

BILL ANALYSIS

Senate Research Center

C.S.S.B. 1007
By: Hegar
Government Organization
4/6/2009
Committee Report (Substituted)

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 Advisory 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.

C.S.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.

C.S.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, and transfers the responsibility for windstorm inspections from TDI to TWIA. C.S.S.B. 1007 authorizes TWIA to require applicants to provide proof of two declinations before receiving insurance through TWIA.

Finally, C.S.S.B. 1007 requires TDI to regularly examine title agents; requires title agents to annually submit audited financial statements of operating accounts to TDI; requires the commissioner to reassess the information needed to accurately promulgate title insurance rates for Texas every five years; adds a data collection requirement for insurers who write personal automobile and residential property insurance in this state; requires the commissioner to conduct a study concerning the accuracy of current designations of underserved areas not less than once every six years; and requires the commissioner to conduct a study concerning the impact of increasing the percentage of the total amount of premiums collected by insurers for residential property insurance and report the results of the study.

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 (Sections 1302.003 and 1302.102, Insurance Code), SECTION 4.006 (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 7.009 (Section 2210.251, Insurance Code), SECTION 8.001 (Section 35.004, Insurance Code), and SECTION 9.001 (Sections 38.403 and 38.404, Insurance Code) of this bill.

Rulemaking authority previously granted to the commissioner is modified in SECTION 2.003 (Section 1660.004, Insurance Code), SECTION 2.004 (Section 1660.102, Insurance Code), SECTION 2.005 (Section 2154.052, Occupations Code), SECTION 2.007 (Section 4102.005, Insurance Code), SECTION 4.001 (Section 2251.101, Insurance Code), SECTION 5.003 (Section 417.0082, Government Code), and SECTION 6.002 (Section 2651.153, 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 7.010 (Section 2210.254, 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 AND RELATED TECHNICAL CORRECTIONS

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. Transfers Section 843.441, Insurance Code, to Subchapter L, Chapter 843, Insurance Code, renumbering it as Section 843.410, and amending it as follows:

Sec. 843.410. ASSESSMENTS. (a) Requires the commissioner, to provide funds for the administrative expenses of the commissioner regarding rehabilitation, liquidation, supervision, conservatorship, or seizure of a health maintenance organization, rather than conservation of an impaired health maintenance organization, in this state that is placed in supervision or conservatorship under Chapter 441 (Supervision and Conservatorship) or in a delinquency proceeding under Chapter 443 (Insurer Receivership Act) and is found by the commissioner to have insufficient funds to pay the total amount of the health care claims and the administrative expenses incurred by the commissioner regarding the rehabilitation, liquidation, supervision, conservatorship, or seizure, to assess each health maintenance organization in the proportion that the gross premiums of the health maintenance organization that were written in this state during the preceding calendar year bear to the aggregate gross premiums that were written in this state by all health maintenance organizations, as found after review of annual statements and other reports the commissioner considers necessary. Deletes existing text providing that to provide funds for the health care claims and administrative expenses, including expenses incurred by the commissioner acting as receiver or by a special deputy receiver, the committee, at the commissioner's direction, is to assess each health maintenance organization in the proportion that the gross premiums of the health maintenance organization that were written in this state during the preceding calendar year bear to the aggregate gross premiums that were written in this state by all health maintenance organizations, as provided to the committee by the commissioner after review of annual statements and other reports the commissioner considers necessary.

(b) Redesignates Subsection (c) as Subsection (b). Authorizes the amount of the abatement or deferral, if an assessment is abated or deferred in whole or in part, to be assessed against the remaining health maintenance organizations in a manner consistent with the calculations made by the commissioner under Subsection (a), rather than in a manner consistent with the basis for assessments provided by the approved plan of operation.

(c) Redesignates Subsection (d) as Subsection (c). Makes no changes to this subsection.

(d) Redesignates Subsection (e) as Subsection (d). Prohibits funds derived from an assessment made under this section, notwithstanding any other provision of this subchapter, from being used for more than 180 consecutive days for the expenses of administering the affairs of a health maintenance organization, the surplus of which is impaired and that is in supervision or conservatorship, rather than while in supervision, rehabilitation, or conservation for more than 150 days. Authorizes the commissioner to extend the period during which the commissioner makes assessments for the administrative expenses. Deletes existing text authorizing the committee to extend the period during which it makes assessments for the administrative expenses of an impaired health maintenance organization as it considers appropriate.

