Insurance Code, is repealed.

8 SECTION 3B.031. Section 1801.002, Insurance Code, is
9 repealed to conform to Section 5.01(4), Chapter 1227, Acts of the
10 79th Legislature, Regular Session, 2005.

11 SECTION 3B.032. (a) Section 1806.101, Insurance Code, is
12 amended to conform to Section 2, Chapter 631, Acts of the 79th
13 Legislature, Regular Session, 2005, to read as follows:

14 Sec. 1806.101. DEFINITIONS. In this subchapter:

15 (1) "Insurance" includes a suretyship.

16 (2) "Insurer" means an insurance company or other
17 legal entity described by Sections 1806.102(a) and (b).

18 (3) "Policy" includes a bond.

19 (b) Sections 1806.104(a) and (b), Insurance Code, are
20 amended to conform to Section 2, Chapter 631, Acts of the 79th
21 Legislature, Regular Session, 2005, to read as follows:

22 (a) Except as otherwise provided by this subchapter, an
23 insurer, an insurer's employee, or a broker or agent may not
24 knowingly:

25 (1) issue an insurance policy that is not in
26 accordance with an applicable filing [~~that is filed and in effect~~
27 ~~under Chapter 2251 or 2301 or Article 5.13-2~~]; or

1 (2) charge, demand, or receive a premium on an
2 insurance policy that is not in accordance with an applicable
3 filing [~~that is filed and in effect under Chapter 2251 or 2301 or~~
4 ~~Article 5.13-2~~].

5 (b) Except as provided in an applicable filing [~~that is~~
6 ~~filed and in effect under Chapter 2251 or 2301 or Article 5.13-2~~],
7 an insurer, an insurer's employee, or a broker or agent may not
8 directly or indirectly pay, allow, or give, or offer to pay, allow,
9 or give, as an inducement to insurance, or after insurance has been
10 written, a rebate, discount, abatement, credit or reduction of the
11 premium stated in an insurance policy, or a special favor or
12 advantage in the dividends or other benefits to accrue on the
13 policy, or any valuable consideration or inducement, not specified
14 in the policy.

15 (c) Section 2, Chapter 631, Acts of the 79th Legislature,
16 Regular Session, 2005, which amended former Subsections (a) and
17 (d), Article 5.20, Insurance Code, is repealed.

18 SECTION 3B.033. Section 1806.102, Insurance Code, is
19 amended to conform to Section 1, Chapter 631, Acts of the 79th
20 Legislature, Regular Session, 2005, to read as follows:

21 Sec. 1806.102. APPLICABILITY OF SUBCHAPTER. (a) This
22 [~~Except as provided by Subsections (b) and (c), this~~] subchapter
23 applies to an insurer, including a corporation, reciprocal or
24 interinsurance exchange, mutual insurance company, association,
25 Lloyd's plan, or other organization, writing casualty insurance or
26 writing fidelity, surety, or guaranty bonds, on risks or operations
27 in this state.

1 (b) This subchapter applies [~~does not apply~~] to:

2 (1) a farm mutual insurance company with respect to
3 each line of insurance that a farm mutual insurance company is
4 authorized to write under Section 911.151 [~~or association regulated~~
5 ~~under Chapter 911~~]; and [~~or~~]

6 (2) a county mutual insurance company with respect to
7 each line of insurance that a county mutual insurance company is
8 authorized to write under Section 912.151 [~~regulated under Chapter~~
9 ~~912~~].

10 (c) Except as otherwise provided by this subchapter, this
11 [~~This~~] subchapter does not apply to the writing of:

- 12 (1) automobile insurance;
- 13 (2) life, health, or accident insurance;
- 14 (3) professional liability insurance;
- 15 (4) reinsurance;
- 16 (5) aircraft insurance;
- 17 (6) fraternal benefit insurance;
- 18 (7) fire insurance;
- 19 (8) workers' compensation insurance;
- 20 (9) marine insurance, including noncommercial inland
21 marine insurance and ocean marine insurance;
- 22 (10) title insurance;
- 23 (11) explosion insurance, except insurance against
24 loss from personal injury or property damage resulting accidentally
25 from:

26 (A) a steam boiler;

27 (B) a heater or pressure vessel;

1 (C) an electrical device;

2 (D) an engine; or

3 (E) all machinery and appliances used in
4 connection with or in the operation of a boiler, heater, vessel,
5 electrical device, or engine described by Paragraphs (A)-(D); or

6 (12) insurance coverage for any of the following
7 conditions or risks:

8 (A) weather or climatic conditions, including
9 lightning, tornado, windstorm, hail, cyclone, rain, or frost and
10 freeze;

11 (B) earthquake or volcanic eruption;

12 (C) smoke or smudge;

13 (D) excess or deficiency of moisture;

14 (E) flood;

15 (F) the rising water of an ocean or an ocean's
16 tributary;

17 (G) bombardment, invasion, insurrection, riot,
18 civil war or commotion, military or usurped power, or any order of a
19 civil authority made to prevent the spread of a conflagration,
20 epidemic or catastrophe;

21 (H) vandalism or malicious mischief;

22 (I) strike or lockout;

23 (J) water or other fluid or substance resulting
24 from:

25 (i) the breakage or leakage of a sprinkler,
26 pump, or other apparatus erected for extinguishing fire, or a water
27 pipe or other conduit or container; or

1 (ii) casual water entering a building
2 through a leak or opening in the building or by seepage through
3 building walls; or

4 (K) accidental damage to a sprinkler, pump, fire
5 apparatus, pipe, or other conduit or container described by
6 Paragraph (J)(i).

7 SECTION 3B.034. (a) Section 1901.054(b), Insurance Code,
8 is amended to conform to Section 1, Chapter 1135, Acts of the 79th
9 Legislature, Regular Session, 2005, to read as follows:

10 (b) A rate is not excessive unless[+]

11 [~~(1)~~] the rate is unreasonably high for the insurance
12 coverage provided[~~, and~~

13 [~~(2) a reasonable degree of competition does not exist~~
14 ~~in the area with respect to the classification to which the rate~~
15 ~~applies].~~

16 (b) Section 1901.057, Insurance Code, is amended to conform
17 to Section 1, Chapter 1135, Acts of the 79th Legislature, Regular
18 Session, 2005, to read as follows:

19 Sec. 1901.057. CONSIDERATIONS IN APPROVING RATES. In
20 approving rates under this chapter, the department [~~commissioner~~]
21 shall consider the impact of risk management courses taken by
22 physicians and health care providers in this state.

23 (c) Section 1, Chapter 1135, Acts of the 79th Legislature,
24 Regular Session, 2005, which amended former Section 3, Article
25 5.15-1, Insurance Code, is repealed.

26 SECTION 3B.035. (a) Subchapter B, Chapter 1901, Insurance
27 Code, is amended by adding Section 1901.0541 to conform to Section

1 2, Chapter 1135, Acts of the 79th Legislature, Regular Session,
2 2005, to read as follows:

3 Sec. 1901.0541. USE IN UNDERWRITING OF CERTAIN INFORMATION
4 RELATED TO LAWSUITS; REFUND. (a) Notwithstanding any other
5 provision of this code, an insurer may not consider for the purpose
6 of setting premiums or reducing a claims-free discount for a
7 particular insured physician's professional liability insurance a
8 lawsuit filed against the physician if:

9 (1) before trial, the lawsuit was dismissed by the
10 claimant or nonsuited; and

11 (2) no payment was made to the claimant under a
12 settlement agreement.

13 (b) An insurer that, in setting premiums or reducing a
14 claims-free discount for a physician's professional liability
15 insurance, considers a lawsuit filed against the physician shall
16 refund to the physician any increase in premiums paid by the
17 physician that is attributable to that lawsuit or reinstate the
18 claims-free discount if the lawsuit is dismissed by the claimant or
19 nonsuited without payment to the claimant under a settlement
20 agreement. The insurer shall issue the refund or reinstate the
21 discount on or before the 30th day after the date the insurer
22 receives written evidence that the lawsuit was dismissed or
23 nonsuited without payment to the claimant under a settlement
24 agreement.

25 (c) This section does not prohibit an insurer from
26 considering and using aggregate historical loss and expense
27 experience applicable generally to a classification of physicians'

1 professional liability insurance to set rates for that
2 classification to the extent authorized by Chapter 2251 and Article
3 5.13-2. Notwithstanding Section 2251.052(c), an insurer may not
4 assign a physician to a particular classification based on a factor
5 described by Subsection (a).

6 (b) Subchapter F, Chapter 1901, Insurance Code, is amended
7 by adding Section 1901.254 to conform to Section 2, Chapter 1135,
8 Acts of the 79th Legislature, Regular Session, 2005, to read as
9 follows:

10 Sec. 1901.254. PROHIBITION OF USE OF CERTAIN INFORMATION
11 FOR PHYSICIAN OR HEALTH CARE PROVIDER. (a) For the purpose of
12 writing professional liability insurance for physicians and health
13 care providers, an insurer may not consider whether, or the extent
14 to which, a physician or health care provider provides services in
15 this state to individuals who are recipients of Medicaid or covered
16 by the state child health plan program established by Chapter 62,
17 Health and Safety Code, including any consideration resulting in:

- 18 (1) denial of coverage;
19 (2) refusal to renew coverage;
20 (3) cancellation of coverage;
21 (4) limitation of the amount, extent, or kind of
22 coverage available; or
23 (5) a determination of the rate or premium to be paid.

