

By: Hegar

S.B. No. 1007

Substitute the following for S.B. No. 1007:

By: Isett

C.S.S.B. No. 1007

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to the continuation and operation of the Texas Department  
3 of Insurance and the operation of certain insurance programs;  
4 imposing administrative penalties.

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

6 ARTICLE 1. GENERAL PROVISIONS

7 SECTION 1.001. Section 31.002, Insurance Code, is amended  
8 to read as follows:

9 Sec. 31.002. DUTIES OF DEPARTMENT. In addition to the other  
10 duties required of the Texas Department of Insurance, the  
11 department shall:

- 12 (1) regulate the business of insurance in this state;
- 13 (2) administer the workers' compensation system of  
14 this state as provided by Title 5, Labor Code; ~~and~~
- 15 (3) ensure that this code and other laws regarding  
16 insurance and insurance companies are executed;
- 17 (4) protect and ensure the fair treatment of  
18 consumers; and
- 19 (5) ensure fair competition in the insurance industry  
20 in order to foster a competitive market.

21 SECTION 1.002. Section 31.004(a), Insurance Code, is  
22 amended to read as follows:

23 (a) The Texas Department of Insurance is subject to Chapter  
24 325, Government Code (Texas Sunset Act). Unless continued in

1 existence as provided by that chapter, the department is abolished  
2 September 1, 2021 [~~2009~~].

3 SECTION 1.003. Section 33.004, Insurance Code, is amended  
4 to read as follows:

5 Sec. 33.004. TRADE ASSOCIATIONS. (a) In this section,  
6 "Texas trade association" means a cooperative and voluntarily  
7 joined statewide association of business or professional  
8 competitors in this state designed to assist its members and its  
9 industry or profession in dealing with mutual business or  
10 professional problems and in promoting their common interest.

11 (b) A person may not be the commissioner and may not be a  
12 department employee employed in a "bona fide executive,  
13 administrative, or professional capacity," as that phrase is used  
14 for purposes of establishing an exemption to the overtime  
15 provisions of the federal Fair Labor Standards Act of 1938 (29  
16 U.S.C. Section 201 et seq.), if:

17 (1) the person is an officer, employee, or paid  
18 consultant of a Texas trade association in the field of insurance;  
19 or

20 (2) the person's spouse is an officer, manager, or paid  
21 consultant of a Texas trade association in the field of insurance.

22 (c) A person may not be the commissioner or act as the  
23 general counsel to the commissioner or the department if the person  
24 is required to register as a lobbyist under Chapter 305, Government  
25 Code, because of the person's activities for compensation on behalf  
26 of a profession related to the operation of the department [~~A person~~  
27 ~~who is an officer, employee, or paid consultant of a trade~~

1 ~~association in the field of insurance may not be:~~

2 ~~[(1) the commissioner, or~~

3 ~~[(2) an employee of the department who is exempt from~~  
4 ~~the state's position classification plan or is compensated at or~~  
5 ~~above the amount prescribed by the General Appropriations Act for~~  
6 ~~step 1, salary group A17, of the position classification salary~~  
7 ~~schedule].~~

8 ~~[(b) A person who is the spouse of an officer, manager, or~~  
9 ~~paid consultant of a trade association in the field of insurance may~~  
10 ~~not be:~~

11 ~~[(1) the commissioner, or~~

12 ~~[(2) an employee of the department who is exempt from~~  
13 ~~the state's position classification plan or is compensated at or~~  
14 ~~above the amount prescribed by the General Appropriations Act for~~  
15 ~~step 1, salary group A17, of the position classification salary~~  
16 ~~schedule.~~

17 ~~[(c) In this section, "trade association" means a~~  
18 ~~nonprofit, cooperative, and voluntarily joined association of~~  
19 ~~business or professional competitors designed to assist its members~~  
20 ~~and its industry or profession in dealing with mutual business or~~  
21 ~~professional problems and in promoting their common interest.]~~

22 SECTION 1.004. Section 521.003, Insurance Code, is amended  
23 to read as follows:

24 Sec. 521.003. COMPLAINTS [~~NOTIFICATION OF COMPLAINT~~  
25 ~~STATUS~~]. (a) The department shall maintain a system to promptly  
26 and efficiently act on complaints filed with the department. The  
27 department shall maintain information about parties to the

1 complaint, the subject matter of the complaint, a summary of the  
2 results of the review or investigation of the complaint, and its  
3 disposition.

4 (b) The department shall make information available  
5 describing its procedures for complaint investigation and  
6 resolution.

7 (c) The department shall periodically notify the complaint  
8 parties of the status of the complaint until final disposition. [~~If~~  
9 ~~a written complaint is filed with the department, the department,~~  
10 ~~at least quarterly and until final disposition of the complaint,~~  
11 ~~shall notify each party to the complaint of the complaint's status~~  
12 ~~unless the notice would jeopardize an undercover investigation.]~~

13 SECTION 1.005. Subchapter B, Chapter 36, Insurance Code, is  
14 amended by adding Sections 36.110 and 36.111 to read as follows:

15 Sec. 36.110. USE OF TECHNOLOGY. The commissioner shall  
16 implement a policy requiring the department to use appropriate  
17 technological solutions to improve the department's ability to  
18 perform its functions. The policy must ensure that the public is  
19 able to interact with the department on the Internet.

20 Sec. 36.111. NEGOTIATED RULEMAKING AND ALTERNATIVE DISPUTE  
21 RESOLUTION POLICY. (a) The commissioner shall develop and  
22 implement a policy to encourage the use of:

23 (1) negotiated rulemaking procedures under Chapter  
24 2008, Government Code, for the adoption of department rules; and

25 (2) appropriate alternative dispute resolution  
26 procedures under Chapter 2009, Government Code, to assist in the  
27 resolution of internal and external disputes under the department's

1 jurisdiction.

2 (b) The department's procedures relating to alternative  
3 dispute resolution must conform, to the extent possible, to any  
4 model guidelines issued by the State Office of Administrative  
5 Hearings for the use of alternative dispute resolution by state  
6 agencies.

7 (c) The commissioner shall designate a trained person to:

8 (1) coordinate the implementation of the policy  
9 adopted under Subsection (a);

10 (2) serve as a resource for any training needed to  
11 implement the procedures for negotiated rulemaking or alternative  
12 dispute resolution; and

13 (3) collect data concerning the effectiveness of those  
14 procedures, as implemented by the department.

15 SECTION 1.006. Sections 33.005 and 521.004, Insurance Code,  
16 are repealed.

17 ARTICLE 2. CERTAIN ADVISORY BOARDS, COMMITTEES, AND COUNCILS AND  
18 RELATED TECHNICAL CORRECTIONS

19 SECTION 2.001. Chapter 32, Insurance Code, is amended by  
20 adding Subchapter E to read as follows:

21 SUBCHAPTER E. RULES REGARDING USE OF ADVISORY COMMITTEES

22 Sec. 32.151. RULEMAKING AUTHORITY. (a) The commissioner  
23 shall adopt rules, in compliance with Section 39.003 of this code  
24 and Chapter 2110, Government Code, regarding the purpose,  
25 structure, and use of advisory committees by the commissioner, the  
26 state fire marshal, or department staff, including rules governing  
27 an advisory committee's:

1           (1) purpose, role, responsibility, and goals;

2           (2) size and quorum requirements;

3           (3) qualifications for membership, including  
4 experience requirements and geographic representation;

5           (4) appointment procedures;

6           (5) terms of service;

7           (6) training requirements; and

8           (7) duration.