SECTION 2.003. Amends Section 1660.004, Insurance Code, to delete existing text authorizing the commissioner to adopt rules as necessary to implement this chapter, including rules requiring the implementation and provision of the technology recommended by the advisory committee.

SECTION 2.004. 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 2.005 Amends Section 2154.052(a), Occupations Code, to delete existing text providing that the rules administered under this chapter are issued to administer this chapter in compliance with Section 2154.054.

SECTION 2.006. Amends Section 4001.009(a), Insurance Code, as follows:

(a) Deletes existing text providing that Chapter 523 (Market Assistance Program for Residential Property Insurance), Occupations Code, is among the laws in which a reference to an agent includes a subagent without regard to whether a subagent is specifically mentioned. Makes nonsubstantive changes.

SECTION 2.007. Amends Section 4102.005, Insurance Code, as follows:

Sec. 4102.005. CODE OF ETHICS. Requires the commissioner, rather than the commissioner with guidance from the public insurance adjusters examination advisory committee, by rule to adopt certain conventions.

SECTION 2.008. Repealer: Chapter 523 (Market Assistance Program for Residential Property Insurance), 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: Sections 4002.004 (Advisory Board), Insurance Code.

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

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

Repealer: Section 4102.059 (Advisory Board), Insurance Code.

Repealer: Section 4201.003(c) (relating to the advisory committee and development of the rules), Insurance Code;

Repealer: Section 4201.003(d) (relating to the advisory committee's deliberations), Insurance Code.

Repealer: Section 843.435 (Definition), Insurance Code.

Repealer: Section 843.436 (Composition and Administration), Insurance Code.

Repealer: Section 843.437 (Plan of Operation), Insurance Code.

Repealer: Section 843.438 (Examination and Regulation), Insurance Code.

Repealer: Section 843.439 (Immunity From Liability), Insurance Code.

Repealer: Section 843.440 (General Powers and Duties), 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 and 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: the heading to Subchapter M (Health Maintenance Organization Solvency Surveillance Committee), Chapter 843 (Health Maintenance Organizations), Insurance Code.

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

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

SECTION 2.009. (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 adjusters 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 2.010. Makes application of the changes in law made by this Act by repealing Sections 523.003 (Immunity) and 843.439, Insurance Code, 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 a preferred provider organization (PPO) that contracts with a preferred provider benefit plan applies to a PPO that contracts with 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.

(d) Authorizes the commissioner to adopt rules under which a PPO is required to update the information submitted in an application for a certificate of authority.

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 Section 2251.101, Insurance Code, as follows:

Sec. 2251.101. RATE FILINGS AND SUPPORTING INFORMATION. Authorizes an insurer to use a rate filed under this subchapter on and after the date the rate is filed. Requires the commissioner by rule to prescribe the process through which TDI requests supplementary rating information and supporting information under this section, including the number of times TDI is authorized to make a request for information, and the types of information TDI is authorized to request when reviewing a rate filing.

SECTION 4.002. Amends Section 2251.103, Insurance Code, as follows:

Sec. 2251.103. New heading: COMMISSIONER ACTION CONCERNING RATE FILING NOT YET IN EFFECT; HEARING AND ANALYSIS. (a) Requires the commissioner, not later than the earlier of the date the rate takes effect or 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 the 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 not considered disapproved under this section.

(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) or this subsection.

(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 effect.

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

SECTION 4.003. 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 earlier of the date of TDI's electronic mailing or documented 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 4.004. Amends the heading to Section 2251.104, Insurance Code, to read as follows:

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

SECTION 4.005. Amends Section 2251.107, Insurance Code, as follows:

Sec. 2251.107. New heading: PUBLIC INFORMATION. (a) Creates this subsection from existing text.

(b) Requires TDI each year to make available to the public information concerning TDI's general process and methodology for rate review under this chapter, including factors that contribute to the disapproval of a rate. Requires that information provided under this subsection be general in nature and not reveal proprietary or trade secret information of any insurer.