24 (b) The commissioner may adopt rules as necessary to
25 implement this section.

26 (c) Section 2, Chapter 1135, Acts of the 79th Legislature,
27 Regular Session, 2005, which added Sections 12 and 13 to former

1 Article 5.15-1, Insurance Code, is repealed.

2 SECTION 3B.036. (a) Subchapter F, Chapter 1901, Insurance
3 Code, is amended by adding Section 1901.255 to conform to Section 1,
4 Chapter 184, Acts of the 79th Legislature, Regular Session, 2005,
5 to read as follows:

6 Sec. 1901.255. COVERAGE FOR VOLUNTEER HEALTH CARE
7 PROVIDERS. (a) In this section:

8 (1) "Charitable organization" has the meaning
9 assigned by Section 84.003, Civil Practice and Remedies Code.

10 (2) "Volunteer health care provider" has the meaning
11 assigned by Section 84.003, Civil Practice and Remedies Code.

12 (b) An insurer may make available professional liability
13 insurance covering a volunteer health care provider for an act or
14 omission resulting in death, damage, or injury to a patient while
15 the person is acting in the course and scope of the person's duties
16 as a volunteer health care provider as described by Chapter 84,
17 Civil Practice and Remedies Code.

18 (c) This section does not affect the liability of a
19 volunteer health care provider who is serving as a direct service
20 volunteer of a charitable organization. Section 84.004(c), Civil
21 Practice and Remedies Code, applies to the volunteer health care
22 provider without regard to whether the volunteer health care
23 provider obtains liability insurance under this section.

24 (d) An insurer may make professional liability insurance
25 available under this section to a volunteer health care provider
26 without regard to whether the volunteer health care provider is a
27 "health care provider" as defined by Section 1901.001.

1 (b) Section 1, Chapter 184, Acts of the 79th Legislature,
2 Regular Session, 2005, which added Section 12 to former Article
3 5.15-1, Insurance Code, is repealed.

4 SECTION 3B.037. (a) Section 1952.101(c), Insurance Code,
5 is amended to conform to Section 3, Chapter 1159, Acts of the 79th
6 Legislature, Regular Session, 2005, to read as follows:

7 (c) The coverage required by this subchapter does not apply
8 if any insured named in the insurance policy rejects the coverage in
9 writing. Unless the named insured requests in writing the coverage
10 required by this subchapter, the insurer is not required to provide
11 that coverage in or supplemental to a reinstated insurance policy
12 or renewal insurance policy if the named insured rejected the
13 coverage in connection with that insurance policy or an insurance
14 policy previously issued to the insured by the same insurer or by an
15 affiliated insurer.

16 (b) Section 3, Chapter 1159, Acts of the 79th Legislature,
17 Regular Session, 2005, which amended former Section (1), Article
18 5.06-1, Insurance Code, is repealed.

19 SECTION 3B.038. (a) Section 1952.152(b), Insurance Code,
20 is amended to conform to Section 4, Chapter 1159, Acts of the 79th
21 Legislature, Regular Session, 2005, to read as follows:

22 (b) The coverage required by this subchapter does not apply
23 if any insured named in the insurance policy rejects the coverage in
24 writing. Unless the named insured requests in writing the coverage
25 required by this subchapter, the insurer is not required to provide
26 that coverage in or supplemental to a reinstated insurance policy
27 or renewal insurance policy if the named insured rejected the

1 coverage in connection with that insurance policy or an insurance
2 policy previously issued to the insured by the same insurer or by an
3 affiliated insurer.

4 (b) Section 4, Chapter 1159, Acts of the 79th Legislature,
5 Regular Session, 2005, which amended former Subsection (a), Article
6 5.06-3, Insurance Code, is repealed.

7 SECTION 3B.039. (a) Section 1952.155, Insurance Code, is
8 amended by amending Subsection (b) and adding Subsection (c) to
9 conform to Section 2, Chapter 1074, Acts of the 79th Legislature,
10 Regular Session, 2005, to read as follows:

11 (b) Except as provided by Subsection (c), an [An] insurer
12 paying benefits under coverage required by this subchapter does not
13 have a right of subrogation or claim against any other person or
14 insurer to recover any benefits by reason of the alleged fault of
15 the other person in causing or contributing to the accident.

16 (c) An insurer paying benefits pursuant to this subchapter,
17 including a county mutual insurance company, shall have a right of
18 subrogation and a claim against a person causing or contributing to
19 the accident if, on the date of loss, financial responsibility as
20 required by Chapter 601, Transportation Code, has not been
21 established for a motor vehicle involved in the accident and
22 operated by that person.

23 (b) Section 2, Chapter 1074, Acts of the 79th Legislature,
24 Regular Session, 2005, which amended former Article 5.06-3,
25 Insurance Code, by amending Subsection (c) and adding Subsection
26 (i), is repealed.

27 SECTION 3B.040. (a) Section 2006.052, Insurance Code, is

1 amended to conform to Sections 4 and 6, Chapter 291, Acts of the
2 79th Legislature, Regular Session, 2005, by amending Subsection (b)
3 and adding Subsection (c) to read as follows:

4 (b) This section applies to an insurer that uses a tier
5 classification or discount program that has a premium consequence
6 based in whole or in part on claims experience, regardless of
7 whether any of the policies that continuously covered the
8 policyholder was a different kind of residential property insurance
9 policy from the policy eligible for the premium discount.

10 (c) A residential property insurance claim under this
11 section does not include a claim:

12 (1) resulting from a loss caused by natural causes;

13 (2) that is filed but is not paid or payable under the
14 policy; or

15 (3) that an insurer is prohibited from using under
16 Section 544.353.

17 (b) Subchapter B, Chapter 2006, Insurance Code, is amended
18 to conform to Section 4, Chapter 291, Acts of the 79th Legislature,
19 Regular Session, 2005, by adding Section 2006.0521 to read as
20 follows:

21 Sec. 2006.0521. COMPLIANCE WITH OTHER LAW REQUIRED. Any
22 change in the amount of a premium discount provided under this
23 subchapter must comply with the requirements of Section 551.107.

24 (c) Sections 4 and 6, Chapter 291, Acts of the 79th
25 Legislature, Regular Session, 2005, which amended former Article
26 5.43, Insurance Code, by amending Subsection (d) and adding
27 Subsections (a-1) and (f), are repealed.

1 SECTION 3B.041. (a) Section 2051.151(a), Insurance Code,
2 is amended to conform to Section 6.062, Chapter 265, Acts of the
3 79th Legislature, Regular Session, 2005, to read as follows:

4 (a) Except as otherwise provided by Subsection (b), an
5 insurance company that writes workers' compensation insurance in
6 this state shall notify a policyholder of a claim that is filed
7 against the policyholder's policy and, after the initial notice,
8 the company shall notify the policyholder of:

9 (1) any proposal to settle the claim; or

10 (2) on receipt of a written request from the
11 policyholder, any administrative or judicial proceeding relating
12 to the resolution of the claim~~[, including a benefit review
13 conference conducted by the Texas Workers' Compensation
14 Commission]~~.

15 (b) Section 6.062, Chapter 265, Acts of the 79th
16 Legislature, Regular Session, 2005, which amended former Section
17 (a), Article 5.65A, Insurance Code, is repealed.

18 SECTION 3B.042. (a) Section 2053.001, Insurance Code, is
19 amended to conform to Section 5.01, Chapter 265, Acts of the 79th
20 Legislature, Regular Session, 2005, by amending Subdivision (2) and
21 adding Subdivision (2-a) to read as follows:

22 (2) "Insurance company" means a person authorized to
23 engage in the business of workers' compensation insurance in this
24 state. The term includes:

25 (A) the Texas Mutual Insurance Company;

26 (B) a Lloyd's plan under Chapter 941; and

27 (C) a reciprocal and interinsurance exchange

1 under Chapter 942.

2 (2-a) "Premium" means the amount charged for a
3 workers' compensation insurance policy, including any
4 endorsements, after the application of individual risk variations
5 based on loss or expense considerations.

6 (b) Section 5.01, Chapter 265, Acts of the 79th Legislature,
7 Regular Session, 2005, which amended former Section 1, Article
8 5.55, Insurance Code, by amending Subdivision (2) and adding
9 Subdivision (2-a), is repealed.

10 SECTION 3B.043. (a) Sections 2053.002(a) and (b),
11 Insurance Code, are amended to conform to Section 5.02, Chapter
12 265, Acts of the 79th Legislature, Regular Session, 2005, to read as
13 follows:

- 14 (a) In setting rates, an insurance company shall consider:
15 (1) past and prospective loss cost experience;
16 (2) operation expenses;
17 (3) investment income;
18 (4) a reasonable margin for profit and contingencies;
19 ~~and~~
20 (5) the effect on premiums of individual risk
21 variations based on loss or expense considerations; and
22 (6) any other relevant factor.

23 (b) A rate or premium established under this subchapter may
24 not be excessive, inadequate, or unfairly discriminatory.

