

## **BILL ANALYSIS**

Senate Research Center  
81R4061 TJS/AJA/KCR/PB/PMO-D

S.B. 1007  
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Government Organization  
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### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

The Texas Department of Insurance (TDI) regulates insurance companies' solvency, rates, forms, and market conduct; licenses individuals and entities involved in selling insurance policies; provides consumer education and resolves consumer complaints; and takes enforcement action against those who violate insurance laws. TDI also regulates workers' compensation insurance; however, since the Sunset review of the Division of Workers' Compensation (division) was postponed until 2011, this legislation does not address the division.

TDI is subject to the Sunset Act and will be abolished on September 1, 2009, unless continued by the legislature. The Sunset Commission found that Texas has a clear and ongoing need to regulate insurance, but that changes are needed to improve the transparency and accountability of TDI's current statutory responsibilities.

As proposed, S.B. 1007 provides a 30-day time limit for TDI to review and administratively disapprove a rate under the file-and-use system. The bill requires TDI to define the processes it uses to request additional information about rate filings from insurers; requires TDI to define factors that could result in an insurance company being placed under prior approval regulation; requires TDI to evaluate the need for insurers to remain under prior approval regulation, and the process for returning to file-and-use regulation.

S.B. 1007 requires TDI to collect and publish certain information regarding the process of personal automobile and residential property claims. The bill increases the number of public representatives on the Texas Windstorm Insurance Association (TWIA) board of directors (board) and requires the commissioner of insurance (commissioner) to appoint all board members; replaces the commissioner's authority to modify TWIA rates, forms, and operations through hearings with an administrative review and approval process; and transfers the responsibility for windstorm inspections from TDI to TWIA. The bill removes that statutory restrictions that limit the type of information TWIA can use to develop rates, but retains the overall rate increase caps and uniform rate requirements. S.B. 1007 authorizes TWIA to require applicants to provide proof of two declinations before receiving insurance through TWIA.

Finally S.B. 1007 requires TDI to regularly examine title agents; requires title agents to annually submit audited financial statements of operating accounts to TDI; and requires the commissioner to reassess the information needed to accurately promulgate title insurance rates for Texas every five years.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the commissioner of insurance (commissioner) in SECTION 2.001 (Sections 32.151 and 32.152, Insurance Code), SECTION 3.001 (Section 1302.003, Insurance Code), SECTION 4.001 (Section 2251.009, Insurance Code), SECTION 4.006 (Section 2251.107, Insurance Code), SECTION 4.007 (Section 2251.151, Insurance Code), SECTION 5.001 (Section 417.008, Insurance Code), SECTION 5.002 (Section 417.0081, Insurance Code), SECTION 5.004 (Section 417.010, Insurance Code), SECTION 6.003 (Section 2651.351, Insurance Code), SECTION 7.001 (Section 2210.008, Insurance Code), SECTION 7.009 (Section 2210.251, Insurance Code), SECTION 7.012 (Section 2210.351, Insurance Code), SECTION 7.014 (Section 2210.351, Insurance Code), SECTION 7.021 (Section 2210.453, Insurance Code), SECTION 7.023 (Section 2210.502, Insurance Code), SECTION 7.024 (Section 2210.504, Insurance Code), and SECTION 8.001 (Section 35.003, Insurance Code) of this bill.

Rulemaking authority previously granted to the commissioner is modified in SECTION 2.003 (Section 523.055, Insurance, Code), SECTION 2.005 (Section 1660.102(b), Insurance, Code), SECTION 4.002 (Section 2251.101, Insurance Code), SECTION 5.003 (Section 417.0082, Government Code), SECTION 6.002 (Section 2651.153, Insurance Code), and SECTION 7.008 (Section 2210.207, Insurance Code) of this bill.

Rulemaking authority previously granted to the Texas Building and Procurement Commission is transferred to the Texas Facilities Commission and modified in SECTION 5.003 (Section 417.0082, Government Code) of this bill.

Rulemaking authority previously granted to the risk management board is modified in SECTION 5.003 (Section 417.0082, Government Code) of this bill.

Rulemaking authority previously granted to the commissioner of insurance is rescinded in SECTION 2.003 (Section 523.055, Insurance Code) and SECTION 7.012 (Section 2210.255, Insurance Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1.001. Amends Section 31.002, Insurance Code, as follows:

Sec. 31.002. DUTIES OF DEPARTMENT. Requires the Texas Department of Insurance (TDI), in addition to the other duties required of TDI, to protect and ensure the fair treatment of consumers and ensure fair competition in the insurance industry in order to foster a competitive market.

SECTION 1.002. Amends Section 31.004(a), Insurance Code, to provide that TDI is subject to Chapter 325 (Sunset Law), Government Code, and unless continued in existence as provided by that chapter, TDI is abolished September 1, 2021, rather than 2009.

SECTION 1.003. Amends Section 33.004, Insurance Code, as follows:

Sec. 33.004. TRADE ASSOCIATIONS. (a) Defines "Texas trade association." Deletes existing text prohibiting a person who is an officer, employee, or paid consultant of a trade association in the field of insurance, from being the commissioner or an employee of TDI which is exempt from the state's position classification plan or is compensated at or above the amount prescribed by the General Appropriations Act for step 1, salary group A17, of the position classification salary schedule.

(b) Prohibits a person from being the commissioner of insurance (commissioner) or a department employee employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.), if the person is an officer, employee, or paid consultant of a Texas trade association in the field of insurance, or the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of insurance. Deletes existing text prohibiting a person who is the spouse of an officer, manager, or paid consultant of a trade association in the field of insurance from being the commissioner, or an employee of TDI who is exempt from the state's position classification plan or is compensated at or above the amount prescribed by the General Appropriations Act for Step 1, salary group A17, of the position classification salary schedule.

(c) Prohibits a person from being the commissioner or acting as the general counsel to the commissioner or TDI if the person is required to register as a lobbyist under Chapter 305 (Registration of Lobbyists), Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of TDI. Deletes the existing definition for "trade association."

SECTION 1.004. Amends Section 521.003, Insurance Code, as follows:

Sec. 521.003. New heading: COMPLAINTS. (a) Requires TDI to maintain a system to promptly and efficiently act on complaints filed with TDI. Requires TDI to maintain information about parties to the complaint, the subject matter of the complaint, a summary of the results of the review or investigation of the complaint, and its disposition.

(b) Requires TDI to make information available describing its procedures for complaint investigation and resolution.

(c) Requires TDI to periodically notify the complaint parties of the status of the complaint until final disposition. Deletes existing text requiring TDI, if a written complaint is filed with TDI, to at least quarterly and until final disposition of the complaint, notify each party to the complaint of the complaint's status unless the notice would jeopardize an undercover investigation.

SECTION 1.005. Amends Subchapter B, Chapter 36, Insurance Code, by adding Sections 36.110 and 36.111, as follows:

Sec. 36.110. USE OF TECHNOLOGY. Requires the commissioner to implement a policy requiring TDI to use appropriate technological solutions to improve TDI's ability to perform its functions. Requires that the policy ensure that the public is able to interact with TDI on the Internet.

Sec. 36.111. NEGOTIATED RULEMAKING AND ALTERNATIVE DISPUTE RESOLUTION POLICY. (a) Requires the commissioner to develop and implement a policy to encourage the use of negotiated rulemaking procedures under Chapter 2008 (Negotiated Rulemaking), Government Code, for the adoption of department rules; and appropriate alternative dispute resolution procedures under Chapter 2009 (Alternative Dispute Resolution for Use by Governmental Bodies), Government Code, to assist in the resolution of internal and external disputes under TDI's jurisdiction.