9           (b) An advisory committee must be structured and used to  
10 advise the commissioner, the state fire marshal, or department  
11 staff. An advisory committee may not be responsible for rulemaking  
12 or policymaking.

13           Sec. 32.152. PERIODIC EVALUATION. The commissioner shall  
14 by rule establish a process by which the department shall  
15 periodically evaluate an advisory committee to ensure its continued  
16 necessity. The department may retain or develop committees as  
17 appropriate to meet changing needs.

18           Sec. 32.153. COMPLIANCE WITH OPEN MEETINGS ACT. A  
19 department advisory committee must comply with Chapter 551,  
20 Government Code.

21           SECTION 2.002. Section 843.441, Insurance Code, is  
22 transferred to Subchapter L, Chapter 843, Insurance Code,  
23 renumbered as Section 843.410, Insurance Code, and amended to read  
24 as follows:

25           Sec. 843.410 [~~843.441~~]. ASSESSMENTS. (a) To provide funds  
26 for the administrative expenses of the commissioner regarding  
27 rehabilitation, liquidation, supervision, conservatorship, or

1 seizure [~~conservation~~] of a a [~~an impaired~~] health maintenance  
2 organization in this state that is placed in supervision or  
3 conservatorship under Chapter 441 or in a delinquency proceeding  
4 under Chapter 443 and is found by the commissioner to have  
5 insufficient funds to pay the total amount of health care claims and  
6 the administrative [~~, including~~] expenses incurred by the  
7 commissioner regarding the rehabilitation, liquidation,  
8 supervision, conservatorship, or seizure, the commissioner [~~acting~~  
9 ~~as receiver or by a special deputy receiver, the committee, at the~~  
10 ~~commissioner's direction,~~] shall assess each health maintenance  
11 organization in the proportion that the gross premiums of the  
12 health maintenance organization that were written in this state  
13 during the preceding calendar year bear to the aggregate gross  
14 premiums that were written in this state by all health maintenance  
15 organizations, as found [~~provided to the committee by the~~  
16 ~~commissioner~~] after review of annual statements and other reports  
17 the commissioner considers necessary.

18 (b) [~~(c)~~] The commissioner may abate or defer an assessment  
19 in whole or in part if, in the opinion of the commissioner, payment  
20 of the assessment would endanger the ability of a health  
21 maintenance organization to fulfill its contractual obligations.  
22 If an assessment is abated or deferred in whole or in part, the  
23 amount of the abatement or deferral may be assessed against the  
24 remaining health maintenance organizations in a manner consistent  
25 with the calculations made by the commissioner under Subsection (a)  
26 [~~basis for assessments provided by the approved plan of operation~~].

27 (c) [~~(d)~~] The total of all assessments on a health

1 maintenance organization may not exceed one-fourth of one percent  
2 of the health maintenance organization's gross premiums in any one  
3 calendar year.

4 (d) [~~(e)~~] Notwithstanding any other provision of this  
5 subchapter, funds derived from an assessment made under this  
6 section may not be used for more than 180 consecutive days for the  
7 expenses of administering the affairs of a [an impaired] health  
8 maintenance organization the surplus of which is impaired and that  
9 is [~~while~~] in supervision [~~, rehabilitation,~~] or conservatorship  
10 [~~conservation for more than 150 days~~]. The commissioner  
11 [~~committee~~] may extend the period during which the commissioner  
12 [~~it~~] makes assessments for the administrative expenses [~~of an~~  
13 ~~impaired health maintenance organization as it considers~~  
14 ~~appropriate~~].

15 SECTION 2.003. Section 1660.004, Insurance Code, is amended  
16 to read as follows:

17 Sec. 1660.004. GENERAL RULEMAKING. The commissioner may  
18 adopt rules as necessary to implement this chapter [~~, including~~  
19 ~~rules requiring the implementation and provision of the technology~~  
20 ~~recommended by the advisory committee~~].

21 SECTION 2.004. Section 1660.102(b), Insurance Code, is  
22 amended to read as follows:

23 (b) The commissioner may consider [~~the~~] recommendations [~~of~~  
24 ~~the advisory committee~~] or any other information provided in  
25 response to a department-issued request for information relating to  
26 electronic data exchange, including identification card programs,  
27 before adopting rules regarding:

1 (1) information to be included on the identification  
2 cards;

3 (2) technology to be used to implement the  
4 identification card pilot program; and

5 (3) confidentiality and accuracy of the information  
6 required to be included on the identification cards.

7 SECTION 2.005. Section 2154.052(a), Occupations Code, is  
8 amended to read as follows:

9 (a) The commissioner:

10 (1) shall administer this chapter through the state  
11 fire marshal; and

12 (2) may issue rules to administer this chapter [~~in~~  
13 ~~compliance with Section 2154.054~~].

14 SECTION 2.006. Section 4001.009(a), Insurance Code, is  
15 amended to read as follows:

16 (a) As referenced in Section 4001.003(9), a reference to an  
17 agent in the following laws includes a subagent without regard to  
18 whether a subagent is specifically mentioned:

19 (1) Chapters 281, 402, 421-423, 441, 444, 461-463,  
20 [~~523,~~] 541-556, 558, 559, 702, 703, 705, 821, 823-825, 827, 828,  
21 844, 963, 1108, 1205-1209, 1211, 1213, 1214 [~~1211-1214~~], 1352,  
22 1353, 1357, 1358, 1360-1363, 1369, 1453-1455, 1503, 1550, 1801,  
23 1803, 2151-2154, 2201-2203, 2205-2213, 3501, 3502, 4007, 4102, and  
24 4201-4203;

25 (2) Chapter 403, excluding Section 403.002;

26 (3) Subchapter A, Chapter 491;

27 (4) Subchapter C, Chapter 521;

- 1 (5) Subchapter A, Chapter 557;
- 2 (6) Subchapter B, Chapter 805;
- 3 (7) Subchapters D, E, and F, Chapter 982;
- 4 (8) Subchapter D, Chapter 1103;
- 5 (9) Subchapters B, C, D, and E, Chapter 1204,
- 6 excluding Sections 1204.153 and 1204.154;
- 7 (10) Subchapter B, Chapter 1366;
- 8 (11) Subchapters B, C, and D, Chapter 1367, excluding
- 9 Section 1367.053(c);
- 10 (12) Subchapters A, C, D, E, F, H, and I, Chapter 1451;
- 11 (13) Subchapter B, Chapter 1452;
- 12 (14) Sections 551.004, 841.303, 982.001, 982.002,
- 13 982.004, 982.052, 982.102, 982.103, 982.104, 982.106, 982.107,
- 14 982.108, 982.110, 982.111, 982.112, and 1802.001; and
- 15 (15) Chapter 107, Occupations Code.