25 (b) Section 5.02, Chapter 265, Acts of the 79th Legislature,
26 Regular Session, 2005, which amended former Subsections (b) and
27 (d), Section 2, Article 5.55, Insurance Code, is repealed.

1 SECTION 3B.044. Section 2053.007(c), Insurance Code, is
2 repealed to conform to Section 5.04, Chapter 265, Acts of the 79th
3 Legislature, Regular Session, 2005.

4 SECTION 3B.045. (a) Section 2053.010, Insurance Code, is
5 amended to conform to Section 5.05, Chapter 265, Acts of the 79th
6 Legislature, Regular Session, 2005, to read as follows:

7 Sec. 2053.010. PENALTIES [~~ADMINISTRATIVE PENALTY~~]. If a
8 workers' compensation insurance policy is issued and the
9 commissioner subsequently disapproves the rate or filing on which
10 the premium is based, the commissioner, after notice and the
11 opportunity for a hearing, may:

12 (1) impose sanctions under Chapter 82;

13 (2) issue a cease and desist order under Chapter 83;

14 (3) impose administrative penalties under Chapter 84;

15 or

16 (4) take any combination of these actions. [~~(a) The~~
17 ~~commissioner may assess an administrative penalty against an~~
18 ~~insurance company if the commissioner determines, based on a~~
19 ~~pattern of charges for premiums, that the company is consistently~~
20 ~~overcharging or undercharging the company's policyholders for~~
21 ~~workers' compensation insurance.~~

22 [~~(b) An administrative penalty under this section must be:~~

23 [~~(1) assessed in accordance with Section 415.021,~~
24 ~~Labor Code, and~~

25 [~~(2) set by the commissioner in an amount reasonable~~
26 ~~and necessary to deter overcharging or undercharging of~~
27 ~~policyholders.]~~

1 (b) Section 5.05, Chapter 265, Acts of the 79th Legislature,
2 Regular Session, 2005, which amended former Section 7, Article
3 5.55, Insurance Code, is repealed.

4 SECTION 3B.046. (a) Subchapter A, Chapter 2053, Insurance
5 Code, is amended to conform to Section 5.055, Chapter 265, Acts of
6 the 79th Legislature, Regular Session, 2005, by adding Section
7 2053.011 to read as follows:

8 Sec. 2053.011. EXCLUSIVE JURISDICTION. The department has
9 exclusive jurisdiction over all rates and premiums subject to this
10 subchapter.

11 (b) Section 5.055, Chapter 265, Acts of the 79th
12 Legislature, Regular Session, 2005, which added Section 8 to former
13 Article 5.55, Insurance Code, is repealed.

14 SECTION 3B.047. (a) Subchapter A, Chapter 2053, Insurance
15 Code, is amended to conform to Section 5.03, Chapter 265, Acts of
16 the 79th Legislature, Regular Session, 2005, by adding Sections
17 2053.012 and 2053.013 to read as follows:

18 Sec. 2053.012. REPORT ON LEGISLATIVE REFORMS REQUIRED. (a)
19 Not later than December 1 of each even-numbered year, the
20 commissioner shall report to the governor, lieutenant governor, and
21 speaker of the house of representatives regarding the impact that
22 legislation enacted during the regular session of the 79th
23 Legislature reforming the workers' compensation system of this
24 state has had on the affordability and availability of workers'
25 compensation insurance for the employers of this state. The report
26 must include an analysis of:

27 (1) the projected workers' compensation premium

1 savings realized by employers as a result of the reforms;

2 (2) the impact of the reforms on:

3 (A) the percentage of employers who provide
4 workers' compensation insurance coverage for their employees; and

5 (B) to the extent possible, economic development
6 and job creation;

7 (3) the effects of the reforms on market competition
8 and carrier financial solvency, including an analysis of how
9 carrier loss ratios, combined ratios, and use of individual risk
10 variations have changed since implementation of the reforms; and

11 (4) the extent of participation in workers'
12 compensation health care networks by small and medium-sized
13 employers.

14 (b) If the commissioner determines that workers'
15 compensation rate filings or premium levels analyzed by the
16 department do not appropriately reflect the savings associated with
17 the reforms described by Subsection (a), the commissioner shall
18 include in the report required under Subsection (a) any
19 recommendations, including any recommended legislative changes,
20 necessary to identify the tools needed by the department to more
21 effectively regulate workers' compensation rates.

22 (c) At the request of the department, each insurance company
23 shall submit to the department all data and other information
24 considered necessary by the commissioner to generate the report
25 required under Subsection (a). Failure by an insurance company to
26 submit the data and information in a timely fashion, as determined
27 by commissioner rule, constitutes grounds for sanctions under

1 Chapter 82.

2 Sec. 2053.013. REVIEW OF RATES; CONSIDERATION OF OTHER LAW.

3 In reviewing rates under this subchapter, the commissioner shall
4 consider any state or federal legislation that has been enacted and
5 that may impact rates and premiums for workers' compensation
6 insurance coverage in this state.

7 (b) Section 5.03, Chapter 265, Acts of the 79th Legislature,
8 Regular Session, 2005, which added Subsections (e) through (h) to
9 former Section 3, Article 5.55, Insurance Code, is repealed.

10 SECTION 3B.048. (a) Chapter 2053, Insurance Code, is
11 amended to conform to Section 5.06, Chapter 265, Acts of the 79th
12 Legislature, Regular Session, 2005, by adding Subchapter A-1 to
13 read as follows:

14 SUBCHAPTER A-1. UNDERWRITING GUIDELINES

15 Sec. 2053.031. DEFINITIONS. In this subchapter:

16 (1) "Insurance company" has the meaning assigned by
17 Section 2053.001.

18 (2) "Underwriting guideline" means a rule, standard,
19 guideline, or practice, whether written, oral, or electronic, that
20 is used by an insurance company or its agent to decide whether to
21 accept or reject an application for coverage under a workers'
22 compensation insurance policy or to determine how to classify those
23 risks that are accepted for the purpose of determining a rate.

24 Sec. 2053.032. UNDERWRITING GUIDELINES. Each underwriting
25 guideline used by an insurance company in writing workers'
26 compensation insurance must be sound, actuarially justified, or
27 otherwise substantially commensurate with the contemplated risk.

1 An underwriting guideline may not be unfairly discriminatory.

2 Sec. 2053.033. ENFORCEMENT. This subchapter may be
3 enforced in the manner provided by Section 38.003(g).

4 Sec. 2053.034. FILING REQUIREMENTS. Each insurance company
5 shall file with the department a copy of the insurance company's
6 underwriting guidelines. The insurance company shall update its
7 filing each time the underwriting guidelines are changed. If a
8 group of insurance companies files one set of underwriting
9 guidelines for the group, the group shall identify which
10 underwriting guidelines apply to each insurance company in the
11 group.

12 Sec. 2053.035. APPLICABILITY OF SECTION 38.003. Section
13 38.003 applies to this subchapter to the extent consistent with
14 this subchapter.

15 (b) Section 5.06, Chapter 265, Acts of the 79th Legislature,
16 Regular Session, 2005, which added Article 5.55A to former
17 Subchapter D, Chapter 5, Insurance Code, is repealed.

18 SECTION 3B.049. (a) Subchapter B, Chapter 2053, Insurance
19 Code, is amended to conform to Section 5.08, Chapter 265, Acts of
20 the 79th Legislature, Regular Session, 2005, by adding Section
21 2053.056 to read as follows:

22 Sec. 2053.056. RATE HEARINGS. (a) The commissioner shall
23 conduct a public hearing each biennium, beginning not later than
24 December 1, 2008, to review rates to be charged for workers'
25 compensation insurance written in this state. A public hearing
26 under this section is not a contested case as defined by Section
27 2001.003, Government Code.

1 (b) Not later than the 30th day before the date of the public
2 hearing required under Subsection (a), each insurance company
3 subject to this subtitle and Article 5.66 shall file the insurance
4 company's rates, supporting information, and supplementary rating
5 information with the commissioner.

6 (c) The commissioner shall review the information submitted
7 under Subsection (b) to determine the positive or negative impact
8 of the enactment of workers' compensation reform legislation
9 enacted by the 79th Legislature, Regular Session, 2005, on workers'
10 compensation rates and premiums. The commissioner may consider
11 other factors, including relativities under Section 2053.051, in
12 determining whether a change in rates has impacted the premium
13 charged to policyholders.

14 (d) The commissioner shall implement rules as necessary to
15 mandate rate reductions or to modify the use of individual risk
16 variations if the commissioner determines that the rates or
17 premiums charged by insurance companies do not meet the rating
18 standards as defined in this code.

19 (e) The commissioner shall adopt rules as necessary to
20 mandate rate or premium reductions by insurance companies for the
21 use of cost-containment strategies that result in savings to the
22 workers' compensation system, including use of a workers'
23 compensation health care network health care delivery system, as
24 described by Chapter 1305.

25 (b) Section 5.08, Chapter 265, Acts of the 79th Legislature,
26 Regular Session, 2005, which amended former Article 5.60A,
27 Insurance Code, is repealed.