(b) Requires TDI's procedures relating to alternative dispute resolution to conform, to the extent possible, to any model guidelines issued by the State Office of Administrative Hearings for the use of alternative dispute resolution by state agencies.

(c) Requires the commissioner to designate a trained person to coordinate the implementation of the policy adopted under Subsection (a); serve as a resource for any training needed to implement the procedures for negotiated rulemaking or alternative dispute resolution; and collect data concerning the effectiveness of those procedures, as implemented by TDI.

SECTION 1.006. Repealer: Section 33.005 (Lobbying Activities), Insurance Code.

Repealer: Section 521.004 (Records of Complaints), Insurance Code.

## ARTICLE 2. CERTAIN ADVISORY BOARDS, COMMITTEES, AND COUNCILS

SECTION 2.001. Amends Chapter 32, Insurance Code, by adding Subchapter E, as follows:

### SUBCHAPTER E. RULES REGARDING USE OF ADVISORY COMMITTEES

Sec. 32.151. RULEMAKING AUTHORITY. (a) Requires the commissioner to adopt rules, in compliance with Section 39.003 (Public Representation on Advisory Body) of this code and Chapter 2110 (State Agency Advisory Committees), Government Code, regarding the purpose, structure, and use of advisory committees by the commissioner, the state fire marshal, or TDI staff, including rules governing an advisory committee's characteristics.

(b) Requires an advisory committee to be structured and used to advise the commissioner, the state fire marshal, or TDI staff. Prohibits an advisory committee from being responsible for rulemaking or policy making.

Sec. 32.152. PERIODIC EVALUATION. Requires the commissioner by rule to establish a process by which TDI is to periodically evaluate an advisory committee to ensure its continued necessity. Authorizes TDI to retain or develop committees as appropriate to meet changing needs.

Sec. 32.153. COMPLIANCE WITH OPEN MEETINGS ACT. Requires a TDI advisory committee to comply with Chapter 551 (Open Meetings), Government Code.

SECTION 2.002. Amends Section 523.003, Insurance Code, as follows:

Sec. 523.003 IMMUNITY. Deletes existing text providing that the members of the executive committee are among those who are not personally liable for an act performed in good faith in the scope of the person's authority as determined under this chapter, or damages arising from the person's official acts or omissions, other than a corrupt or malicious act or omission.

SECTION 2.003. Amends Section 523.055, Insurance Code, as follows:

Sec. 523.055. AMENDMENT OF PLAN OF OPERATION. Authorizes TDI, rather than the executive committee, to develop amendments to the plan of operation and submit the amendments to the commissioner for adoption by rule. Deletes existing text requiring TDI, if the executive committee fails to submit suitable amendments to the plan of operation, to develop and submit to the commissioner suitable amendments and require the commissioner, after notice of hearing, to adopt the amendments by rule. Makes nonsubstantive changes.

SECTION 2.004. Amends Section 523.201, Insurance Code, to require the commissioner, rather than the executive committee or the commissioner, to collect certain information regarding market assistance program applications as deemed appropriate.

SECTION 2.005. Amends Section 1660.102(b), Insurance Code, to authorize the commissioner to consider recommendations or any other information, rather than the recommendations of the advisory committee, provided in response to a TDI-issued request for information relating to electronic data exchange, including identification card programs, before adopting rules regarding certain types of information.

SECTION 2.006. Repealer: Section 523.053 (Executive Committee), Insurance Code.

Repealer: Section 523.202 (Periodic Review of Program), Insurance Code.

Repealer: Section 524.004 (Task Force), Insurance Code.

Repealer: Section 1660.002(2) (relating to the definition of "advisory committee"), Insurance Code

Repealer: Section 1660.101(c) (relating to the implementation of the identification card pilot program), Insurance Code.

Repealer: Section 4004.002 (Advisory Council), Insurance Code.

Repealer: Section 4101.006 (Advisory Board), Insurance Code.

Repealer: Subchapter M (Health Maintenance Organization Solvency Surveillance Committee), Chapter 843 (Health Maintenance Organizations), Insurance Code.

Repealer: Subchapter B (Advisory Committee), Chapter 1660 (Electronic Data Exchange), Insurance Code.

Repealer: Subchapter G (Windstorm Building Code Advisory Committee), Chapter 2210 (Texas Windstorm Insurance Association), Insurance Code.

Repealer: Subchapter C (Fire Extinguisher Advisory Council), Chapter 6001 (Fire Extinguisher Service Installation), Insurance Code.

Repealer: Subchapter C (Fire Detection and Alarm Devices Advisory Council), Chapter 6002 (Fire Detection and Alarm Device Installation), Insurance Code.

Repealer: Subchapter C (Fire Protection Advisory Council), Chapter 6003 (Fire Protection Sprinkler System Service and Installation), Insurance Code.

Repealer: Chapter 1212 (Technical Advisory Committee on Claims Processing), Insurance Code.

Repealer: Section 2154.054 (Advisory Council), Occupations Code.

Repealer: Section 2154.055(c) (relating to the administration of the fireworks safety and education program by the advisory council), Occupations Code.

SECTION 2.007. (a) Provides that the following boards, committees, councils, and task forces are abolished on the effective date of this Act: the advisory council on continuing education for insurance agents; the fire detection and alarm devices advisory council; the fire extinguisher advisory council; the fire protection advisory council; the fireworks advisory council; the health maintenance organization solvency surveillance committee; the insurance adjuster examination advisory board; the technical advisory committee on claims processing; the technical advisory committee on electronic data exchange; the health coverage public awareness and education program task force; the executive committee of the residential property insurance market assistance program; and the windstorm building code advisory committee on specifications and maintenance.

(b) Requires that all powers, duties, obligations, rights, contracts, funds, records, and real or personal property of a board, committee, council, or task force listed under Subsection (a) of this section be transferred to TDI not later than February 28, 2010.

SECTION 2.008. Makes application of the changes in law made by this Act by amending Section 523.003, Insurance Code, and repealing Section 843.439, prospective.

### ARTICLE 3. REGULATION OF PREFERRED PROVIDER ORGANIZATIONS

SECTION 3.001. Amends Subtitle D, Title 8, Insurance Code, by adding Chapter 1302, as follows:

#### CHAPTER 1302. REGULATION OF INDEPENDENT PREFERRED PROVIDER ORGANIZATIONS

##### SUBCHAPTER A. GENERAL PROVISIONS

Sec. 1302.001. DEFINITIONS. Defines "person" and "preferred provider organization" (PPO).

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

(b) Provides that, except as specifically provided by this chapter, a reference in Chapter 1301 (Preferred Provider Benefit Plans), to a duty imposed under chapter 1301 on an insurer or third-party administrator in the operation of a preferred provider benefit plan applies to a PPO that operates a preferred benefit plan under

a certificate of authority issued under Subchapter B but that is not an insurer or third-party administrator under this code.

Sec. 1302.003. RULES. Requires the commissioner to adopt rules as necessary to implement the chapter.

Sec. 1302.004. COMPLAINTS. Requires TDI to track and analyze complaints made against PPOs regulated under this chapter.

[Reserves Sections 1302.005-1302.050 for expansion.]

## SUBCHAPTER B. REGULATION OF PREFERRED PROVIDER ORGANIZATIONS

Sec. 1302.051. CERTIFICATE OF AUTHORITY REQUIRED; EXCEPTION. (a) Prohibits a person, except as provided by Subsection (b), from organizing or operating as a PPO in this state, or selling or offering to sell or solicit offers to purchase or receive consideration in conjunction with a preferred provider benefit plan, without holding a certificate of authority under this chapter.