16 SECTION 2.007. Section 4102.005, Insurance Code, is amended  
17 to read as follows:

18 Sec. 4102.005. CODE OF ETHICS. The commissioner [~~with~~  
19 ~~guidance from the public insurance adjusters examination advisory~~  
20 ~~committee,~~] by rule shall adopt:

- 21 (1) a code of ethics for public insurance adjusters
- 22 that fosters the education of public insurance adjusters concerning
- 23 the ethical, legal, and business principles that should govern
- 24 their conduct;
- 25 (2) recommendations regarding the solicitation of the
- 26 adjustment of losses by public insurance adjusters; and
- 27 (3) any other principles of conduct or procedures that

1 the commissioner considers necessary and reasonable.

2 SECTION 2.008. The following laws are repealed:

3 (1) Chapter 523, Insurance Code;

4 (2) Sections 524.004, 1660.002(2), 1660.101(c),  
5 4002.004, 4004.002, 4101.006, 4102.059, and 4201.003(c) and (d),  
6 Insurance Code;

7 (3) Sections 843.435, 843.436, 843.437, 843.438,  
8 843.439, and 843.440, Insurance Code;

9 (4) Subchapter B, Chapter 1660, Insurance Code;

10 (5) Subchapter G, Chapter 2210, Insurance Code;

11 (6) Subchapter C, Chapter 6001, Insurance Code;

12 (7) Subchapter C, Chapter 6002, Insurance Code;

13 (8) Subchapter C, Chapter 6003, Insurance Code;

14 (9) Chapter 1212, Insurance Code;

15 (10) the heading to Subchapter M, Chapter 843,  
16 Insurance Code; and

17 (11) Sections 2154.054 and 2154.055(c), Occupations  
18 Code.

19 SECTION 2.009. (a) The following boards, committees,  
20 councils, and task forces are abolished on the effective date of  
21 this Act:

22 (1) the advisory council on continuing education for  
23 insurance agents;

24 (2) the fire detection and alarm devices advisory  
25 council;

26 (3) the fire extinguisher advisory council;

27 (4) the fire protection advisory council;

- 1           (5) the fireworks advisory council;
- 2           (6) the health maintenance organization solvency  
3 surveillance committee;
- 4           (7) the insurance adjusters examination advisory  
5 board;
- 6           (8) the technical advisory committee on claims  
7 processing;
- 8           (9) the technical advisory committee on electronic  
9 data exchange;
- 10          (10) the health coverage public awareness and  
11 education program task force;
- 12          (11) the executive committee of the residential  
13 property insurance market assistance program; and
- 14          (12) the windstorm building code advisory committee on  
15 specifications and maintenance.

16          (b) All powers, duties, obligations, rights, contracts,  
17 funds, records, and real or personal property of a board,  
18 committee, council, or task force listed under Subsection (a) of  
19 this section shall be transferred to the Texas Department of  
20 Insurance not later than February 28, 2010.

21          SECTION 2.010. The changes in law made by this Act by  
22 repealing Sections 523.003 and 843.439, Insurance Code, apply only  
23 to a cause of action that accrues on or after the effective date of  
24 this Act. A cause of action that accrues before the effective date  
25 of this Act is governed by the law in effect immediately before that  
26 date, and that law is continued in effect for that purpose.

1 ARTICLE 3. REGULATION OF PREFERRED PROVIDER ORGANIZATIONS

2 SECTION 3.001. Subtitle D, Title 8, Insurance Code, is  
3 amended by adding Chapter 1302 to read as follows:

4 CHAPTER 1302. REGULATION OF INDEPENDENT PREFERRED PROVIDER  
5 ORGANIZATIONS

6 SUBCHAPTER A. GENERAL PROVISIONS

7 Sec. 1302.001. DEFINITIONS. In this chapter:

8 (1) "Person" means an individual, corporation,  
9 association, or other legal entity.

10 (2) "Preferred provider organization" means an  
11 insurer, third-party administrator, or other person that contracts  
12 with physicians or health care providers regarding reimbursements  
13 to be accepted prospectively by the physicians and health care  
14 providers in providing health care services to enrollees of benefit  
15 plans contractually entitled to benefit from the reimbursement  
16 agreements.

17 Sec. 1302.002. APPLICABILITY. (a) This chapter does not  
18 apply to a self-funded health benefit plan exempt from regulation  
19 by this state as an employee welfare benefit plan under the Employee  
20 Retirement Income Security Act of 1974 (29 U.S.C. Section 1001 et  
21 seq.).

22 (b) Except as specifically provided by this chapter, a  
23 reference in Chapter 1301 to a duty imposed under Chapter 1301 on a  
24 preferred provider organization contracting with a preferred  
25 provider benefit plan applies to a preferred provider organization  
26 that contracts with a preferred provider benefit plan under a  
27 certificate of authority issued under Subchapter B but that is not

1 an insurer or third-party administrator under this code.

2 Sec. 1302.003. RULES. The commissioner shall adopt rules  
3 as necessary to implement this chapter.

4 Sec. 1302.004. COMPLAINTS. The department shall track and  
5 analyze complaints made against preferred provider organizations  
6 regulated under this chapter.

7 [Sections 1302.005-1302.050 reserved for expansion]

8 SUBCHAPTER B. REGULATION OF PREFERRED PROVIDER ORGANIZATIONS

9 Sec. 1302.051. CERTIFICATE OF AUTHORITY REQUIRED;  
10 EXCEPTION. (a) Except as provided by Subsection (b), a person may  
11 not organize or operate as a preferred provider organization in  
12 this state, or sell or offer to sell or solicit offers to purchase  
13 or receive consideration in conjunction with a preferred provider  
14 benefit plan, without holding a certificate of authority under this  
15 chapter.

16 (b) An insurer that holds a certificate of authority to  
17 engage in the business of insurance in this state or is otherwise  
18 authorized under this code to engage in the business of insurance in  
19 this state is not required to obtain an additional certificate of  
20 authority under this subchapter to operate a proprietary preferred  
21 provider organization.

22 Sec. 1302.052. USE OF CERTAIN TERMS. A person may not use  
23 the term "preferred provider organization" or "PPO" in the course  
24 of operation unless the person:

25 (1) complies with this chapter and rules adopted by  
26 the commissioner under this chapter; and

27 (2) holds a certificate of authority under this

1 chapter.

2 Sec. 1302.053. DURATION OF CERTIFICATE OF AUTHORITY. A  
3 certificate of authority issued under this chapter continues in  
4 effect:

5 (1) while the certificate holder meets the  
6 requirements of this chapter and rules adopted under this chapter;  
7 or

8 (2) until the commissioner suspends or revokes the  
9 certificate or the commissioner terminates the certificate at the  
10 request of the certificate holder.

11 [Sections 1302.054-1302.100 reserved for expansion]

12 SUBCHAPTER C. APPLICATION; ISSUANCE OF CERTIFICATE

13 Sec. 1302.101. APPLICATION. (a) A person may apply to the  
14 department for and obtain a certificate of authority to organize  
15 and operate a preferred provider organization.