1 SECTION 3B.050. (a) Section 2053.151(b), Insurance Code,
2 is amended to conform to Section 5.07, Chapter 265, Acts of the 79th
3 Legislature, Regular Session, 2005, to read as follows:

4 (b) For purposes of Subsection (a), the commissioner shall
5 establish standards and procedures for categorizing insurance and
6 medical benefits required to be reported on each workers'
7 compensation claim. In establishing the standards, the
8 commissioner shall consult with the commissioner of workers'
9 compensation [~~Texas Workers' Compensation Commission~~] to ensure
10 that the data collection methodology will yield data necessary for
11 research and medical cost containment efforts.

12 (b) Section 5.07, Chapter 265, Acts of the 79th Legislature,
13 Regular Session, 2005, which amended former Subsection (b), Article
14 5.58, Insurance Code, is repealed.

15 SECTION 3B.051. (a) Section 2054.008(d), Insurance Code,
16 is amended to conform to Section 6.065, Chapter 265, Acts of the
17 79th Legislature, Regular Session, 2005, to read as follows:

18 (d) Except as provided by Subsection (e), a company
19 investigation file:

20 (1) is confidential and not subject to required
21 disclosure under Chapter 552, Government Code; and

22 (2) may be disclosed only:

23 (A) in a criminal proceeding;

24 (B) in a hearing conducted by the division of
25 workers' compensation of the department [~~commission~~];

26 (C) on a judicial determination of good cause; or

27 (D) to a governmental agency, political

1 subdivision, or regulatory body if the disclosure is necessary or
2 proper for the enforcement of a law of this state, another state, or
3 the United States.

4 (b) Section 6.065, Chapter 265, Acts of the 79th
5 Legislature, Regular Session, 2005, which amended former
6 Subsection (a), Section 10, Article 5.76-3, Insurance Code, is
7 repealed.

8 SECTION 3B.052. (a) Section 2054.204(a), Insurance Code,
9 is amended to conform to Section 6.066, Chapter 265, Acts of the
10 79th Legislature, Regular Session, 2005, to read as follows:

11 (a) The company shall file annual statements with the
12 department [~~and commission~~] in the same manner as is required of
13 other workers' compensation insurance companies.

14 (b) Section 6.066, Chapter 265, Acts of the 79th
15 Legislature, Regular Session, 2005, which amended former
16 Subsection (e), Section 12, Article 5.76-3, Insurance Code, is
17 repealed.

18 SECTION 3B.053. (a) Section 2054.206, Insurance Code, is
19 amended to conform to Section 6.067, Chapter 265, Acts of the 79th
20 Legislature, Regular Session, 2005, to read as follows:

21 Sec. 2054.206. ADDITIONAL REPORTS. The company shall file
22 with the department [~~and the commission~~] all reports required of
23 other workers' compensation insurance companies.

24 (b) Section 6.067, Chapter 265, Acts of the 79th
25 Legislature, Regular Session, 2005, which amended former
26 Subsection (b), Section 16, Article 5.76-3, Insurance Code, is
27 repealed.

1 SECTION 3B.0531. Section 2054.253(b), Insurance Code, is
2 amended to conform more closely to the source law from which the
3 section was derived to read as follows:

4 (b) The systems may provide for a higher or lower premium
5 payment by an insured based on[+]

6 [1] the company's evaluation of the underwriting
7 characteristics of the individual risk[+] and

8 [2] the appropriate premium to be charged for the
9 policy coverages.

10 SECTION 3B.054. (a) Section 2054.451(b), Insurance Code,
11 is amended to conform to Section 6.064, Chapter 265, Acts of the
12 79th Legislature, Regular Session, 2005, to read as follows:

13 (b) The company shall cooperate with the division of
14 workers' compensation of the department [~~commission~~] to compile and
15 maintain information necessary to detect practices or patterns of
16 conduct that violate this code relating to workers' compensation
17 insurance or that violate Subtitle A, Title 5, Labor Code.

18 (b) Section 2054.452, Insurance Code, is amended to conform
19 to Section 6.064, Chapter 265, Acts of the 79th Legislature,
20 Regular Session, 2005, to read as follows:

21 Sec. 2054.452. INVESTIGATIONS; COORDINATION [~~WITH~~
22 ~~COMMISSION~~]. (a) The company may investigate cases of suspected
23 fraud and violations of this code relating to workers' compensation
24 insurance.

25 (b) The company may:

26 (1) coordinate the company's investigations with those
27 conducted by the division of workers' compensation of the

1 department [~~commission~~] to avoid duplication of efforts; and

2 (2) refer to the division of workers' compensation of
3 the department [~~commission~~] a case that is not otherwise resolved
4 by the company so that the division [~~commission~~] may:

5 (A) perform any further investigation necessary
6 under the circumstances;

7 (B) conduct administrative violation
8 proceedings; and

9 (C) assess and collect penalties and
10 restitution.

11 (c) Section 2054.454, Insurance Code, is amended to conform
12 to Section 6.064, Chapter 265, Acts of the 79th Legislature,
13 Regular Session, 2005, to read as follows:

14 Sec. 2054.454. DEPOSIT AND USE OF PENALTIES COLLECTED BY
15 DIVISION [~~COMMISSION~~]. A penalty collected under Section
16 2054.452(b):

17 (1) must be deposited in the Texas Department of
18 Insurance operating account [~~general revenue fund to the credit of~~
19 ~~the commission~~]; and

20 (2) may be appropriated only to the division of
21 workers' compensation of the department [~~commission~~] to offset the
22 costs of the program under Section 2054.451.

23 (d) Section 6.064, Chapter 265, Acts of the 79th
24 Legislature, Regular Session, 2005, which amended former
25 Subsections (a), (b), and (e), Section 9, Article 5.76-3, Insurance
26 Code, is repealed.

27 SECTION 3B.055. (a) Section 2054.501, Insurance Code, is

1 amended to conform to Section 6.063, Chapter 265, Acts of the 79th
2 Legislature, Regular Session, 2005, to read as follows:

3 Sec. 2054.501. DEFINITION. In this subchapter, "division"
4 means the [~~commission's~~] division of workers' compensation of the
5 department [~~health and safety~~].

6 (b) Section 2054.502, Insurance Code, is amended to conform
7 to Section 6.063, Chapter 265, Acts of the 79th Legislature,
8 Regular Session, 2005, to read as follows:

9 Sec. 2054.502. REQUIREMENTS FOR PREVENTION OF INJURIES.
10 The company may make and enforce requirements for the prevention of
11 injuries to an employee of a policyholder or applicant for
12 insurance under this chapter. On reasonable notice, a policyholder
13 or applicant shall grant representatives of the company[~~, the~~
14 ~~commission,~~] or the department free access to the premises of the
15 policyholder or applicant during regular working hours for purposes
16 of this section.

17 (c) Section 2054.506, 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. 2054.506. SAFETY CONSULTANT REPORT. A safety
21 consultant acting under this subchapter shall file a written report
22 with the division [~~commission~~] and the policyholder specifying any
23 hazardous condition or practice identified in the safety
24 consultation.

25 (d) Section 2054.509, Insurance Code, is amended to conform
26 to Section 6.063, Chapter 265, Acts of the 79th Legislature,
27 Regular Session, 2005, to read as follows:

1 Sec. 2054.509. FOLLOW-UP INSPECTION. (a) Not earlier than
2 the 90th day after or later than the sixth month after the date an
3 accident prevention plan is developed under Section 2054.507, the
4 division shall conduct a follow-up inspection of the policyholder's
5 premises in accordance with rules adopted by the commissioner of
6 workers' compensation [~~commission~~].

7 (b) The division [~~commission~~] may require the participation
8 of the safety consultant who performed the initial consultation and
9 developed the accident prevention plan.

10 (c) If the commissioner of workers' compensation [~~division~~]
11 determines that a policyholder has complied with the terms of the
12 accident prevention plan or has implemented other accepted
13 corrective measures, the commissioner of workers' compensation
14 [~~division~~] shall certify that determination.

15 (d) If the commissioner of workers' compensation [~~division~~]
16 determines that a policyholder has failed or refuses to implement
17 the accident prevention plan or other suitable hazard abatement
18 measures, the policyholder may elect to cancel coverage not later
19 than the 30th day after the date of the determination.

20 (e) Sections 2054.510(a), (c), and (d), Insurance Code, are
21 amended to conform to Section 6.063, Chapter 265, Acts of the 79th
22 Legislature, Regular Session, 2005, to read as follows:

23 (a) If a policyholder described by Section 2054.509(d) does
24 not elect to cancel coverage as provided by that section:

25 (1) the company may cancel the coverage; or

26 (2) the commissioner of workers' compensation
27 [~~commission~~] may impose an administrative penalty on the

1 policyholder.

2 (c) In imposing an administrative penalty, the commissioner
3 of workers' compensation [~~commission~~] may consider any matter that
4 justice may require and shall consider:

5 (1) the seriousness of the violation, including the
6 nature, circumstances, consequences, extent, and gravity of the
7 prohibited act;

8 (2) the history and extent of previous administrative
9 violations;

10 (3) the demonstrated good faith of the violator,
11 including actions taken to rectify the consequences of the
12 prohibited act;

13 (4) any economic benefit resulting from the prohibited
14 act; and

15 (5) the penalty necessary to deter future violations.