(b) Provides that an insurer that holds a certificate of authority to engage in the business of insurance in this state or is otherwise authorized under this code to engage in the business of insurance in this state is not required to obtain an additional certificate of authority under this subchapter to operate a proprietary PPO.

Sec. 1302.052. USE OF CERTAIN TERMS. Prohibits a person from using the term "preferred provider organization" or "PPO" in the course of operation unless the person complies with this chapter and rules adopted by the commissioner under this chapter, and holds a certificate of authority under this chapter.

Sec. 1302.053. DURATION OF CERTIFICATE OF AUTHORITY. Provides that a certificate of authority issued under this chapter continues in effect while the certificate holder meets the requirements of this chapter and rules adopted under this chapter or until the commissioner suspends or revokes the certificate or the commissioner terminates the certificate at the request of the certificate holder.

[Reserves Sections 1302.054-1302.100 for expansion.]

## SUBCHAPTER C. APPLICATION; ISSUANCE OF CERTIFICATE

Sec. 1302.101. APPLICATION. (a) Authorizes a person to apply to TDI for and obtain a certificate of authority to organize and operate a PPO.

(b) Requires that an application for a certificate of authority be on a form prescribed by rules adopted by the commissioner, and be verified by the applicant or an officer or other authorized representative of the applicant.

Sec. 1302.102. CONTENTS OF APPLICATION. (a) Requires that an application for a certificate of authority include a copy of the applicant's basic organizational document, if any, such as the articles of incorporation, articles of association, partnership agreement, trust agreement, or other applicable documents; all amendments to the applicant's basic organizational document; and a copy of the bylaws, rules and regulations, or similar documents, if any, regulating the conduct of the applicant's internal affairs.

(b) Requires that an application for a certificate of authority include a list of the names, addresses, and official positions of the persons responsible for the conduct of the applicant's affairs, including each member of the board of directors, board of trustees, executive committee, or other governing body or committee, the principle officer, if the applicant is a corporation, and each partner or member, if the applicant is a partnership or association.

(c) Requires that an application for a certificate of authority include a template of any contract made or to be made between the applicant and any physician or health care provider.

Sec. 1302.103. APPLICATION FEE. (a) Requires an applicant for a certificate of authority under this chapter to pay to TDI a filing fee not to exceed \$1,000 for processing an original application for a certificate of authority for a PPO.

(b) Requires the commissioner to deposit a fee collected under this section to the credit of the TDI operating account.

Sec. 1302.104. REQUIREMENTS FOR APPROVAL OF APPLICATION. Requires the commissioner to approve an application for a certificate of authority to engage in business in this state as a PPO on payment of the application fee prescribed by Section 1302.103 and if the commissioner is satisfied that granting the application would not violate a federal or state law; the applicant has not attempted to obtain the certificate of authority through fraud or bad faith; the applicant has complied with this chapter and rules adopted by the commissioner under this chapter; and the name under which the applicant will engage in business in this state is not so similar to that of another PPO that it is likely to mislead the public.

Sec. 1302.105. DENIAL OF APPLICATION. (a) Requires the commissioner, if the commissioner is unable to approve an application for a certificate of authority under this chapter, to provide the applicant with written notice specifying each deficiency in the application, and offer the applicant the opportunity for a hearing to address each reason and circumstance for possible denial of the application.

(b) Requires the commissioner to provide an opportunity for a hearing before the commissioner finally denies the application.

(c) Provides that at the hearing the applicant has the burden to produce sufficient competent evidence on which the commissioner can make the determinations required by Section 1302.104.

[Reserves Sections 1302.106-1302.150 for expansion.]

#### SUBCHAPTER D. ENFORCEMENT

Sec. 1302.151. GROUNDS FOR DENIAL, SUSPENSION, OR REVOCATION OF CERTIFICATE OF AUTHORITY. Provides that the denial, suspension, or revocation of a certificate of authority under this chapter to act as a PPO is subject to Subchapter C (Disciplinary Actions and Procedures; Enforcement), Chapter 4005 (Conduct, Disciplinary Actions, and Sanctions), Insurance Code, and Chapter 82 (Sanctions), Insurance Code.

SECTION 3.002. Requires the commissioner to adopt rules as necessary to implement Chapter 1302, Insurance Code, as added by this Act, not later than November 1, 2009.

SECTION 3.003. (a) Requires a PPO that is operating before the effective date of this Act and that has not previously submitted an application for certificate of authority under the Insurance Code, except as provided by Subsections (b) and (c) of this section, to apply for a certificate of authority under Chapter 1302, Insurance Code, as added by this Act, not later than the 60th day after the effective date of this Act.

(b) Provides that a preferred provider organization operating in this state that, as of August 31, 2009, holds a certificate of authority as an insurer under Chapter 801, Insurance Code, or a third-party administration under Chapter 4151 (Third-Party Administrators), Insurance Code, is not required to obtain a certificate of authority under Chapter 1302, Insurance Code, as added by this Act.

(c) Authorizes a PPO in this state that has not applied for or does not hold, as of the effective date of this Act, a certificate of authority under Chapter 801 (Veterinarians) or 4151, Insurance Code, and that applies for a certificate under Chapter 1302, Insurance Code, as added by this Act, to continue to operate, if the applicant otherwise complies with applicable law, until the commissioner of insurance acts on the application.

#### ARTICLE 4. RATE REGULATION

SECTION 4.001. Amends Subchapter A, Chapter 2251, Insurance Code, by adding Section 2251.009, as follows:

Sec. 2251.009. **FILING OF CERTAIN CLAIMS INFORMATION** (a) Provides that this section applies only to an insurer subject to this subchapter who writes personal automobile insurance or residential property insurance in this state.

(b) Requires the commissioner to require each insurer described by Subsection (a) to file with the commissioner personal automobile insurance and residential property insurance claims information for the period covered by the filing, including the number of claims filed during the reporting period; pending on the last day of the reporting period, including pending litigation; paid during the reporting period; denied during the reporting period; and carrying over from the reporting period immediately preceding the current period.

(c) Authorizes the commissioner to require insurers described by Subsection (a) to file the information described by Subsection (b) quarterly or annually.

(d) Authorizes the commissioner to adopt rules necessary to implement this section.

SECTION 4.002. Amends Section 2251.101(b), Insurance Code, to require the commissioner by rule to prescribe the process through which TDI requests supplementary rating information and supporting information under this section, including any time limits concerning and the time frame in which requests for the information are authorized to be made, the number of times TDI is authorized to make a request for information, and the types of information TDI is authorized request to when reviewing a rate filing. Makes nonsubstantive changes.

SECTION 4.003. Amends Section 2251.103, Insurance Code, as follows:

Sec. 2251.103. **New heading: COMMISSIONER ACTION CONCERNING RATE FILING; HEARING AND ANALYSIS.** (a) Requires the commissioner, not later than the 30th day after the date a rate is filed with TDI under Section 2251.101, to disapprove the rate if the commissioner determines that the rate, rather than rate filing made under this chapter, does not comply with the requirements of this chapter, rather than meet the standards established under Subchapter B. Makes nonsubstantive changes.

(b) Provides that if a rate has not been disapproved by the commissioner before the expiration of the 30-day period described by Subsection (a), except as provided by Subsection (c), the rate is considered approved.

(c) Authorizes the commissioner, for good cause, on the expiration of the 30-day period described by Subsection (a), to extend the period for disapproval of a rate for one additional 30-day period. Prohibits the commissioner and the insurer from extending, by agreement, the 30-day period described by Subsection (a).