16 (b) An application for a certificate of authority must:

17 (1) be on a form prescribed by rules adopted by the  
18 commissioner; and

19 (2) be verified by the applicant or an officer or other  
20 authorized representative of the applicant.

21 Sec. 1302.102. CONTENTS OF APPLICATION. (a) An  
22 application for a certificate of authority must include:

23 (1) a copy of the applicant's basic organizational  
24 document, if any, such as the articles of incorporation, articles  
25 of association, partnership agreement, trust agreement, or other  
26 applicable documents;

27 (2) all amendments to the applicant's basic

1 organizational document; and

2 (3) a copy of the bylaws, rules and regulations, or  
3 similar documents, if any, regulating the conduct of the  
4 applicant's internal affairs.

5 (b) An application for a certificate of authority must  
6 include a list of the names, addresses, and official positions of  
7 the persons responsible for the conduct of the applicant's affairs,  
8 including:

9 (1) each member of the board of directors, board of  
10 trustees, executive committee, or other governing body or  
11 committee;

12 (2) the principal officer, if the applicant is a  
13 corporation; and

14 (3) each partner or member, if the applicant is a  
15 partnership or association.

16 (c) An application for a certificate of authority must  
17 include a template of any contract made or to be made between the  
18 applicant and any physician or health care provider.

19 (d) The commissioner may adopt rules under which a preferred  
20 provider organization is required to update the information  
21 submitted in an application for a certificate of authority.

22 Sec. 1302.103. APPLICATION FEE. (a) An applicant for a  
23 certificate of authority under this chapter shall pay to the  
24 department a filing fee not to exceed \$1,000 for processing an  
25 original application for a certificate of authority for a preferred  
26 provider organization.

27 (b) The commissioner shall deposit a fee collected under

1 this section to the credit of the Texas Department of Insurance  
2 operating account.

3 Sec. 1302.104. REQUIREMENTS FOR APPROVAL OF APPLICATION.

4 The commissioner shall approve an application for a certificate of  
5 authority to engage in business in this state as a preferred  
6 provider organization on payment of the application fee prescribed  
7 by Section 1302.103 and if the commissioner is satisfied that:

8 (1) granting the application would not violate a  
9 federal or state law;

10 (2) the applicant has not attempted to obtain the  
11 certificate of authority through fraud or bad faith;

12 (3) the applicant has complied with this chapter and  
13 rules adopted by the commissioner under this chapter; and

14 (4) the name under which the applicant will engage in  
15 business in this state is not so similar to that of another  
16 preferred provider organization that it is likely to mislead the  
17 public.

18 Sec. 1302.105. DENIAL OF APPLICATION. (a) If the

19 commissioner is unable to approve an application for a certificate  
20 of authority under this chapter, the commissioner shall:

21 (1) provide the applicant with written notice  
22 specifying each deficiency in the application; and

23 (2) offer the applicant the opportunity for a hearing  
24 to address each reason and circumstance for possible denial of the  
25 application.

26 (b) The commissioner must provide an opportunity for a  
27 hearing before the commissioner finally denies an application.

1       (c) At the hearing, the applicant has the burden to produce  
2 sufficient competent evidence on which the commissioner can make  
3 the determinations required by Section 1302.104.

4       [Sections 1302.106-1302.150 reserved for expansion]

5                               SUBCHAPTER D. ENFORCEMENT

6       Sec. 1302.151. GROUNDS FOR DENIAL, SUSPENSION, OR  
7 REVOCAION OF CERTIFICATE OF AUTHORITY. The denial, suspension, or  
8 revocation of a certificate of authority under this chapter to act  
9 as a preferred provider organization is subject to:

10                   (1) Subchapter C, Chapter 4005; and

11                   (2) Chapter 82.

12       SECTION 3.002. Not later than November 1, 2009, the  
13 commissioner of insurance shall adopt rules as necessary to  
14 implement Chapter 1302, Insurance Code, as added by this Act.

15       SECTION 3.003. (a) Except as provided by Subsections (b)  
16 and (c) of this section, a preferred provider organization that is  
17 operating before the effective date of this Act and that has not  
18 previously submitted an application for a certificate of authority  
19 under the Insurance Code must apply for a certificate of authority  
20 under Chapter 1302, Insurance Code, as added by this Act, not later  
21 than the 60th day after the effective date of this Act.

22       (b) A preferred provider organization operating in this  
23 state that, as of August 31, 2009, holds a certificate of authority  
24 as an insurer under Chapter 801, Insurance Code, or a certificate of  
25 authority as a third-party administrator under Chapter 4151,  
26 Insurance Code, is not required to obtain a certificate of  
27 authority under Chapter 1302, Insurance Code, as added by this Act.

1 (c) A preferred provider organization in this state that has  
2 not applied for or does not hold, as of the effective date of this  
3 Act, a certificate of authority under Chapter 801 or 4151,  
4 Insurance Code, and that applies for a certificate of authority  
5 under Chapter 1302, Insurance Code, as added by this Act, may  
6 continue to operate, if the applicant otherwise complies with  
7 applicable law, until the commissioner of insurance acts on the  
8 application.

9 ARTICLE 4. RATE REGULATION

10 SECTION 4.001. Section 2251.101, Insurance Code, is amended  
11 to read as follows:

12 Sec. 2251.101. RATE FILINGS AND SUPPORTING INFORMATION.

13 (a) Except as provided by Subchapter D, for risks written in this  
14 state, each insurer shall file with the commissioner all rates,  
15 applicable rating manuals, supplementary rating information, and  
16 additional information as required by the commissioner. An insurer  
17 may use a rate filed under this subchapter on and after the date the  
18 rate is filed.

19 (b) The commissioner by rule shall:

20 (1) determine the information required to be included  
21 in the filing, including:

22 (A) [~~1~~] categories of supporting information  
23 and supplementary rating information;

24 (B) [~~2~~] statistics or other information to  
25 support the rates to be used by the insurer, including information  
26 necessary to evidence that the computation of the rate does not  
27 include disallowed expenses; and

1           (C) [~~3~~] information concerning policy fees,  
2 service fees, and other fees that are charged or collected by the  
3 insurer under Section 550.001 or 4005.003; and

4           (2) prescribe the process through which the department  
5 requests supplementary rating information and supporting  
6 information under this section, including:

7           (A) the number of times the department may make a  
8 request for information; and

9           (B) the types of information the department may  
10 request when reviewing a rate filing.

11           SECTION 4.002. Section 2251.103, Insurance Code, is amended  
12 to read as follows:

13           Sec. 2251.103. COMMISSIONER ACTION CONCERNING [~~DISAPPROVAL~~  
14 ~~OF RATE IN~~] RATE FILING NOT YET IN EFFECT; HEARING AND ANALYSIS.

15 (a) Not later than the earlier of the date the rate takes effect or  
16 the 30th day after the date a rate is filed with the department  
17 under Section 2251.101, the [~~The~~] commissioner shall disapprove  
18 the [~~a~~] rate if the commissioner determines that the rate [~~filing~~  
19 ~~made under this chapter~~] does not comply with the requirements of  
20 this chapter [~~meet the standards established under Subchapter B~~].