16 (d) A penalty collected under this section [~~must be~~]:

17 (1) must be deposited in the general revenue fund [~~to~~
18 ~~the credit of the commission~~]; and [~~or~~]

19 (2) may be appropriated [~~reappropriated~~] to the
20 division [~~commission~~] to offset the costs of implementing and
21 administering this subchapter.

22 (f) Section 2054.512, Insurance Code, is amended to conform
23 to Section 6.063, Chapter 265, Acts of the 79th Legislature,
24 Regular Session, 2005, to read as follows:

25 Sec. 2054.512. FEES FOR SERVICES. The division
26 [~~commission~~] shall:

27 (1) charge a policyholder for the reasonable cost of

1 services provided to the policyholder under Sections 2054.505,
2 2054.506, 2054.507, 2054.509, and 2054.510(a); and

3 (2) set the fees for the services at a
4 cost-reimbursement level, including a reasonable allocation of the
5 division's [~~commission's~~] administrative costs.

6 (g) Section 2054.513, Insurance Code, is amended to conform
7 to Section 6.063, Chapter 265, Acts of the 79th Legislature,
8 Regular Session, 2005, to read as follows:

9 Sec. 2054.513. ENFORCEMENT OF SUBCHAPTER. The [~~compliance~~
10 ~~and practices~~] division [~~of the commission~~] shall enforce
11 compliance with this subchapter through the administrative
12 violation proceedings under Chapter 415, Labor Code.

13 (h) Section 6.063, Chapter 265, Acts of the 79th
14 Legislature, Regular Session, 2005, which amended former
15 Subsections (a), (e), (g), (h), (i), (k), and (l), Section 8,
16 Article 5.76-3, Insurance Code, is repealed.

17 SECTION 3B.056. Section 2054.001(2), Insurance Code, is
18 repealed to conform to Section 7.01, Chapter 265, Acts of the 79th
19 Legislature, Regular Session, 2005.

20 SECTION 3B.057. Section 6.068, Chapter 265, Acts of the
21 79th Legislature, Regular Session, 2005, which amended former
22 Subsections (a) and (c), Section 10, Article 5.76-5, Insurance
23 Code, is repealed.

24 SECTION 3B.058. Section 2151.154, Insurance Code, is
25 amended to conform more closely to the source law from which the
26 section was derived to read as follows:

27 Sec. 2151.154. ASSIGNMENT DISTRIBUTION PLAN. (a) The

1 plan of operation must include a voluntary, competitive limited
2 assignment distribution plan that allows an authorized insurer to
3 contract directly with a servicing carrier [~~insurer~~] to accept
4 assignments to the servicing carrier [~~insurer~~] by the association.

5 (b) A servicing carrier [~~insurer~~] must be authorized to
6 write automobile insurance in this state and must:

7 (1) have written automobile liability insurance in
8 this state for at least five years; or

9 (2) be currently engaged as a servicing carrier
10 [~~insurer~~] for assigned risk automobile business in at least one
11 other state.

12 (c) After notice and hearing, the commissioner may prohibit
13 an insurer from acting as a servicing carrier [~~insurer~~].

14 (d) An authorized insurer and a servicing carrier [~~insurer~~]
15 shall determine through negotiation the terms of a contract
16 described by this section, including the buy-out fee.

17 (e) The governing committee may:

18 (1) adopt reasonable rules for the conduct of business
19 under a contract described by this section; and

20 (2) establish reasonable standards of eligibility for
21 servicing carriers [~~insurers~~].

22 SECTION 3B.059. (a) Section 2154.005(a), Insurance Code,
23 is amended to conform to Section 1, Chapter 217, Acts of the 79th
24 Legislature, Regular Session, 2005, to read as follows:

25 (a) The fund is an account in a depository selected by the
26 board of regents of The Texas A&M University System in the manner
27 provided by Section 51.003, Education Code, for funds subject to

1 the control of institutions of higher education under Section
2 51.002, Education Code [~~the general revenue fund~~].

3 (b) Section 1, Chapter 217, Acts of the 79th Legislature,
4 Regular Session, 2005, which amended former Subsections (a) and
5 (c), Section 5, Article 21.61, Insurance Code, is repealed.

6 SECTION 3B.0591. (a) The following changes are made to
7 Subtitle A, Title 5, Labor Code, and Subtitle E, Title 10, Insurance
8 Code, for organizational purposes:

9 (1) Chapter 406A, Labor Code, is redesignated as
10 Chapter 2055, Subtitle E, Title 10, Insurance Code; and

11 (2) Sections 406A.001, 406A.002, 406A.003, 406A.004,
12 406A.005, 406A.006, 406A.007, and 406A.008 in the redesignated
13 chapter are redesignated as Sections 2055.001, 2055.002, 2055.003,
14 2055.004, 2055.005, 2055.006, 2055.007, and 2055.008, Insurance
15 Code, respectively.

16 (b) Section 406A.001, Labor Code, redesignated as Section
17 2055.001, Insurance Code, by Subsection (a)(2) of this section, is
18 amended to conform to that redesignation to read as follows:

19 Sec. 2055.001 [~~406A.001~~]. DEFINITION [~~DEFINITIONS~~]. In
20 this chapter, "business"

21 [~~(1) "Business~~] entity" means a business enterprise
22 owned by a single person or a corporation, organization, business
23 trust, trust, partnership, joint venture, association, or other
24 business entity.

25 [~~(2) "Commissioner" means the commissioner of~~
26 ~~insurance.~~

27 [~~(3) "Department" means the Texas Department of~~

1 ~~Insurance.~~]

2 (c) Section 406A.008, Labor Code, redesignated as Section
3 2055.008, Insurance Code, by Subsection (a)(2) of this section, is
4 amended to conform to that redesignation to read as follows:

5 Sec. 2055.008 [~~406A.008~~]. APPLICABILITY OF OTHER LAW. (a)
6 A group established under this chapter is entitled to any deviation
7 applicable under Section 2052.004, 2053.051, or 2053.052(a) or
8 (b) [~~Insurance Code~~].

9 (b) A member of a group is not subject to the discounts and
10 surcharges established under Subchapter F, Chapter 2053[~~Insurance Code~~].

12 (d) Section 36.002, Insurance Code, is amended to conform to
13 the redesignation of Chapter 406A, Labor Code, as Chapter 2055,
14 Insurance Code, by Subsection (a)(1) of this section to read as
15 follows:

16 Sec. 36.002. ADDITIONAL RULEMAKING AUTHORITY. The
17 commissioner may adopt reasonable rules that are:

18 (1) necessary to effect the purposes of a provision
19 of:

- 20 (A) Subchapter B, Chapter 5;
- 21 (B) Subchapter C, Chapter 1806;
- 22 (C) Subchapter A, Chapter 2301;
- 23 (D) Chapter 251, as that chapter relates to
24 casualty insurance and fidelity, guaranty, and surety bond
25 insurance;
- 26 (E) Chapter 253;
- 27 (F) Chapter 2251 or 2252; or

1 (G) Subtitle B, Title 10; or
2 (2) appropriate to accomplish the purposes of a
3 provision of:

4 (A) Section 37.051(a), 403.002, 492.051(b) or
5 (c), 501.159, 941.003(b)(3) or (c), or 942.003(b)(3) or (c);

6 (B) Subchapter H, Chapter 544;

7 (C) Chapter 251, as that chapter relates to:

8 (i) automobile insurance;

9 (ii) casualty insurance and fidelity,
10 guaranty, and surety bond insurance;

11 (iii) fire insurance and allied lines;

12 (iv) workers' compensation insurance; or

13 (v) aircraft insurance;

14 (D) Chapter 5, 252, 253, 254, 255, 256, 426, 493,
15 494, 1804, 1805, 1806, or 2171;

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

17 (F) Section 417.008, Government Code; or

18 (G) [~~Chapter 406A, Labor Code, or~~

19 [~~H~~] Chapter 2154, Occupations Code.

20 (e) Section 1805.001, Insurance Code, is amended to conform
21 to the redesignation of Chapter 406A, Labor Code, as Chapter 2055,
22 Insurance Code, by Subsection (a)(1) of this section to read as
23 follows:

24 Sec. 1805.001. APPLICABILITY OF CHAPTER. This chapter
25 applies to the kinds of insurance and insurers subject to:

26 (1) Section 403.002;

27 (2) Section 941.003 with respect to the application of

1 a law described by Section 941.003(b)(3) or (c);

2 (3) Section 942.003 with respect to the application of
3 a law described by Section 942.003(b)(3) or (c);

4 (4) Subchapter A, B, C, or D, Chapter 5;

5 (5) Subchapter H, Chapter 544;

6 (6) Subchapter A, Chapter 2301;

7 (7) Chapter 252, 253, 254, 255, 426, 1806, 1807, 2001,
8 2002, 2003, 2004, 2005, 2006, 2051, 2052, 2053, 2055, 2171, 2251, or
9 2252;

10 (8) Subtitle B or C, Title 10; or

11 (9) [~~Chapter 406A, Labor Code, or~~

12 [~~10~~] Chapter 2154, Occupations Code.