(d) Requires the commissioner, if the commissioner disapproves a rate under this section, rather than filing, to issue an order specifying in what respects the rate, rather than filing, fails to meet the requirements of this chapter.

(e) Entitles an insurer, that files a rate that is disapproved under this section, rather than the filer, to a hearing on written request made to the commissioner not later than the 30th day after the date the order disapproving the rate takes affect.

(f) Requires TDI to track, compile, and routinely analyze the factors that contribute to the disapproval of rates under this section.

SECTION 4.004. Amends Subchapter C, Chapter 2251, Insurance Code, by adding Section 2251.1031, as follows:

Sec. 2251.1031. REQUESTS FOR ADDITIONAL INFORMATION. (a) Authorizes TDI, if TDI determines that the information filed by an insurer under this subchapter or Subchapter D is incomplete or otherwise deficient, to request additional information from the insurer.

(b) Provides that if TDI requests additional information from the insurer during the 30-day period described by Section 2251.103(a) or 2251.153(a) or under a second 30-day period described by Section 2251.103(c) or 2251.153(c), as applicable, the time between the date TDI submits the request to the insurer and the date TDI receives the information requested is not included in the computation of the first 30-day period or the second 30-day period, as applicable.

(c) Provides that for purposes of this section, the date of TDI's submission of a request for additional information is the date of TDI's electronic mailing or telephone call relating to the request for additional information or the postmarked date on TDI's letter relating to the request for additional information.

(d) Requires TDI to track, compile, and routinely analyze the volume and content of requests for additional information made under this section to ensure that all requests for additional information are fair and reasonable.

SECTION 4.005. Amends the heading to Section 2251.104, Insurance Code, to read as follows:

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

SECTION 4.006. Amends Section 2251.107, Insurance Code, as follows:

Sec. 2251.107. New heading: PUBLIC INFORMATION. (a) Provides that each filing made, and supporting information filed, under this chapter, including a claims information filing under Section 2251.009, are open to public inspection as of the date of the filing. Makes a nonsubstantive change.

(b) Requires TDI to make available to the public information concerning best practices for rate development by insurers in this state and the factors that contribute to the disapproval of rates under Section 2251.103. Requires that information provided under this subsection be general in nature and not reveal proprietary or trade secret information of any insurer.

(c) Requires TDI to post the data contained in claims information filings under Section 2251.009 on TDI's Internet website. Authorizes the commissioner by rule to establish a procedure for posting data under this subsection that includes a description of the data that must be posted and the manner in which the data must be posted.

SECTION 4.007. Amends Section 2251.151, Insurance Code, by adding Subsections (c-1) and (f) and amending Subsection (e), as follows:

(c-1) Requires the commissioner, if the commissioner requires an insurer to file the insurer's rates under this section, to periodically assess whether the conditions described by Subsection (a) continue to exist. Requires the commissioner, if the commissioner determines that the conditions no longer exist, to issue an order excusing the insurer from filing the insurer's rates under this section.

(e) Requires the commissioner, if the commissioner requires an insurer to file the insurer's rates under this section, to issue an order specifying the commissioner's reasons for requiring the rate filing and explaining any steps the insurer is required to take and any conditions the insurer is required to meet in order to be excused from filing the insurer's rates under this section.

(f) Requires the commissioner by rule to define the financial conditions and rating practices that may subject an insurer to this section under Subsection (a)(1) (relating to the insurer's rates requiring supervision), and the process by which the commissioner determines that a statewide insurance emergency exists under Subsection (a)(2) (relating to statewide emergency existing).

SECTION 4.008. Amends Section 2251.156, Insurance Code, to make conforming changes.

SECTION 4.009. Amends Section 2251.252(a) and (b), Insurance Code, as follows:

(a) Provides that an insurer, except as provided by Subsections (b) and (c), is exempt from the rate filing and approval requirements of this chapter if the insurer, during the calendar year preceding the date filing is otherwise required under this chapter, issued residential property insurance policies in this state that accounted for less than four percent, rather than two percent, of the total amount of premiums collected by insurers for residential property insurance policies issued on this state, more than 50 percent of which cover property valued at less than \$100,000, and located in an area designated by the commissioner as underserved for residential property insurance under Chapter 2004 (Residential Property Insurance in Underserved Areas).

(b) Makes a conforming change.

SECTION 4.010. Repealer: Section 2251.154 (Additional Information), Insurance Code.

SECTION 4.011. Requires the commissioner to require an insurer to make the insurer's first claims information filing under Section 2251.009, Insurance Code, as added by this Act, beginning on or after January 1, 2010.

SECTION 4.012. Makes application of Sections 2251.103, as amended by this Act, and Section 2251.1031, as added by this Act, prospective.

SECTION 4.013. Provides that Section 2251.151(c-1), Insurance Code, applies to an insurer that is required to file the insurer's rates for approval under Section 2251.151 on or after the effective date of this Act, regardless of when the order requiring the insurer to file the rates is first issued.

SECTION 4.014. Makes application of Section 2251.151(e), as amended by this Act prospective.

## ARTICLE 5. STATE FIRE MARSHAL'S OFFICE

SECTION 5.001. Amends Section 417.008, Government Code, by adding Subsection (f), as follows:

(f) Requires the commissioner by rule to prescribe a reasonable fee for an inspection performed by the state fire marshal may be charged to a property owner or occupant who requests the inspection, as the commissioner considers appropriate. Requires the commissioner, in prescribing the fee, to consider the overall cost to the state fire marshal to perform the inspections, including the approximate amount of time the staff of the state fire marshal needs to perform an inspection, travel costs, and other expenses.

SECTION 5.002. Amends Section 417.0081, Government Code, as follows:

Sec. 417.0081. New heading: INSPECTION OF CERTAIN STATE-OWNED OR STATE-LEASED BUILDINGS. (a) Creates this subsection from existing text. Requires the state fire marshal, at the commissioner's direction, to periodically inspect

public buildings under the charge and control of the Texas Facilities Commission (TFC), rather than General Services Commission, and buildings leased for the use of a state agency by TFC.

(b) Requires the commissioner by rule, for the purpose of determining a schedule for conducting inspections under this section, to adopt guidelines for assigning potential fire safety risk to state-owned and state-leased buildings. Requires that rules adopted under this subsection provide for the inspection of each state-owned and state-leased building to which this section applies, regardless of how low the potential fire safety risk of the building may be.

(c) Requires the state fire marshal, on or before January 1 of each year, to report to the governor, lieutenant governor, speaker of the house of representatives, and appropriate standing committees of the legislature regarding the state fire marshal's findings in conducting inspections under this section.

SECTION 5.003. Amends Section 417.0082, Government Code, as follows:

Sec. 417.0082. New heading: PROTECTION OF CERTAIN STATE-OWNED OR STATE-LEASED BUILDINGS AGAINST FIRE HAZARDS. (a) Requires the state fire marshal, under the direction of the commissioner, to take any action necessary to protect a public building under the charge and control of the TFC, rather than the Texas Building and Procurement Commission, and the building's occupants, and the occupants of a building leased for the use of a state agency by TFC, against an existing or threatened fire hazard.

(b) Makes a conforming change.

SECTION 5.004. Amends Section 417.010, Government Code, as follows:

Sec. 417.010. New heading: DISCIPLINARY AND ENFORCEMENT ACTIONS; ADMINISTRATIVE PENALTIES. (a) Provides that this section applies to each person and firm licensed, registered, or otherwise regulated by TDI through the state fire marshal, including a person regulated under Title 20 (Regulation of Other Occupations), Insurance Code, and a person licensed under Chapter 2154 (Regulation of Fireworks and Fireworks Displays), Occupations Code.