21 (b) Except as provided by Subsection (c), if a rate has not  
22 been disapproved by the commissioner before the expiration of the  
23 30-day period described by Subsection (a), the rate is not  
24 considered disapproved under this section.

25 (c) For good cause, the commissioner may, on the expiration  
26 of the 30-day period described by Subsection (a), extend the period  
27 for disapproval of a rate for one additional 30-day period. The

1 commissioner and the insurer may not by agreement extend the 30-day  
2 period described by Subsection (a) or this subsection.

3 (d) If the commissioner disapproves a rate under this  
4 section [filing], the commissioner shall issue an order specifying  
5 in what respects the rate [filing] fails to meet the requirements of  
6 this chapter.

7 (e) An insurer that files a rate that is disapproved under  
8 this section [~~(c)~~—~~The filer~~] is entitled to a hearing on written  
9 request made to the commissioner not later than the 30th day after  
10 the date the order disapproving the rate [filing] takes effect.

11 (f) The department shall track, compile, and routinely  
12 analyze the factors that contribute to the disapproval of rates  
13 under this section.

14 SECTION 4.003. Subchapter C, Chapter 2251, Insurance Code,  
15 is amended by adding Section 2251.1031 to read as follows:

16 Sec. 2251.1031. REQUESTS FOR ADDITIONAL INFORMATION. (a)  
17 If the department determines that the information filed by an  
18 insurer under this subchapter or Subchapter D is incomplete or  
19 otherwise deficient, the department may request additional  
20 information from the insurer.

21 (b) If the department requests additional information from  
22 the insurer during the 30-day period described by Section  
23 2251.103(a) or 2251.153(a) or under a second 30-day period  
24 described by Section 2251.103(c) or 2251.153(c), as applicable, the  
25 time between the date the department submits the request to the  
26 insurer and the date the department receives the information  
27 requested is not included in the computation of the first 30-day

1 period or the second 30-day period, as applicable.

2 (c) For purposes of this section, the date of the  
3 department's submission of a request for additional information is  
4 the earlier of:

5 (1) the date of the department's electronic mailing or  
6 documented telephone call relating to the request for additional  
7 information; or

8 (2) the postmarked date on the department's letter  
9 relating to the request for additional information.

10 (d) The department shall track, compile, and routinely  
11 analyze the volume and content of requests for additional  
12 information made under this section to ensure that all requests for  
13 additional information are fair and reasonable.

14 SECTION 4.004. The heading to Section 2251.104, Insurance  
15 Code, is amended to read as follows:

16 Sec. 2251.104. COMMISSIONER DISAPPROVAL OF RATE IN EFFECT;  
17 HEARING.

18 SECTION 4.005. Section 2251.107, Insurance Code, is amended  
19 to read as follows:

20 Sec. 2251.107. PUBLIC [~~INSPECTION OF~~] INFORMATION. (a)  
21 Each filing made, and any supporting information filed, under this  
22 chapter is open to public inspection as of the date of the filing.

23 (b) Each year the department shall make available to the  
24 public information concerning the department's general process and  
25 methodology for rate review under this chapter, including factors  
26 that contribute to the disapproval of a rate. Information provided  
27 under this subsection must be general in nature and may not reveal

1 proprietary or trade secret information of any insurer.

2 SECTION 4.006. Section 2251.151, Insurance Code, is amended  
3 by adding Subsections (c-1) and (f) and amending Subsection (e) to  
4 read as follows:

5 (c-1) If the commissioner requires an insurer to file the  
6 insurer's rates under this section, the commissioner shall  
7 periodically assess whether the conditions described by Subsection  
8 (a) continue to exist. If the commissioner determines that the  
9 conditions no longer exist, the commissioner shall issue an order  
10 excusing the insurer from filing the insurer's rates under this  
11 section.

12 (e) If the commissioner requires an insurer to file the  
13 insurer's rates under this section, the commissioner shall issue an  
14 order specifying the commissioner's reasons for requiring the rate  
15 filing and explaining any steps the insurer must take and any  
16 conditions the insurer must meet in order to be excused from filing  
17 the insurer's rates under this section. An affected insurer is  
18 entitled to a hearing on written request made to the commissioner  
19 not later than the 30th day after the date the order is issued.

20 (f) The commissioner by rule shall define:

21 (1) the financial conditions and rating practices that  
22 may subject an insurer to this section under Subsection (a)(1); and

23 (2) the process by which the commissioner determines  
24 that a statewide insurance emergency exists under Subsection  
25 (a)(2).

26 SECTION 4.007. Section 2251.156, Insurance Code, is amended  
27 to read as follows:

1           Sec. 2251.156. RATE FILING DISAPPROVAL BY COMMISSIONER;  
2 HEARING. (a) If the commissioner disapproves a rate filing under  
3 Section 2251.153(a)(2), the commissioner shall issue an order  
4 disapproving the filing in accordance with Section 2251.103(d)  
5 [~~2251.103(b)~~].

6           (b) An insurer whose rate filing is disapproved is entitled  
7 to a hearing in accordance with Section 2251.103(e) [~~2251.103(e)~~].

8           (c) The department shall track precedents related to  
9 disapprovals of rates under this subchapter to ensure uniform  
10 application of rate standards by the department.

11           SECTION 4.008. Sections 2251.252(a) and (b), Insurance  
12 Code, are amended to read as follows:

13           (a) Except as provided by Subsections (b) and (c), an  
14 insurer is exempt from the rate filing and approval requirements of  
15 this chapter if the insurer, during the calendar year preceding the  
16 date filing is otherwise required under this chapter, issued  
17 residential property insurance policies in this state that  
18 accounted for less than four [~~two~~] percent of the total amount of  
19 premiums collected by insurers for residential property insurance  
20 policies issued in this state, more than 50 percent of which cover  
21 property:

- 22                   (1) valued at less than \$100,000; and  
23                   (2) located in an area designated by the commissioner  
24 as underserved for residential property insurance under Chapter  
25 2004.

26           (b) If an insurer described by Subsection (a) is a member of  
27 an affiliated insurance group, this subchapter applies to the

1 insurer only if the total aggregate premium collected by the group  
2 accounts for less than four [~~two~~] percent of the total amount of  
3 premiums collected by insurers for residential property insurance  
4 policies issued in this state.

5 SECTION 4.009. Section 2251.154, Insurance Code, is  
6 repealed.

7 SECTION 4.010. Section 2251.103, Insurance Code, as amended  
8 by this Act, and Section 2251.1031, Insurance Code, as added by this  
9 Act, apply only to a rate filing made on or after the effective date  
10 of this Act. A rate filing made before the effective date of this  
11 Act is governed by the law in effect at the time the filing was made,  
12 and that law is continued in effect for that purpose.