13 (f) Section 2051.002, Insurance Code, is amended to conform
14 to the redesignation of Chapter 406A, Labor Code, as Chapter 2055,
15 Insurance Code, by Subsection (a)(1) of this section to read as
16 follows:

17 Sec. 2051.002. CONSTRUCTION OF CERTAIN LAWS. The following
18 shall be construed and applied independently of any other law that
19 relates to insurance rates and forms or prescribes the duties of the
20 commissioner or the department:

21 (1) this chapter;

22 (2) Subchapter D, Chapter 5;

23 (3) Chapter 251, as that chapter relates to workers'
24 compensation insurance; and

25 (4) Chapters 255, 426, 2052, [~~and~~] 2053, and 2055[~~+~~

26 ~~and~~

27 [~~5~~] ~~Chapter 406A, Labor Code~~].

1 SECTION 3B.060. (a) Subchapter C, Chapter 2203, Insurance
2 Code, is amended to conform to Section 1, Chapter 246, Acts of the
3 79th Legislature, Regular Session, 2005, and Section 2, Chapter
4 1136, Acts of the 79th Legislature, Regular Session, 2005, by
5 adding Section 2203.1021 to read as follows:

6 Sec. 2203.1021. VOLUNTEER HEALTH CARE PROVIDERS. (a) In
7 this section:

8 (1) "Charitable organization" has the meaning
9 assigned by Section 84.003, Civil Practice and Remedies Code.

10 (2) "Volunteer health care provider" has the meaning
11 assigned by Section 84.003, Civil Practice and Remedies Code.

12 (b) The association shall make available medical liability
13 insurance or appropriate health care liability insurance covering a
14 volunteer health care provider for the legal liability of the
15 person against any loss, damage, or expense incident to a claim
16 arising out of the death or injury of any person as the result of
17 negligence in rendering or the failure to render professional
18 service while acting in the course and scope of the person's duties
19 as a volunteer health care provider as described by Chapter 84,
20 Civil Practice and Remedies Code.

21 (c) A volunteer health care provider who is serving as a
22 direct service volunteer of a charitable organization is eligible
23 to obtain from the association the liability insurance made
24 available under this section. A volunteer health care provider who
25 obtains coverage under this section is subject to Section 2203.302
26 and the other provisions of this chapter in the same manner as
27 physicians who are eligible to obtain medical liability insurance

1 from the association.

2 (d) This section does not affect the liability of a
3 volunteer health care provider who is serving as a direct service
4 volunteer of a charitable organization. Section 84.004(c), Civil
5 Practice and Remedies Code, applies to the volunteer health care
6 provider without regard to whether the volunteer health care
7 provider obtains liability insurance under this section.

8 (b) Section 1, Chapter 246, Acts of the 79th Legislature,
9 Regular Session, 2005, and Section 2, Chapter 1136, Acts of the 79th
10 Legislature, Regular Session, 2005, which added Section 3C to
11 former Article 21.49-3, Insurance Code, are repealed.

12 SECTION 3B.061. (a) Sections 2210.004(a) and (g),
13 Insurance Code, are amended to conform to Section 1, Chapter 1153,
14 Acts of the 79th Legislature, Regular Session, 2005, to read as
15 follows:

16 (a) For purposes of this chapter and subject to this
17 section, "insurable property" means immovable property at a fixed
18 location in a catastrophe area or corporeal movable property
19 located in that immovable property, as designated in the plan of
20 operation, that is determined by the association according to the
21 criteria specified in the plan of operation to be in an insurable
22 condition against windstorm and hail or fire and explosion, as
23 appropriate, as determined by normal underwriting standards. The
24 term includes property described by Section 2210.209.

25 (g) For purposes of this chapter, a residential structure is
26 insurable property if:

27 (1) the residential structure is not:

1 (A) a condominium, apartment, duplex, or other
2 multifamily residence; or

3 (B) a hotel or resort facility;

4 (2) the residential structure is located within an
5 area designated as a unit under the Coastal Barrier Resources Act
6 (Pub. L. No. 97-348); and

7 (3) a building permit or plat for the residential
8 structure was filed with the municipality, the county, or the
9 United States Army Corps of Engineers before June 11, 2003 [~~January~~
10 ~~1, 2004~~].

11 (b) Section 1, Chapter 1153, Acts of the 79th Legislature,
12 Regular Session, 2005, which amended former Subsection (f), Section
13 3, Article 21.49, Insurance Code, is repealed.

14 SECTION 3B.062. (a) Subchapter E, Chapter 2210, Insurance
15 Code, is amended to conform to Section 2, Chapter 1153, Acts of the
16 79th Legislature, Regular Session, 2005, by adding Section 2210.209
17 to read as follows:

18 Sec. 2210.209. WINDSTORM AND HAIL INSURANCE: COVERAGE FOR
19 CERTAIN PROPERTY LOCATED OVER WATER. (a) A windstorm and hail
20 insurance policy issued by the association may include coverage
21 for:

22 (1) a building or other structure located in the
23 seacoast territory that is built wholly or partially over water;
24 and

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

27 (b) The association may impose appropriate limits of

1 coverage and deductibles for coverage described by Subsection (a).

2 (c) The board of directors of the association shall submit
3 any proposed changes to the plan of operation necessary to
4 implement Subsections (a) and (b) to the commissioner in the manner
5 provided by Section 2210.153.

6 (d) The commissioner shall adopt rules as necessary to
7 implement this section, including any rules necessary to implement
8 changes in the plan of operation proposed under Subsection (c).

9 (b) Section 2, Chapter 1153, Acts of the 79th Legislature,
10 Regular Session, 2005, which added Section 3A to former Article
11 21.49, Insurance Code, is repealed.

12 SECTION 3B.063. (a) Section 2210.006(b), Insurance Code,
13 is amended to conform to Section 1, Chapter 1251, Acts of the 79th
14 Legislature, Regular Session, 2005, to read as follows:

15 (b) This chapter does not apply to:

16 (1) a farm mutual insurance company operating under
17 Chapter 911;

18 (2) a nonaffiliated county mutual fire insurance
19 company described by Section 912.310 that is writing exclusively
20 industrial fire insurance policies as described by Section
21 912.310(a)(2); or

22 (3) a mutual insurance company or a statewide mutual
23 assessment company engaged in business under Chapter 12 or 13,
24 Title 78, Revised Statutes, respectively, before those chapters'
25 repeal by Section 18, Chapter 40, Acts of the 41st Legislature, 1st
26 Called Session, 1929, as amended by Section 1, Chapter 60, General
27 Laws, Acts of the 41st Legislature, 2nd Called Session, 1929, that

1 retains the rights and privileges under the repealed law to the
2 extent provided by those sections.

3 (b) Section 1, Chapter 1251, Acts of the 79th Legislature,
4 Regular Session, 2005, which amended former Subsection (k), Section
5 3, Article 21.49, Insurance Code, is repealed.

6 SECTION 3B.0631. Section 2210.359(a), Insurance Code, is
7 amended to conform more closely to the source law from which it was
8 derived to read as follows:

9 (a) Except as otherwise provided by this subsection, a [A]
10 rate approved by the commissioner under this subchapter may not
11 reflect an average rate change that is more than 10 percent higher
12 or lower than the rate for commercial windstorm and hail insurance
13 or 10 percent higher or lower than the rate for noncommercial
14 windstorm and hail insurance in effect on the date the filing is
15 made. The rate may not reflect a rate change for an individual
16 rating class that is 15 percent higher or lower than the rate for
17 that individual rating class in effect on the date the filing is
18 made. This subsection does not apply to a rate filed under Sections
19 2210.351(a)-(d).

20 SECTION 3B.064. Subchapter I, Chapter 2210, Insurance Code,
21 is repealed to conform to Section 1, Chapter 222, Acts of the 79th
22 Legislature, Regular Session, 2005.

23 SECTION 3B.065. (a) Section 2211.051, Insurance Code, is
24 amended to conform to Section 1, Chapter 1082, Acts of the 79th
25 Legislature, Regular Session, 2005, to read as follows:

26 Sec. 2211.051. ESTABLISHMENT OF FAIR PLAN. The
27 commissioner may establish a Fair Access to Insurance Requirements

1 Plan to deliver residential property insurance to residents of this
2 state in underserved areas if the commissioner determines, after a
3 public hearing, that:

4 (1) in all or any part of the state, residential
5 property insurance is not reasonably available in the voluntary
6 market to a substantial number of insurable risks; or ~~[and]~~

7 (2) at least 25 percent of the applicants to the
8 residential property market assistance program who are qualified
9 under that program's plan of operation have not been placed with an
10 insurer in the preceding six months.

11 (b) Section 2211.052, Insurance Code, is amended to conform
12 to Section 2, Chapter 1082, Acts of the 79th Legislature, Regular
13 Session, 2005, by amending Subsections (b) and (d) and adding
14 Subsection (e) to read as follows:

15 (b) The governing committee is composed of 11 members
16 appointed by the commissioner as follows:

17 (1) five members who represent the interests of
18 insurers;

19 (2) four public members who reside in this state; and

20 (3) two members who are general property and casualty
21 agents.

22 (d) Each member of the governing committee who represents
23 the interests of insurers must be a full-time employee of an insurer
24 that is a member of the association.