(b) Requires the commissioner by rule to delegate to the state fire marshal the authority to take disciplinary and enforcement actions, including the imposition of administrative penalties in accordance with this section on a person regulated under a law listed under Subsection (a) who violates that law or a rule or order adopted under that law. Requires the commissioner, in the rules adopted under this subsection, to specify which types of disciplinary and enforcement actions are delegated to the state fire marshal and outline the process through which the state fire marshal is authorized, subject to Subsection (e), to impose administrative penalties or take other disciplinary and enforcement actions.

(c) Requires the commissioner by rule to adopt a schedule of administrative penalties for violations subject to a penalty under this section to ensure that the amount of an administrative penalty imposed is appropriate to the violation. Requires TDI to provide the administrative penalty schedule to the public on request. Requires that the amount of an administrative penalty imposed under this section be based on the seriousness of the violation, including the nature, circumstances, extent, and gravity of the violation, and the hazard or potential hazard created to the health, safety, or economic welfare of the public; the economic harm to the public interest or public confidence caused by the violation; the history of previous violations; the amount necessary to deter a future violation; efforts to correct the violation; whether the violation was intentional; and any other matter that justice may require.

(d) Authorizes the state fire marshal, in lieu of certain punitive actions, to impose on the holder of the license or certificate of registration an order directing the holder to pay an administrative penalty imposed under this section, rather than remit to the commissioner within a specified time a monetary forfeiture not to exceed \$10,000 for each violation of an applicable law or rule. Makes nonsubstantive changes.

(e) Requires the state fire marshal to impose an administrative penalty under this section in the manner prescribed for imposition of an administrative penalty under Subchapter B (Imposition of Administrative Penalty), Chapter 84 (Administrative Penalties), Insurance Code. Authorizes the state fire marshal to impose an administrative penalty under this section without referring the violation to TDI for commissioner action.

(f) Authorizes an affected person to dispute the imposition of the penalty or the amount of the penalty imposed in the manner prescribed by Subchapter C (Procedural Requirements), Chapter 84, Insurance Code. Provides that failure to pay an administrative penalty imposed under this section is subject to enforcement by TDI.

## ARTICLE 6. TITLE INSURANCE

SECTION 6.001. Amends Section 2602.107, Insurance Code, by adding Subsection (d), to require the Texas Title Insurance Guaranty Association to pay, from the guaranty fee account, fees and reasonable and necessary expenses that TDI incurs in an examination of a title agent or direct operation under Subchapter H, Chapter 2651.

SECTION 6.002. Amends Subchapter D, Chapter 2651, Insurance Code, by adding Section 2651.1511 and amending Sections 2651.153 and 2651.155, as follows:

Sec. 2651.1511. ANNUAL AUDIT OF OPERATING ACCOUNTS: TITLE INSURANCE AGENTS AND DIRECT OPERATIONS. (a) Requires each title insurance agent and direct operation to submit to TDI an annual audit of operating accounts that is verified by an officer of the audited title insurance agent or the audited direct operation.

(b) Requires the title insurance agent or direct operation to pay for an audit of operating accounts under this section.

(c) Requires the agent or direct operation, not later than the 90th day after the date of the end of the agent's or direct operation's fiscal year, to send by certified mail, postage prepaid, to TDI one copy of the audit report with a transmittal letter.

(d) Authorizes the commissioner, notwithstanding Subsection (a), to exempt a title insurance agent or district operation with an annual premium volume of less than \$100,000 from the requirements of Subsections (a)-(c).

Sec. 2651.153. RULES. Requires the commissioner by rule to adopt the standards for an audit conducted under this subchapter, the form of the required audit report, and a process to exempt a title insurance agent under Section 2651.1511(d). Makes a nonsubstantive change.

Sec. 2651.155. CONFIDENTIALITY OF AUDIT. (a) Creates this subsection from existing text.

(b) Provides that information obtained in an audit of the operating accounts of a title insurance agent or direct operation under this subchapter is confidential and not subject to disclosure under this code or Chapter 552 (Public Information), Government Code.

SECTION 6.003. Amends Chapter 2651, Insurance Code, by adding Subchapter H, as follows:

SUBCHAPTER H. EXAMINATION OF TITLE INSURANCE AGENTS AND DIRECT OPERATIONS

Sec. 2651.351. EXAMINATION OF TITLE INSURANCE AGENTS AND DIRECT OPERATIONS. (a) Requires TDI to examine each title insurance agent and direct operation licensed in this state as provided by this subchapter.

(b) Requires TDI to examine the title insurance agent's or direct operation's financial condition; trust, escrow, and operating accounts; ability to meet its liabilities; and compliance with the laws of this state and rules adopted by the commissioner that affect the business conduct of the title insurance agent or direct operation; and verify the data reported for rate promulgation.

(c) Requires TDI to conduct the examination at the principal office of the title insurance agent or direct operation, and authorizes TDI to conduct the examination alone or with representatives of the insurance supervising departments of other states.

(d) Requires TDI, subject to Subsection (e), to examine a title insurance agent or direct operation as frequently as TDI considers necessary. Requires TDI, at a minimum, to examine a title insurance agent or direct operation not less frequently than once every three years.

(e) Requires the commissioner to adopt rules governing the frequency of examinations of a title insurance agent or direct operation licensed for less than three years.

Sec. 2651.352. EXAMINATION PERIOD. Requires that the examination cover the period beginning on the last day covered by the most recent examination and ending on December 31 of the year preceding the year in which the examination is being conducted, unless TDI requires that an examination cover a longer period.

Sec. 2651.353. POWERS RELATED TO EXAMINATION. Provides that TDI or the examiner appointed by TDI has free access, and is authorized to require the title insurance agent or direct operation to provide free access, to all books and papers of the title insurance agent or direct operation that relate to the business and affairs of the title insurance agent or direct operations and has the authority to summon and examine under oath, if necessary, an officer, agent, or employee of the title insurance agent or direct operation or any other person in relation to the affairs and condition of the title insurance agent or direct operation.

Sec. 2651.354. EFFECT OF SUBCHAPTER ON AUTHORITY TO USE INFORMATION. Provides that this subchapter does not limit the commissioner's authority to use a final or preliminary examination report, the work papers of an examiner, title insurance agent, or direct operation, or other documents, or any other information discovered or developed during an examination in connection with a legal or regulatory action that the commissioner, in the commissioner's sole discretion, considers appropriate.

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

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

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

Sec. 2651.356. DISCIPLINARY ACTION FOR FAILURE TO COMPLY WITH SUBCHAPTER. Provides that a title insurance agent or direct operation is subject to disciplinary action under Chapter 82 (Sanctions) for failure or refusal to comply with this subchapter or a rule adopted under this subchapter, or a request by TDI or an appointed examiner to be examined or to provide information requested as part of an examination.

SECTION 6.004. Amends Section 2703.153(c), Insurance Code, to require the commissioner, not less frequently than once every five years, to evaluate the information required under this section to determine whether TDI needs additional or different information or no longer needs certain information to promulgate rates.

SECTION 6.005. Repealer: Section 2602.103(b) (relating to the commissioner's request to retain persons), Insurance Code.

Repealer: Section 2602.103(c) (relating to a person acting solely under the direction of the commissioner), Insurance Code.

Repealer: 2602.103(d) (relating to the reimbursement of a person retained under Subsection (b)), Insurance Code.