13 SECTION 4.011. Section 2251.151(c-1), Insurance Code, as  
14 added by this Act, applies to an insurer that is required to file  
15 the insurer's rates for approval under Section 2251.151, Insurance  
16 Code, on or after the effective date of this Act, regardless of when  
17 the order requiring the insurer to file the insurer's rates for  
18 approval under that section is first issued.

19 SECTION 4.012. Section 2251.151(e), Insurance Code, as  
20 amended by this Act, applies only to an order issued by the  
21 commissioner of insurance on or after the effective date of this  
22 Act. An order of the commissioner issued before the effective date  
23 of this Act is governed by the law in effect on the date the order  
24 was issued, and that law is continued in effect for that purpose.

25 ARTICLE 5. STATE FIRE MARSHAL'S OFFICE

26 SECTION 5.001. Section 417.008, Government Code, is amended  
27 by adding Subsection (f) to read as follows:

1       (f) The commissioner by rule shall prescribe a reasonable  
2 fee for an inspection performed by the state fire marshal that may  
3 be charged to a property owner or occupant who requests the  
4 inspection, as the commissioner considers appropriate. In  
5 prescribing the fee, the commissioner shall consider the overall  
6 cost to the state fire marshal to perform the inspections,  
7 including the approximate amount of time the staff of the state fire  
8 marshal needs to perform an inspection, travel costs, and other  
9 expenses.

10       SECTION 5.002. Section 417.0081, Government Code, is  
11 amended to read as follows:

12       Sec. 417.0081. INSPECTION OF CERTAIN STATE-OWNED OR  
13 STATE-LEASED BUILDINGS. (a) The state fire marshal, at the  
14 commissioner's direction, shall periodically inspect public  
15 buildings under the charge and control of the Texas Facilities  
16 [General Services] Commission and buildings leased for the use of a  
17 state agency by the Texas Facilities Commission.

18       (b) For the purpose of determining a schedule for conducting  
19 inspections under this section, the commissioner by rule shall  
20 adopt guidelines for assigning potential fire safety risk to  
21 state-owned and state-leased buildings. Rules adopted under this  
22 subsection must provide for the inspection of each state-owned and  
23 state-leased building to which this section applies, regardless of  
24 how low the potential fire safety risk of the building may be.

25       (c) On or before January 1 of each year, the state fire  
26 marshal shall report to the governor, lieutenant governor, speaker  
27 of the house of representatives, and appropriate standing

1 committees of the legislature regarding the state fire marshal's  
2 findings in conducting inspections under this section.

3 SECTION 5.003. Section 417.0082, Government Code, is  
4 amended to read as follows:

5 Sec. 417.0082. PROTECTION OF CERTAIN STATE-OWNED OR  
6 STATE-LEASED BUILDINGS AGAINST FIRE HAZARDS. (a) The state fire  
7 marshal, under the direction of the commissioner, shall take any  
8 action necessary to protect a public building under the charge and  
9 control of the Texas Facilities [~~Building and Procurement~~]  
10 Commission, and the building's occupants, and the occupants of a  
11 building leased for the use of a state agency by the Texas  
12 Facilities Commission, against an existing or threatened fire  
13 hazard. The state fire marshal and the Texas Facilities [~~Building~~  
14 ~~and Procurement~~] Commission shall include the State Office of Risk  
15 Management in all communication concerning fire hazards.

16 (b) The commissioner, the Texas Facilities [~~Building and~~  
17 ~~Procurement~~] Commission, and the risk management board shall make  
18 and each adopt by rule a memorandum of understanding that  
19 coordinates the agency's duties under this section.

20 SECTION 5.004. Section 417.010, Government Code, is amended  
21 to read as follows:

22 Sec. 417.010. DISCIPLINARY AND ENFORCEMENT ACTIONS;  
23 ADMINISTRATIVE PENALTIES [~~ALTERNATE REMEDIES~~]. (a) This section  
24 applies to each person and firm licensed, registered, or otherwise  
25 regulated by the department through the state fire marshal,  
26 including:

27 (1) a person regulated under Title 20, Insurance Code;

1 and

2 (2) a person licensed under Chapter 2154, Occupations  
3 Code.

4 (b) The commissioner by rule shall delegate to the state  
5 fire marshal the authority to take disciplinary and enforcement  
6 actions, including the imposition of administrative penalties in  
7 accordance with this section on a person regulated under a law  
8 listed under Subsection (a) who violates that law or a rule or order  
9 adopted under that law. In the rules adopted under this subsection,  
10 the commissioner shall:

11 (1) specify which types of disciplinary and  
12 enforcement actions are delegated to the state fire marshal; and

13 (2) outline the process through which the state fire  
14 marshal may, subject to Subsection (e), impose administrative  
15 penalties or take other disciplinary and enforcement actions.

16 (c) The commissioner by rule shall adopt a schedule of  
17 administrative penalties for violations subject to a penalty under  
18 this section to ensure that the amount of an administrative penalty  
19 imposed is appropriate to the violation. The department shall  
20 provide the administrative penalty schedule to the public on  
21 request. The amount of an administrative penalty imposed under  
22 this section must be based on:

23 (1) the seriousness of the violation, including:

24 (A) the nature, circumstances, extent, and  
25 gravity of the violation; and

26 (B) the hazard or potential hazard created to the  
27 health, safety, or economic welfare of the public;

1           (2) the economic harm to the public interest or public  
2 confidence caused by the violation;

3           (3) the history of previous violations;

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

5           (5) efforts to correct the violation;

6           (6) whether the violation was intentional; and

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

8           (d) In [The state fire marshal, in] the enforcement of a law  
9 that is enforced by or through the state fire marshal, the state  
10 fire marshal may, in lieu of cancelling, revoking, or suspending a  
11 license or certificate of registration, impose on the holder of the  
12 license or certificate of registration an order directing the  
13 holder to do one or more of the following:

14           (1) cease and desist from a specified activity;

15           (2) pay an administrative penalty imposed under this  
16 section [remit to the commissioner within a specified time a  
17 monetary forfeiture not to exceed \$10,000 for each violation of an  
18 applicable law or rule]; or [and]

19           (3) make restitution to a person harmed by the holder's  
20 violation of an applicable law or rule.

21           (e) The state fire marshal shall impose an administrative  
22 penalty under this section in the manner prescribed for imposition  
23 of an administrative penalty under Subchapter B, Chapter 84,  
24 Insurance Code. The state fire marshal may impose an  
25 administrative penalty under this section without referring the  
26 violation to the department for commissioner action.

27           (f) An affected person may dispute the imposition of the

1 penalty or the amount of the penalty imposed in the manner  
2 prescribed by Subchapter C, Chapter 84, Insurance Code. Failure to  
3 pay an administrative penalty imposed under this section is subject  
4 to enforcement by the department.

5 ARTICLE 6. TITLE INSURANCE

6 SECTION 6.001. Section 2602.107, Insurance Code, is amended  
7 by adding Subsection (d) to read as follows:

8 (d) The association shall pay, from the guaranty fee  
9 account, fees and reasonable and necessary expenses that the  
10 department incurs in an examination of a title agent or direct  
11 operation under Subchapter H, Chapter 2651.