25 (e) The commissioner may remove a member of the governing
26 committee without cause and may replace the member in accordance
27 with Subsection (b).

1 (c) Subchapter B, Chapter 2211, Insurance Code, is amended
2 to conform to Section 2, Chapter 1082, Acts of the 79th Legislature,
3 Regular Session, 2005, by adding Section 2211.0521 to read as
4 follows:

5 Sec. 2211.0521. MEETINGS OF GOVERNING BODY. (a)
6 Notwithstanding Chapter 551, Government Code, or any other law,
7 members of the governing committee may meet by telephone conference
8 call, video conference, or other similar telecommunication method.
9 The governing committee may use telephone conference call, video
10 conference, or other similar telecommunication method for purposes
11 of establishing a quorum or voting or for any other meeting purpose
12 in accordance with this subsection and Subsection (b). This
13 subsection applies without regard to the subject matter discussed
14 or considered by the members of the governing committee at the
15 meeting.

16 (b) A meeting held by telephone conference call, video
17 conference, or other similar telecommunication method:

18 (1) is subject to the notice requirements applicable
19 to other meetings of the governing committee;

20 (2) may not be held unless notice of the meeting
21 specifies the location of the meeting at which at least one member
22 of the governing committee is physically present;

23 (3) must be audible to the public at the location
24 specified in the notice under Subdivision (2); and

25 (4) must provide two-way audio communication between
26 all members of the governing committee attending the meeting during
27 the entire meeting, and if the two-way audio communication link

1 with members attending the meeting is disrupted so that a quorum of
2 the governing committee is no longer participating in the meeting,
3 the meeting may not continue until the two-way audio communication
4 link is reestablished.

5 (d) Sections 2211.101(b) and (c), Insurance Code, are
6 amended to conform to Sections 1, 2, and 3, Chapter 1082, Acts of
7 the 79th Legislature, Regular Session, 2005, to read as follows:

8 (b) Except as provided by this subsection, each ~~[Each]~~
9 insurer, as a condition of the insurer's authority to engage in the
10 business of residential property insurance in this state, shall
11 participate in the association in accordance with this chapter,
12 including participating in the association's assessments
13 ~~[writings, expenses, and losses]~~ in the proportion that the
14 insurer's net direct premiums written in this state during the
15 preceding calendar year bear to the aggregate net direct premiums
16 written in this state by all participating insurers. The Texas
17 Windstorm Insurance Association established by Chapter 2210 may not
18 participate in the association for any purpose.

19 (c) An insurer's participation under Subsection (b) in the
20 association's assessments ~~[writings, expenses, and losses]~~ must be
21 determined in accordance with the residential property statistical
22 plan adopted by the commissioner.

23 (e) The following are repealed:

24 (1) Section 1, Chapter 1082, Acts of the 79th
25 Legislature, Regular Session, 2005, which amended former
26 Subsections (a) and (b), Section 1, Article 21.49A, Insurance Code;

27 (2) Section 2, Chapter 1082, Acts of the 79th

1 Legislature, Regular Session, 2005, which amended former Section 3,
2 Article 21.49A, Insurance Code, by amending Subsections (b), (d),
3 and (e) and adding Subsections (f) and (g); and

4 (3) Section 3, Chapter 1082, Acts of the 79th
5 Legislature, Regular Session, 2005, which amended former
6 Subsection (d), Section 5, Article 21.49A, Insurance Code.

7 SECTION 3B.066. (a) Section 2211.104, Insurance Code, is
8 amended to conform to Section 4, Chapter 1082, Acts of the 79th
9 Legislature, Regular Session, 2005, by amending Subsections (b),
10 (c), and (d) and adding Subsection (e) to read as follows:

11 (b) As reimbursement for assessments paid under this
12 section or service fees paid under Section 2211.209, each [~~If the~~
13 ~~association assesses participating insurers under this section,~~
14 ~~each~~] insurer may charge a premium surcharge on every property
15 insurance policy insuring property in this state that the insurer
16 issues, the effective date of which is within the three-year period
17 beginning on the 90th day after the date of the assessment or the
18 90th day after the date the service fee under Section 2211.209 is
19 paid, as applicable.

20 (c) The insurer shall compute the amount of the surcharge
21 under Subsection (b) as a uniform percentage of the premium on each
22 policy described by Subsection (b). The percentage must be equal to
23 one-third of the ratio of the amount of the participating insurer's
24 assessment or service fee payment to the amount of the insurer's
25 direct earned premiums, as reported to the department in the
26 insurer's financial statement for the calendar year preceding the
27 year in which the assessment or service fee payment is made so that,

1 over the three-year period, the aggregate of all surcharges by the
2 insurer under this section is at least equal to ~~[equals]~~ the amount
3 of the assessment or service fee payment.

4 (d) The amount of any assessment paid and surcharged under
5 this section may be carried by the insurer as an admitted asset of
6 the insurer for all purposes, including exhibition in annual
7 statements under Section 862.001, until collected ~~[The minimum~~
8 ~~surcharge on a policy may be \$1. A surcharge may be rounded to the~~
9 ~~nearest dollar]~~.

10 (e) The commissioner shall adopt rules and procedures as
11 necessary to implement this section.

12 (b) Section 4, Chapter 1082, Acts of the 79th Legislature,
13 Regular Session, 2005, which amended former Section 11, Article
14 21.49A, Insurance Code, is repealed.

15 SECTION 3B.067. (a) Subchapter B, Chapter 2211, Insurance
16 Code, is amended to conform to Section 5, Chapter 1082, Acts of the
17 79th Legislature, Regular Session, 2005, by adding Section 2211.059
18 to read as follows:

19 Sec. 2211.059. ASSETS OF ASSOCIATION. On dissolution of
20 the association, all assets of the association shall be deposited
21 in the general revenue fund.

22 (b) Section 5, Chapter 1082, Acts of the 79th Legislature,
23 Regular Session, 2005, which added Section 16 to former Article
24 21.49A, Insurance Code, is repealed.

25 SECTION 3B.068. (a) Subchapter D, Chapter 2211, Insurance
26 Code, is amended to conform to Section 3, Chapter 1153, Acts of the
27 79th Legislature, Regular Session, 2005, by adding Section 2211.157

1 to read as follows:

2 Sec. 2211.157. COVERAGE FOR CERTAIN WINDSTORM AND HAIL
3 DAMAGE; COVERAGE FOR CERTAIN PROPERTY LOCATED OVER WATER. (a) A
4 policy issued by the association may include coverage against loss
5 or damage by windstorm or hail for:

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

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

10 (b) The association may impose appropriate limits of
11 coverage and deductibles for coverage described by Subsection (a).

12 (c) The governing committee of the association shall submit
13 any proposed changes to the plan of operation necessary to
14 implement Subsections (a) and (b) to the commissioner for the
15 approval of the commissioner in the manner provided by Section
16 2211.053.

17 (d) The commissioner shall adopt rules as necessary to
18 implement this section, including any rules necessary to implement
19 changes in the plan of operation proposed under Subsections (a) and
20 (b).

21 (b) Section 3, Chapter 1153, Acts of the 79th Legislature,
22 Regular Session, 2005, which added Section 5A to former Article
23 21.49A, Insurance Code, is repealed.

24 SECTION 3B.069. (a) Section 2212.001, Insurance Code, is
25 amended to conform to Section 2, Chapter 184, Acts of the 79th
26 Legislature, Regular Session, 2005; Section 2, Chapter 246, Acts of
27 the 79th Legislature, Regular Session, 2005; and Section 3, Chapter

1 1136, Acts of the 79th Legislature, Regular Session, 2005, to read
2 as follows:

3 Sec. 2212.001. DEFINITIONS. In this chapter:

4 (1) "Charitable organization" has the meaning
5 assigned by Section 84.003, Civil Practice and Remedies Code.

6 (2) "Dentist" means a person licensed to practice
7 dentistry in this state.

8 (3) [~~(2)~~] "Health care liability claim" means a cause
9 of action against a physician or dentist for treatment, lack of
10 treatment, or other claimed departure from accepted standards of
11 health care or safety that proximately results in injury to or death
12 of the patient, whether the patient's claim or cause of action
13 sounds in tort or contract.

14 (4) [~~(3)~~] "Physician" means a person licensed to
15 practice medicine in this state.

16 (5) [~~(4)~~] "Trust" means a self-insurance trust
17 organized and operated under this chapter.

18 (6) "Volunteer health care provider" has the meaning
19 assigned by Section 84.003, Civil Practice and Remedies Code.

20 (b) Section 2, Chapter 184, Acts of the 79th Legislature,
21 Regular Session, 2005; Section 2, Chapter 246, Acts of the 79th
22 Legislature, Regular Session, 2005; and Section 3, Chapter 1136,
23 Acts of the 79th Legislature, Regular Session, 2005, all of which
24 added Subdivisions (4) and (5) to former Subsection (a), Article
25 21.49-4, Insurance Code, are repealed.