## ARTICLE 7. TEXAS WINDSTORM INSURANCE ASSOCIATION

SECTION 7.001. Amends Section 2210.008, Insurance Code, as follows:

Sec. 2210.008. New heading: DEPARTMENT RULES; ORDERS. (a) Requires the commissioner to adopt rules in the manner prescribed by Subchapter A (Rules), Chapter 36 (Department Rules and Procedures), as the commissioner considers necessary to implement this chapter. Requires the commissioner to adopt rules as provided by this chapter to approve proposed changes to the operations of the Texas Windstorm Insurance Association (TWIA).

(b) Creates this subsection from text of existing Subsection (a). Deletes existing text authorizing the commissioner, after notice and hearing as prescribed by Subsection (b), to issue orders regarding maximum rates, competitive rates, and policy forms. Deletes text of existing Subsection (b) requiring TDI, before the commissioner adopts an order, to post notice of the hearing on the order at the secretary of state's office in Austin and hold a hearing to consider the proposed order. Deletes existing text authorizing any person to appear at the hearing and testify for or against the adoption of the order.

SECTION 7.002. Amends Section 2210.102, Insurance Code, as follows:

Sec. 2210.102. COMPOSITION. (a) Provides that the TWIA board of directors (board) is composed of 11 members, rather than the following nine members, appointed by the commissioner, including five representatives of different insurers who are members of TWIA, rather than elected by the members as provided by the plan of operation; four public representatives, rather than two public representatives who are nominated by the officer of public insurance counsel, who as of the date of appointment meet certain requirements.

(b) Requires insurers who are members of TWIA to nominate, from among those members, persons to fill any vacancy of the five board seats reserved for insurers. Requires the board to solicit nominations from the members and submit the nominations to the commissioner. Requires that the nominee slate submitted to the commissioner under this subsection include more names than the number of vacancies. Requires the commissioner to appoint replacement insurer members from the nominee slate.

(c) Creates this subsection from text of existing Subsection (b)

SECTION 7.003. Amends Section 2210.103(a), Insurance Code, to provide that members of the board serve three-year staggered terms, with the terms of three members or four members, as applicable, expiring on the third Tuesday of March of each year.

SECTION 7.004. Amends Section 2210.104, Insurance Code, as follows:

Sec. 2210.104. OFFICERS. Requires the commissioner to appoint a presiding officer from the board's membership, rather than requiring the board of directors to elect from the board's membership an executive committee consisting of a presiding officer, assistant presiding officer, and secretary-treasurer. Deletes existing text requiring at least one of the officers to be a member appointed under Section 2210.102(a)(2) (relating to two public representatives who are nominated by the office of public insurance counsel) or (3) (relating to two property and casualty agents). Authorizes the board to elect other officers from the board's membership as considered necessary to conduct the duties of the board.

SECTION 7.005. Amends Section 2210.152(a), Insurance Code, to require the plan of operation to provide for the efficient, economical, fair, and nondiscriminatory administration of TWIA, and a plan for property inspections for windstorm hail insurance. Makes nonsubstantive changes.

SECTION 7.006. Amends Section 2210.153, Insurance Code, as follows:

Sec. 2210.153. AMENDMENTS TO PLAN OF OPERATION. (a) Requires, rather than authorizes, TWIA to present a recommendation for a change in the plan of operation to TDI in writing in the manner prescribed by the commissioner. Deletes existing text providing that the plan is to be presented at periodic hearings conducted by TDI for that purpose, or hearings relating to property and casualty insurance rates. Deletes existing text requiring TWIA to present a proposed change to TDI. Incorporates text from Subsection (b).

(b) Redesignates existing Subsection (c) as Subsection (b).

SECTION 7.007. Amends Section 2210.202.(a), Insurance Code, as follows:

(a) Requires TWIA to make insurance available to each applicant in the catastrophe area whose property is insurable property but who, after diligent efforts, is unable to obtain property insurance through the voluntary market, as evidenced by two declinations, cancellations, or a combination of declinations and cancellations from insurers authorized to engage in the business of, and writing, property insurance in this state. Defines "declination." Requires that evidence of two declinations or other comparable evidence, notwithstanding Section 2210.203(c), is required with an application for renewal of an association policy unless TWIA has evidence that comparable voluntary market coverage is not available in the area of the property to be insured for the same class of risk.

SECTION 7.008. Amends Section 2210.207(e), Insurance Code, to authorize the commissioner, notwithstanding this chapter or any other law, to adopt certain rules. Deletes existing text authorizing the commissioner to adopt rules after notice and hearing.

SECTION 7.009. Amends Section 2210.251, Insurance Code, by amending Subsections (a), (c), (f), and (g) and adding Subsections (i), (j), and (k), as follows:

(a) Provides that to be considered insurable property eligible for windstorm and hail insurance coverage from TWIA, a structure that is constructed or repaired or to which additions are made on or after January 1, 1988, except as provided by this section, is required to be inspected or approved by TWIA, rather than TDI, for compliance with the plan of operation.

(c) Requires a person, after January 1, 2004, to submit a notice of a windstorm inspection to TWIA, rather than to the unit responsible for certification of windstorm inspections at TDI, before beginning to construct, alter, remodel, enlarge, or repair a structure.

(f) Makes a conforming change.

(g) Makes a conforming change.

(i) Authorizes TWIA to charge a reasonable fee for each inspection in an amount set by commissioner rule. Authorizes TWIA to use fees collected under this section for operating expenses.

(j) Requires TDI, without limitation of TDI's authority to otherwise enforce this chapter, to monitor TWIA's compliance with this subchapter. Requires TWIA, to facilitate TDI's oversight of the inspection program, to report to TDI monthly, in the manner prescribed by the commissioner, regarding the number of inspections performed, the number of structures inspected, the number and a general description of the type of inspection deficiencies discovered through the inspection program, and any actions taken to resolve problems with inspections.

(k) Authorizes the commissioner to adopt rules in the manner prescribed by Subchapter A (Rules), Chapter 36 (Department Rules and Procedures), as necessary to implement this section.

SECTION 7.010. Amends Section 2210.254(a) and (c), Insurance Code, as follows:

(a) Redefines "qualified inspector."

(c) Requires a qualified inspector, before performing building inspections, to enter into a contract with TWIA, rather than be approved and appointed or employed by TDI. Makes conforming changes.

SECTION 7.011. Amends Subchapter F, Chapter 2210, Insurance Code, by adding Section 2210.2541, as follows:

Sec. 2210.2541. ASSOCIATION INSPECTION PROGRAM. (a) Requires TWIA to develop an inspection program to perform inspections for windstorm and hail insurance as required by this subchapter.

(b) Requires TWIA to adopt inspection standards and regulations regarding the operation of the inspection program, including inspection training and education requirements, as determined necessary by TWIA, for licensed engineers who contract with TWIA under Section 2210.255; guidelines for inspection fees assessed under Section 2210.251(i) and for fees collected by inspectors under this subchapter; and procedures for handling complaints made to TWIA regarding inspectors.

(c) Requires TWIA to include in the inspection program an oversight process that includes regular reinspections by TWIA to ensure that association inspectors perform duties under this subchapter appropriately.

(d) Requires TWIA to report possible licensing violations by an inspector selected under Section 2210.254 (Qualified Inspectors) and 2210.255 to perform inspection under this subchapter to the Texas Board of Professional Engineers (TBPE).

(e) Requires TWIA to establish procedures as part of the inspection program as necessary to issue certificates of compliance under Section 2210.251(f).

(f) Requires TWIA, as part of the report required under Section 2210.251(j), to report to TDI regarding the operation of the inspection program.