12 SECTION 6.002. Chapter 2651, Insurance Code, is amended by  
13 adding Subchapter H to read as follows:

14 SUBCHAPTER H. EXAMINATION OF TITLE INSURANCE AGENTS AND DIRECT  
15 OPERATIONS

16 Sec. 2651.351. EXAMINATION OF TITLE INSURANCE AGENTS AND  
17 DIRECT OPERATIONS. (a) The department shall examine each title  
18 insurance agent and direct operation licensed in this state as  
19 provided by this subchapter.

20 (b) The department shall:

21 (1) examine the title insurance agent's or direct  
22 operation's:

23 (A) financial condition;

24 (B) trust, escrow, and operating accounts;

25 (C) ability to meet its liabilities; and

26 (D) compliance with the laws of this state and  
27 rules adopted by the commissioner that affect the business conduct

1 of the title insurance agent or direct operation; and

2 (2) verify the data reported for rate promulgation.

3 (c) The department shall conduct the examination at the  
4 principal office of the title insurance agent or direct operation,  
5 but may access any other offices or business locations of the title  
6 insurance agent or direct operation for purposes of conducting the  
7 examination. The department may conduct the examination alone or  
8 with representatives of the insurance supervising departments of  
9 other states.

10 (d) Subject to Subsection (e), the department shall examine  
11 a title insurance agent or direct operation as frequently as the  
12 department considers necessary. At a minimum, the department shall  
13 examine a title insurance agent or direct operation not less  
14 frequently than once every three years.

15 (e) The commissioner shall adopt rules governing the  
16 frequency of examinations of a title insurance agent or direct  
17 operation licensed for less than three years.

18 Sec. 2651.352. EXAMINATION PERIOD. Unless the department  
19 requests that an examination cover a longer period, the examination  
20 must cover the period beginning on the last day covered by the most  
21 recent examination and ending on December 31 of the year preceding  
22 the year in which the examination is being conducted.

23 Sec. 2651.353. POWERS RELATED TO EXAMINATION. The  
24 department or the examiner appointed by the department:

25 (1) has free access, and may require the title  
26 insurance agent or direct operation to provide free access, to all  
27 books and papers of the title insurance agent or direct operation

1 that relate to the business and affairs of the title insurance agent  
2 or direct operation; and

3 (2) has the authority to summon and examine under  
4 oath, if necessary, an officer, agent, or employee of the title  
5 insurance agent or direct operation or any other person in relation  
6 to the affairs and condition of the title insurance agent or direct  
7 operation.

8 Sec. 2651.354. EFFECT OF SUBCHAPTER ON AUTHORITY TO USE  
9 INFORMATION. (a) This subchapter does not limit the department's  
10 authority to:

11 (1) use a final or preliminary examination report, the  
12 work papers of an examiner, title insurance agent, or direct  
13 operation, or other documents, or any other information discovered  
14 or developed during an examination in connection with a legal or  
15 regulatory action; or

16 (2) release a final or preliminary examination report,  
17 the work papers of an examiner, title insurance agent, or direct  
18 operation, or other documents, or any other information discovered  
19 or developed during an examination, to a law enforcement agency, an  
20 attorney regulatory authority, or an agency of this state, another  
21 state, or the United States if the disclosure is necessary or proper  
22 for the enforcement of the laws of this state, another state, or the  
23 United States, as determined by the commissioner.

24 (b) A release by the commissioner under Subsection (a) of a  
25 final or preliminary examination report, the work papers of an  
26 examiner, title insurance agent, or direct operation, or other  
27 documents, or any other information discovered or developed during

1 an examination, does not make the report, work papers, documents,  
2 or information public information under Chapter 552, Government  
3 Code.

4 Sec. 2651.355. CONFIDENTIALITY OF REPORTS AND RELATED  
5 INFORMATION. (a) A final or preliminary examination report and any  
6 information obtained during an examination are confidential and are  
7 not subject to disclosure under Chapter 552, Government Code.

8 (b) Subsection (a) applies if the examined title insurance  
9 agent or direct operation is under supervision or conservatorship.

10 (c) Subsection (a) does not apply to an examination  
11 conducted in connection with a liquidation or receivership under  
12 this code or another insurance law of this state.

13 Sec. 2651.356. DISCIPLINARY ACTION FOR FAILURE TO COMPLY  
14 WITH SUBCHAPTER. A title insurance agent or direct operation is  
15 subject to disciplinary action under Chapter 82 for failure or  
16 refusal to comply with:

17 (1) this subchapter or a rule adopted under this  
18 subchapter; or

19 (2) a request by the department or an appointed  
20 examiner to be examined or to provide information requested as part  
21 of an examination.

22 SECTION 6.003. Section 2703.153(c), Insurance Code, is  
23 amended to read as follows:

24 (c) Not less frequently than once every five years, the  
25 commissioner shall evaluate the information required under this  
26 section to determine whether the department needs additional or  
27 different information or no longer needs certain information to

1 promulgate rates. If the department requires a title insurance  
2 company or title insurance agent to include new or different  
3 information in the statistical report, that information may be  
4 considered by the commissioner in fixing premium rates if the  
5 information collected is reasonably credible for the purposes for  
6 which the information is to be used.

7 SECTION 6.004. Sections 2602.103(b), (c), and (d),  
8 Insurance Code, are repealed.

9 ARTICLE 7. TEXAS WINDSTORM INSURANCE ASSOCIATION

10 SECTION 7.001. Sections 2210.254(a), (c), and (d),  
11 Insurance Code, are amended to read as follows:

12 (a) For purposes of this chapter, a "qualified inspector"  
13 includes:

14 (1) a person determined by the department to be  
15 qualified because of training or experience to perform building  
16 inspections;

17 (2) a licensed professional engineer who meets the  
18 requirements specified by commissioner rule for contracting  
19 ~~[appointment]~~ to conduct windstorm inspections; and

20 (3) an inspector who:

21 (A) is certified by the International Code  
22 Council, the Building Officials and Code Administrators  
23 International, Inc., the International Conference of Building  
24 Officials, or the Southern Building Code Congress International,  
25 Inc.;

26 (B) has certifications as a buildings inspector  
27 and coastal construction inspector; and

1 (C) complies with other requirements specified  
2 by commissioner rule.

3 (c) Before performing building inspections, a qualified  
4 inspector must enter into a contract with [~~be approved and~~  
5 ~~appointed or employed by~~] the department.

6 (d) The department may charge a reasonable fee for [~~the~~  
7 ~~filing of applications by and~~] determining the qualifications of  
8 persons eligible to contract [~~for appointment~~] as qualified  
9 inspectors.

10 SECTION 7.002. Section 2210.255, Insurance Code, is amended  
11 to read as follows:

12 Sec. 2210.255. CONTRACT WITH [~~APPOINTMENT OF~~] LICENSED  
13 ENGINEER AS INSPECTOR. (a) On request of an engineer licensed by  
14 the Texas Board of Professional Engineers, the department may enter  
15 into a contract with [~~commissioner shall appoint~~] the engineer  
16 under which the engineer serves as an inspector under this  
17 subchapter. The department may enter into a contract under this  
18 subsection only on receipt of information satisfactory to the  
19 department [~~not later than the 10th day after the date the engineer~~  
20 ~~delivers to the commissioner information demonstrating~~] that the  
21 engineer is qualified to perform windstorm inspections under this  
22 subchapter.