26 SECTION 3B.070. (a) Subchapter C, Chapter 2212, Insurance
27 Code, is amended to conform to Section 3, Chapter 184, Acts of the

1 79th Legislature, Regular Session, 2005; Section 3, Chapter 246,
2 Acts of the 79th Legislature, Regular Session, 2005; and Section 4,
3 Chapter 1136, Acts of the 79th Legislature, Regular Session, 2005,
4 by adding Section 2212.102 to read as follows:

5 Sec. 2212.102. COVERAGE FOR VOLUNTEER HEALTH CARE
6 PROVIDERS. (a) The trust, in accordance with Section 2212.054, may
7 make available professional liability insurance covering a
8 volunteer health care provider for an act or omission resulting in
9 death, damage, or injury to a patient while the person is acting in
10 the course and scope of the person's duties as a volunteer health
11 care provider as described by Chapter 84, Civil Practice and
12 Remedies Code.

13 (b) 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 (c) The trust 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 physician or dentist.

23 (b) Section 3, Chapter 184, Acts of the 79th Legislature,
24 Regular Session, 2005; Section 3, Chapter 246, Acts of the 79th
25 Legislature, Regular Session, 2005; and Section 4, Chapter 1136,
26 Acts of the 79th Legislature, Regular Session, 2005, all of which
27 added Subsection (c-1) to former Article 21.49-4, Insurance Code,

1 are repealed.

2 SECTION 3B.071. (a) Section 2251.003(b), Insurance Code,
3 is amended to conform to Section 1, Chapter 70, Acts of the 79th
4 Legislature, Regular Session, 2005; Section 1, Chapter 71, Acts of
5 the 79th Legislature, Regular Session, 2005; and Section 4, Chapter
6 102, Acts of the 79th Legislature, Regular Session, 2005, to read as
7 follows:

8 (b) This subchapter and Subchapters B, C, D, and E apply to
9 all lines of the following kinds of insurance written under an
10 insurance policy or contract issued by an insurer authorized to
11 engage in the business of insurance in this state:

12 (1) general liability insurance;

13 (2) residential and commercial property insurance,
14 including farm and ranch insurance and farm and ranch owners
15 insurance;

16 (3) personal and commercial casualty insurance,
17 except as provided by Section 2251.004;

18 (4) medical professional liability insurance;

19 (5) fidelity, guaranty, and surety bonds other than
20 criminal court appearance bonds;

21 (6) personal umbrella insurance;

22 (7) personal liability insurance;

23 (8) guaranteed auto protection (GAP) insurance;

24 (9) involuntary unemployment insurance;

25 (10) financial guaranty insurance;

26 (11) inland marine insurance;

27 (12) rain insurance;

- 1 (13) hail insurance on farm crops; [~~and~~]
2 (14) personal and commercial automobile insurance;
3 (15) multi-peril insurance; and
4 (16) identity theft insurance issued under Chapter
5 706.

6 (b) Section 2301.003(b), Insurance Code, is amended to
7 conform to Section 1, Chapter 70, Acts of the 79th Legislature,
8 Regular Session, 2005; Section 1, Chapter 71, Acts of the 79th
9 Legislature, Regular Session, 2005; and Section 4, Chapter 102,
10 Acts of the 79th Legislature, Regular Session, 2005, to read as
11 follows:

12 (b) This subchapter applies to all lines of the following
13 kinds of insurance written under an insurance policy or contract
14 issued by an insurer authorized to engage in the business of
15 insurance in this state:

- 16 (1) general liability insurance;
17 (2) residential and commercial property insurance,
18 including farm and ranch insurance and farm and ranch owners
19 insurance;
20 (3) personal and commercial casualty insurance,
21 except as provided by Section 2301.005;
22 (4) medical professional liability insurance;
23 (5) fidelity, guaranty, and surety bonds other than
24 criminal court appearance bonds;
25 (6) personal umbrella insurance;
26 (7) personal liability insurance;
27 (8) guaranteed auto protection (GAP) insurance;

- 1 (9) involuntary unemployment insurance;
- 2 (10) financial guaranty insurance;
- 3 (11) inland marine insurance;
- 4 (12) rain insurance;
- 5 (13) hail insurance on farm crops; ~~and~~
- 6 (14) personal and commercial automobile insurance;
- 7 (15) multi-peril insurance; and
- 8 (16) identity theft insurance issued under Chapter
- 9 706.

10 (c) Section 1, Chapter 70, Acts of the 79th Legislature,
11 Regular Session, 2005; Section 1, Chapter 71, Acts of the 79th
12 Legislature, Regular Session, 2005; and Section 4, Chapter 102,
13 Acts of the 79th Legislature, Regular Session, 2005, all of which
14 amended former Subsection (a), Section 2, Article 5.13-2, Insurance
15 Code, are repealed.

16 SECTION 3B.072. (a) Subchapter E, Chapter 2251, Insurance
17 Code, is amended by adding Section 2251.205 to conform to Section 1,
18 Chapter 1118, Acts of the 79th Legislature, Regular Session, 2005,
19 to read as follows:

20 Sec. 2251.205. APPLICATION OF FILING REQUIREMENTS TO OTHER
21 INSURERS. An insurer is subject to the filing requirements
22 determined by the commissioner by rule under Section 2251.204 if:

23 (1) the insurer, along with the insurer's affiliated
24 companies or group, issues personal automobile liability insurance
25 policies only below 101 percent of the minimum limits required by
26 Chapter 601, Transportation Code; and

27 (2) the insurer, along with the insurer's affiliated

1 companies or group, has a market share of less than 3.5 percent of
2 the personal automobile insurance market in this state.

3 (b) Section 1, Chapter 1118, Acts of the 79th Legislature,
4 Regular Session, 2005, which added Subsection (h) to former Section
5 13, Article 5.13-2, Insurance Code, is repealed.

6 SECTION 3B.073. (a) Section 2253.001, Insurance Code, is
7 amended to conform to Section 2, Chapter 291, Acts of the 79th
8 Legislature, Regular Session, 2005, to read as follows:

9 Sec. 2253.001. RATING TERRITORIES. (a) Notwithstanding
10 any other provision of this code, an insurer, in writing
11 residential property or personal automobile insurance, may use
12 rating territories that subdivide a county only if:

- 13 (1) the county is subdivided; and
14 (2) the rate for any subdivision in the county is not
15 greater than 15 percent higher than the rate used in any other
16 subdivision in the county by that insurer.

17 (b) The [~~For residential property insurance or personal~~
18 ~~automobile insurance, the~~] commissioner by rule may allow a greater
19 rate difference than the rate difference specified by Subsection
20 (a).

21 (b) Section 2, Chapter 291, Acts of the 79th Legislature,
22 Regular Session, 2005, which amended former Article 5.171,
23 Insurance Code, is repealed.

24 SECTION 3B.074. Section 4151.206(a), Insurance Code, is
25 amended to conform more closely to the source law from which the
26 section was derived to read as follows:

27 (a) The commissioner shall collect and an applicant or

1 administrator shall pay to the commissioner fees in an amount to be
2 determined by the commissioner as follows:

3 (1) a filing fee not to exceed \$1,000 for processing an
4 original application for a certificate of authority for an
5 administrator;

6 (2) a fee not to exceed \$500 for an examination under
7 Section 4151.201 [~~4201.201~~]; and

8 (3) a filing fee not to exceed \$200 for an annual
9 report.

10 SECTION 3B.075. (a) Sections 4201.054(a) and (d),
11 Insurance Code, are amended to conform to Section 6.072, Chapter
12 265, Acts of the 79th Legislature, Regular Session, 2005, to read as
13 follows:

14 (a) Except as provided by this section, this chapter applies
15 to utilization review of a health care service provided to a person
16 eligible for workers' compensation medical benefits under Title 5,
17 Labor Code. The commissioner of workers' compensation shall
18 regulate as provided by this chapter a person who performs
19 utilization review of a medical benefit provided under Title 5
20 [~~Chapter 408~~], Labor Code.

21 (d) The commissioner of workers' compensation [~~and the~~
22 ~~Texas Workers' Compensation Commission~~] may adopt rules [~~and enter~~
23 ~~into memoranda of understanding~~] as necessary to implement this
24 section.

25 (b) Section 4201.054(b), Insurance Code, is repealed to
26 conform to Section 6.072, Chapter 265, Acts of the 79th
27 Legislature, Regular Session, 2005.

1 (c) Section 6.072, Chapter 265, Acts of the 79th
2 Legislature, Regular Session, 2005, which amended former
3 Subsection (c), Section 14, Article 21.58A, Insurance Code, is
4 repealed.

5 SECTION 3B.076. (a) Section 4201.207(b), Insurance Code,
6 is amended to conform to Section 6.071, Chapter 265, Acts of the
7 79th Legislature, Regular Session, 2005, to read as follows:

8 (b) A health care provider's charges for providing medical
9 information to a utilization review agent may not:

10 (1) exceed the cost of copying records regarding a
11 workers' compensation claim as set by rules adopted by the
12 commissioner of workers' compensation [~~Texas Workers' Compensation~~
13 ~~Commission~~]; or

14 (2) include any costs otherwise recouped as part of
15 the charges for health care.

16 (b) Section 6.071, Chapter 265, Acts of the 79th
17 Legislature, Regular Session, 2005, which amended former
18 Subsection (1), Section 4, Article 21.58A, Insurance Code, is
19 repealed.

20 SECTION 3B.077. This article takes effect September 1, 2007.