SECTION 7.012. Amends Section 2210.255, Insurance Code, as follows:

Sec. 2210.255. New heading: CONTRACT WITH LICENSED ENGINEER AS INSPECTOR. (a) Authorizes TWIA, on request of an engineer licensed by the Texas Board of Professional Engineers, to enter into contract with the engineer under which the engineer serves as an inspector under this subchapter. Authorizes TWIA to enter into a contract under this subsection only on receipt of information satisfactory to the board that the engineer is qualified to perform windstorm inspections under this subchapter. Deletes existing text requiring the commissioner to appoint the engineer as an inspector under this subchapter, not later than the 10th day after the date the engineer delivers to the commissioner information demonstrating that the engineer is qualified.

(b) Requires TWIA to consult with the commissioner regarding the information to be considered in contracting with, rather than appointing, engineers under this section. Deletes existing text requiring the commissioner to adopt rules establishing the information to be considered.

SECTION 7.013. Amends Subchapter F, Chapter 2210, Insurance Code, by adding Section 2210.2565, as follows:

Sec. 2210.2565. PROCEDURES REGARDING CONTRACTING WITH INSPECTORS. Requires the board to develop procedures for contracting with and oversight of inspectors selected under Sections 2210.254 and 2210.255, including procedures relating to the grounds for the suspension, modification, or revocation of a contract under this subchapter with an inspector.

SECTION 7.014. Amends Section 2210.351, Insurance Code, as follows:

Sec. 2210.351. New heading: ASSOCIATION RATE FILINGS AND SUPPORTING INFORMATION; USE OF RATE. (a) Requires TWIA, except as provided by Section 2210.3562, to file with TDI each manual of classification, rules, rates, including condition charges, each rating plan, each modification of those items that TWIA proposes to use, supplementary rating information, and additional information as required by the commissioner. Makes nonsubstantive changes.

(b) Requires the commissioner by rule to determine the information required to be included in the filing, including categories of supporting information and supplementary rating information; statistics or other information to support the rates to be used by TWIA, including information necessary to evidence that the computation of the rate does not include disallowed expenses; and information concerning policy fees, service fees, and other fees that are charged or collected by TWIA.

(c) Authorizes TWIA, after the filing has been made, to use a filed rate. Provides that a filed rate is subject to disapproval by the commissioner in the manner prescribed by this subchapter. Deletes existing text requiring the commissioner, as soon as reasonably possible after the filing has been made, in writing to approve, modify, or disapprove the filing. Deletes existing text providing that a filing is considered approved unless modified or disapproved on or before the 30th day after the date of the filing.

(d) Creates this subsection from existing text. Deletes existing text authorizing the commissioner, if at any time the commissioner determines that a filing approved under Subsection (c) no longer meets the requirements of the chapter, after a hearing held on at least 20 days' notice to TWIA that specifies the matters to be considered at the hearing, to issue an order withdrawing approval of the filing. Deletes existing text requiring the order to specify in what respects the commissioner determines that the filing no longer meets the requirements of this chapter. Deletes existing text prohibiting an order issued under this subsection from taking effect before the 30th day after the date of issuance of the order.

(e) Makes no changes to this subsection.

SECTION 7.015. Amends Sections 2210.352 and 2210.353, Insurance Code, as follows:

Sec. 2210.352. MANUAL RATE FILINGS: ANNUAL FILING. (a) Requires TWIA, not later than August 15 of each year, to file with TDI a proposed manual rate for all types and classes of risks written by TWIA. Deletes existing text providing that the filing with TDI was for the purpose of approval by the commissioner.

(b) Requires the commissioner, rather than before approving, disapproving, or modifying a filing, to provide all interested persons a reasonable opportunity to perform certain actions.

(c) Deletes existing text requiring the commissioner to schedule an open meeting not later than the 45th day after the date TDI receives a filing at which interested persons are authorized to present written or oral comments relating to the filing. Deletes existing text providing that an open meeting under Subsection (c) is subject to Chapter 551, Government Code, but is not contested case hearing under Chapter 2001, Government Code. Deletes existing text requiring the notice to include information relating to the time, place, and date of the open meeting scheduled under Subsection (c) at which interested persons are authorized to present written or oral comments relating to the filing. Redesignates text of existing Subsection (e) as Subsection (c).

(d) Redesignated from existing Subsection (f). Deletes text providing that commissioner action is required after the conclusion of the open meeting.

(e) Redesignated from existing Subsection (g). Requires the commissioner, if the commissioner disproves a filing, to state in the order issued under Section 2210.3561, rather than to state in writing, the reasons for the disapproval and the criteria TWIA is required to meet to obtain approval.

Sec. 2210.353. MANUAL RATE FILINGS: AMENDED FILING. (a) Authorizes TWIA, not later than the 30th day after the date TWIA receives the commissioner's written disapproval under Section 2210.352(d), rather than Section 2210.352(f), to file with the commissioner an amended filing that conforms to all criteria stated in that written disapproval.

(b) Makes no changes to this subsection.

(c) Makes no changes to this subsection. Deletes existing text of Subsections (d), (e), and (f) authorizing the commissioner, in the manner provided by Sections 2210.352(c) and (d), to hold a hearing regarding an amended filing not later than the 20th day after the date TDI receives the amended filing; requiring the commissioner, not later than the 10th day after the date the hearing is concluded, to approve or disapprove the amended filing; providing that the requirements imposed under Subsection (a) and under Sections 2210.352(e), (f), and (g) apply to a hearing conducted under this section and the commissioner's decision resulting from that hearing.

SECTION 7.016. Amends Section 2210.356, Insurance Code, as follows:

Sec. 2210.356. New heading: UNIFORM RATE REQUIREMENTS. (a) Requires each rate used under this subchapter, rather than approved by the commissioner in accordance with this subchapter, to be uniform throughout the first tier costal counties.

(b) Deletes existing text that requiring that the catastrophe element of the rates be developed using 90 percent of both the monoline extended coverage loss experience and related premium income for all insurers, other than TWIA, for covered property located in the seacoast territory, using not less than the most recent 30 years of experience available, and 100 percent of both the loss experience and related premium income for TWIA for covered property, using not less than the most recent 30 years of experience available.

(c) Deletes this entire subsection, which required that the noncatastrophe element of the noncommercial rates be developed using 90 percent of both the monoline extended coverage loss experience and related premium income for all insurers, other than TWIA, for covered property located in the catastrophe area of the seacoast territory, using the most recent 10 years of experience available, and 100 percent of both the loss experience and related premium income for TWIA for covered property, using the most recent 10 years of experience available.

(d) Deletes this entire subsection, which required the noncatastrophe element of the commercial rates to be developed using 100 percent of both the loss experience and related premium income for TWIA for covered property, using the most recent 10 years of experience available.

SECTION 7.017. Amends Subchapter H, Chapter 2210, Insurance Code, by adding Section 2210.3561 and 2210.3562, as follows:

Sec. 2210.3561. DISAPPROVAL OF RATE IN RATE FILING; HEARING. (a) Requires the commissioner to disapprove a rate before its use if the commissioner determines that the rate filing made under Section 2210.351 does not meet the standards established under Section 2210.355 or 2210.356.

(b) Requires the commissioner, if the commissioner disapproves a filing, to issue an order specifying in what respects the filing fails to meet the requirements of this subchapter.

Sec. 2210.3562. PRIOR APPROVAL OF CERTAIN RATE INCREASES REQUIRED. (a) Requires TWIA to file with TDI all rates, all supplementary rating information, and any supporting information in accordance with this section if TWIA proposes an average rate change of five percent or more during any 12-month period. Authorizes the commissioner to specify any rate information and additional information, as described by Section 2210.351(a), to be filed with TDI under this section.