23 (b) The commissioner shall adopt rules establishing the  
24 information to be considered in contracting with [~~appointing~~]  
25 engineers under this section.

26 SECTION 7.003. Subchapter F, Chapter 2210, Insurance Code,  
27 is amended by adding Sections 2210.2551-2210.2554 to read as

1 follows:

2 Sec. 2210.2551. PROCEDURES REGARDING CONTRACTING WITH  
3 INSPECTORS. The department shall develop procedures for  
4 contracting with, and oversight of, inspectors selected under  
5 Sections 2210.254 and 2210.255, including procedures relating to  
6 the grounds for the suspension, modification, or revocation of a  
7 contract under this subchapter entered into with an inspector.

8 Sec. 2210.2552. INSPECTOR LIST. The department shall  
9 compile a list of qualified inspectors who contract with the  
10 department to perform building inspections.

11 Sec. 2210.2553. OVERSIGHT OF INSPECTORS. The department  
12 shall develop an oversight process that includes regular  
13 reinspections by the department to ensure that contracted  
14 inspectors perform duties under this subchapter appropriately.

15 Sec. 2210.2554. REPORT OF POSSIBLE VIOLATIONS. The  
16 department shall report possible licensing violations by an  
17 inspector selected under Sections 2210.254 and 2210.255 to perform  
18 inspections under this subchapter to the Texas Board of  
19 Professional Engineers.

20 SECTION 7.004. Section 2210.256, Insurance Code, is  
21 repealed.

22 ARTICLE 8. ELECTRONIC TRANSACTIONS

23 SECTION 8.001. Subtitle A, Title 2, Insurance Code, is  
24 amended by adding Chapter 35 to read as follows:

25 CHAPTER 35. ELECTRONIC TRANSACTIONS

26 Sec. 35.001. DEFINITIONS. In this chapter:

27 (1) "Conduct business" includes engaging in or

1 transacting any business in which a regulated entity is authorized  
2 to engage or is authorized to transact under the law of this state.

3 (2) "Regulated entity" means each insurer or other  
4 organization regulated by the department, including:

5 (A) a domestic or foreign, stock or mutual, life,  
6 health, or accident insurance company;

7 (B) a domestic or foreign, stock or mutual, fire  
8 or casualty insurance company;

9 (C) a Mexican casualty company;

10 (D) a domestic or foreign Lloyd's plan;

11 (E) a domestic or foreign reciprocal or  
12 interinsurance exchange;

13 (F) a domestic or foreign fraternal benefit  
14 society;

15 (G) a domestic or foreign title insurance  
16 company;

17 (H) an attorney's title insurance company;

18 (I) a stipulated premium company;

19 (J) a nonprofit legal service corporation;

20 (K) a health maintenance organization;

21 (L) a statewide mutual assessment company;

22 (M) a local mutual aid association;

23 (N) a local mutual burial association;

24 (O) an association exempt under Section 887.102;

25 (P) a nonprofit hospital, medical, or dental  
26 service corporation, including a company subject to Chapter 842;

27 (Q) a county mutual insurance company; and

1                   (R) a farm mutual insurance company.

2           Sec. 35.002. CONSTRUCTION WITH OTHER LAW. (a)

3 Notwithstanding any other provision of this code, a regulated  
4 entity may conduct business electronically in accordance with this  
5 chapter and the rules adopted under Section 35.004.

6           (b) To the extent of any conflict between another provision  
7 of this code and a provision of this chapter, the provision of this  
8 chapter controls.

9           Sec. 35.003. ELECTRONIC TRANSACTIONS AUTHORIZED. A

10 regulated entity may conduct business electronically to the same  
11 extent that the entity is authorized to conduct business otherwise  
12 if before the conduct of business each party to the business agrees  
13 to conduct the business electronically.

14           Sec. 35.004. RULES. (a) The commissioner shall adopt rules  
15 necessary to implement and enforce this chapter.

16           (b) The rules adopted by the commissioner under this section  
17 must include rules that establish minimum standards with which a  
18 regulated entity must comply in the entity's electronic conduct of  
19 business with other regulated entities and consumers.

20           SECTION 8.002. Chapter 35, Insurance Code, as added by this  
21 Act, applies only to business conducted on or after the effective  
22 date of this Act. Business conducted before the effective date of  
23 this Act is governed by the law in effect on the date the business  
24 was conducted, and that law is continued in effect for that purpose.

25                   ARTICLE 9. DATA COLLECTION

26           SECTION 9.001. Chapter 38, Insurance Code, is amended by  
27 adding Subchapter I to read as follows:

1 SUBCHAPTER I. DATA COLLECTION RELATING TO CERTAIN PERSONAL LINES  
2 OF INSURANCE

3 Sec. 38.401. APPLICABILITY OF SUBCHAPTER. This subchapter  
4 applies only to an insurer who writes personal automobile insurance  
5 or residential property insurance in this state.

6 Sec. 38.402. FILING OF CERTAIN CLAIMS INFORMATION. (a) The  
7 commissioner shall require each insurer described by Section 38.401  
8 to file with the commissioner aggregate personal automobile  
9 insurance and residential property insurance claims information  
10 for the period covered by the filing, including the number of  
11 claims:

12 (1) filed during the reporting period;

13 (2) pending on the last day of the reporting period,  
14 including pending litigation;

15 (3) closed with payment during the reporting period;

16 (4) closed without payment during the reporting  
17 period; and

18 (5) carrying over from the reporting period  
19 immediately preceding the current reporting period.

20 (b) An insurer described by Section 38.401 must file the  
21 information described by Subsection (a) on an annual basis. The  
22 information filed must be broken down by quarter.

23 Sec. 38.403. PUBLIC INFORMATION. (a) The department shall  
24 post the data contained in claims information filings under Section  
25 38.402 on the department's Internet website. The commissioner by  
26 rule may establish a procedure for posting data under this  
27 subsection that includes a description of the data that must be

1 posted and the manner in which the data must be posted.

2 (b) Information provided under this section must be  
3 aggregate data by line of insurance for each insurer and may not  
4 reveal proprietary or trade secret information of any insurer.

5 Sec. 38.404. RULES. The commissioner may adopt rules  
6 necessary to implement this subchapter.

7 ARTICLE 10. TRANSITION; EFFECTIVE DATE

8 SECTION 10.001. Except as otherwise provided by this Act,  
9 this Act applies only to an insurance policy, contract, or evidence  
10 of coverage that is delivered, issued for delivery, or renewed on or  
11 after January 1, 2010. A policy, contract, or evidence of coverage  
12 delivered, issued for delivery, or renewed before January 1, 2010,  
13 is governed by the law as it existed immediately before the  
14 effective date of this Act, and that law is continued in effect for  
15 that purpose.

16 SECTION 10.002. This Act takes effect September 1, 2009.