(b) Requires the commissioner, not later than the 30th day after the date TWIA files a proposed rate under Subsection (a), to enter an order approving or disapproving the proposed rate. Authorizes the commissioner, on notice to TWIA, to extend the period for entering an order under this section an additional 30 days.

(c) Requires that an order disapproving a rate under this section state the grounds for the disapproval, and the findings in support of the disapproval.

(d) Prohibits TWIA from issuing an insurance policy or endorsement subject to this section until the commissioner approves the rates to be applied to the policy or endorsement. Provides that from the date of the filing of the proposed rate with TDI to the effective date of the new rate, TWIA's previously filed rate that is in effect on the date of the filing remains in effect.

(e) Provides that for purposes of this section, a rate is filed with TDI on the date TDI receives the rate filing.

SECTION 7.018. Amends Section 2210.359, Insurance Code, as follows:

Sec. 2210.359. LIMITATION ON CERTAIN RATE CHANGES. (a) Provides that this subsection does not apply to a rate filed under Section 2210.351, rather than Sections 2210.351(a)-(d).

(b) Authorizes the commissioner, by an order issued under Section 2210.008 after notice and hearing, to suspend this section on a finding that a catastrophe loss or serious of occurrences resulting in losses in the catastrophe area justify a need to ensure certain requirements.

SECTION 7.019. Amends Subchapter H, Chapter 2210, Insurance Code, by adding Section 2210.364, as follows:

Sec. 2210.364. BOARD RATE MEETINGS; PUBLICATION OF PROPOSED RATE CHANGES. (a) Requires the board to discuss and make decisions on proposed rate changes in public meetings of the board.

(b) Requires the board to publish each proposed rate change in the Texas Register for public comment before the public meeting at which that change is to be discussed.

SECTION 7.020. Amends Chapter 2210, Insurance Code, by adding Subchapter I, as follows:

#### SUBCHAPTER I. POLICY FORMS AND ENDORSEMENTS

Sec. 2210.401. FILING OF POLICY FORMS AND ENDORSEMENTS. (a) Requires TWIA to file with TDI each policy and endorsement form proposed to be used. Authorizes the forms to be designed specifically for use by TWIA without regard to other forms filed with, approved by, or prescribed by TDI for use in this state.

(b) Requires the commissioner, not later than the 30th day after the date TWIA files a proposed form or endorsement under Subsection (a), to enter an order approving or disapproving the proposed form or endorsement. Authorizes the commissioner, on notice to TWIA, to extend the period for entering an order under this section an additional 30 days.

(c) Requires that an order disapproving a policy form or endorsement under this section state the grounds for the disapproval and the findings in support of the disapproval.

(d) Prohibits TWIA from using a policy form or endorsement disapproved under Subsection (b) until the commissioner approves the policy form or endorsement.

Sec. 2210.402. BOARD MEETINGS RELATING TO FORMS; PUBLICATION OF PROPOSED CHANGES TO FORMS. (a) Requires the board to discuss and make decisions on proposed changes to policy forms and endorsements used by TWIA in public meetings of the board.

(b) Requires the board to publish each proposed change to a policy form or endorsement in the Texas Register for public comment before the public meeting at which that change is to be discussed.

SECTION 7.021 Amends Section 2210.453. Insurance Code, as follows:

Sec. 2210.453. REINSURANCE PROGRAM. (a) Requires TWIA to establish a reinsurance program approved by the commissioner by rule, rather than by TDI.

(b) Makes a conforming change.

(c) Provides that the commissioner is not required to conduct a hearing under this section to approve a reinsurance program.

SECTION 7.022. Amends Section 2210.454(b), Insurance Code, to delete existing text authorizing TDI, from a certain amount of the investment income from the trust fund and as part of the mitigation preparedness plan, to use in each fiscal year \$1 million for the windstorm inspection program established under Section 2210.251.

SECTION 7.023. Amends Section 2210.502(b), Insurance Code, as follows:

(b) Requires that an adjustment to the maximum liability limits be approved by the commissioner by rule. Provides that an adjustment applies to each windstorm and hail

insurance policy delivered, issued for delivery, or renewed on or after January 1 of the year following the date of the approval by the commissioner. Makes a nonsubstantive change.

SECTION 7.024. Amends Section 2210.504(a), Insurance Code, to require the commissioner by rule, not later than the 60th day after the date of receipt of a filing under Section 2210.503 (Filing of Proposed Adjustments With Commissioner), to adopt a proposed adjustment to the maximum liability limits, as provided by Section 2210.502 (Adjustments to Maximum Liability Limits), rather than requires the commissioner by order, and after notice and hearing, to approve, disapprove, or modify the proposed adjustment to the maximum liability limits.

SECTION 7.025. Repealer: Section 2210.207(f) (relating to a hearing under Subsection (e) held before the commissioner or the commissioner's designee), Insurance Code.

Repealer: Section 2210.254(d) (relating to the reasonable fee for the filing of applications), Insurance Code.

Repealer: Section 2210.256 (Disciplinary Proceedings Regarding Appointed Inspectors), Insurance Code.

Repealer: Section 2210.257 (Deposit of Fees), Insurance Code.

SECTION 7.026. (a) Provides that the board of TWIA established under Section 2210.102, Insurance Code, as that section existed before amendment by this Act, is abolished effective January 1, 2010.

(b) Requires the commissioner, not later than December 31, 2009, to appoint the members of the board of TWIA under Section 2210.102, Insurance Code, as amended by this Act.

(c) Provides that the term of a person who is serving as a member of the board of TWIA immediately before the abolition of that board under Subsection (a) of this section expires on January 1, 2010. Provides that such a person is eligible for appointment by the commissioner to the new board of TWIA under Section 2210.102, Insurance Code, as amended by this Act.

SECTION 7.027. Makes application of Section 2210.202, Insurance Code, prospective to January 1, 2010.

## ARTICLE 8. ELECTRONIC TRANSACTIONS

SECTION 8.001. Amends Subtitle A, Title 2, Insurance Code, by adding Chapter 35, as follows:

### CHAPTER 35. ELECTRONIC TRANSACTIONS

Sec. 35.001. DEFINITIONS. Defines "conduct business" and "regulated entity."

Sec. 35.002. CONSTRUCTION WITH OTHER LAW. (a) Authorizes a regulated entity, notwithstanding any other provision of this code, to conduct business electronically in accordance with this chapter and the rules adopted under Section 35.004.

(b) Provides that to the extent of any conflict between another provision of this code and a provision of this chapter, the provision of this chapter controls.

Sec. 35.003. ELECTRONIC TRANSACTIONS AUTHORIZED. Authorizes a regulated entity to conduct business electronically to the same extent that the entity is authorized to conduct business otherwise if before the conduct of business each party to the business agrees to conduct the business electronically.

Sec. 35.004. RULES. (a) Requires the commissioner to adopt rules necessary to implement and enforce this chapter.

(b) Requires that the rules adopted by the commissioner under this section include rules that establish minimum standards with which a regulated entity is required to comply in the entity's electronic conduct of business with other regulated entities and consumers.

SECTION 8.002. Makes application of Chapter 35, Insurance Code, as added by this Act prospective.

#### ARTICLE 9. TRANSITION; EFFECTIVE DATE

SECTION 9.001. Makes application of this Act prospective to January 1, 2010.

SECTION 9.002. Effective date: September 1, 2009.