SECTION 4.006. 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 4.007. Amends Section 2251.156, Insurance Code, as follows:

Sec. 2251.156. RATE FILING DISAPPROVAL BY COMMISSIONER: HEARING. (a) and (b) Makes conforming changes.

(c) Requires TDI to track precedents related to disapprovals of rates under this subchapter to ensure uniform application of rate standards by TDI.

SECTION 4.008. Repealer: Section 2251.154 (Additional Information), Insurance Code.

SECTION 4.009 . Makes application of Section 2251.103, as amended by this Act, and Section 2251.1031, as added by this Act, prospective.

SECTION 4.010. 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 4.011. 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 or direct operation 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, but authorizes TDI to access any other offices or business locations of the title insurance agent or direct operation for purposes of conducting the examination. 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. (a) Provides that this subchapter does not limit TDI'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; or release 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, to a law enforcement agency, an attorney regulatory authority, or an agency of this state, another state, or the United States if the disclosure is necessary or proper for the enforcement of the laws of this state, another state, or the United States, as determined by the commissioner.

- (b) Provides that a release by the commissioner under Subsection (a) of 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, does not make the report, work papers, documents, or information public information under Chapter 552, Government Code.

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 Sections 2210.052(a) and (d), Insurance Code, as follows:

(a) Requires each member of the Texas Windstorm Insurance Association (TWIA) to participate in the assessments, rather than writings, expenses, profits, and losses, of TWIA in the proportion that the net direct premiums of that member during the preceding calendar year bears to the aggregate net direct premiums by all members of TWIA, as determined using the information provided under Subsection (b).

(d) Requires that the member's participation in the assessments, rather than writings, of TWIA be reduced in accordance with the plan of operation.

SECTION 7.002. Amends Section 2210.060(c), Insurance Code, to make a conforming change.

SECTION 7.003. Amends Subchapter C, Chapter 2210, Insurance Code, by adding Section 2210.1015, as follows:

Sec. 2210.1015. PRIMARY DUTY OF BOARD MEMBERS. Provide that the primary duty of each TWIA board of directors (board) board member is to TWIA, as specified in the plan of operation.

SECTION 7.004. 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 at least four 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)

(d) Provides that notwithstanding Section 2210.103, a member of the board serves at the pleasure of the commissioner. Requires the commissioner to appoint a replacement for a member who leaves or is removed from the board in the manner provided by this section.

SECTION 7.005. 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 7.006. Amends Section 2210.104, Insurance Code, as follows:

Sec. 2210.104. OFFICERS. Requires the board to elect from the board's membership an executive committee consisting of a presiding officer, assistant presiding officer, and secretary-treasurer. Authorizes the board to elect other officers from the board's membership as considered necessary to conduct the duties of the board.

SECTION 7.007. 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 7.008. 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 covering damages from wind and hail 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 covering damages from wind and hail in this state. Defines "declination." Requires evidence of two declinations or other comparable evidence, notwithstanding Section 2210.203(c), with an application for renewal of a TWIA 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 7.009. 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 quarterly, 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 Sections 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 TWIA 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 2210.452(c), Insurance Code, as follows:

(c) Requires TWIA at the end of each calendar year or policy year, to pay the net gain from operations of TWIA to the trust fund. Redefines "net gain from operations" and "operating expenses."

SECTION 7.015. 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 7.016. 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 7.017. (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 7.018. 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. DATA COLLECTION

SECTION 9.001. Amends Chapter 38, Insurance Code, by adding Subchapter I, as follows:

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

Sec. 38.401. APPLICABILITY OF SUBCHAPTER. Provides that this subchapter applies only to an insurer who writes personal automobile insurance or residential property insurance in this state.

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

- (1) filed during the reporting period;
- (2) pending on the last day of the reporting period, including pending litigation;
- (3) closed with payment during the reporting period;
- (4) closed without payment during the reporting period; and
- (5) carrying over from the reporting period immediately preceding the current reporting period.

(b) Requires an insurer described by Section 38.401 to file the information described by Subsection (a) on an annual basis. Requires that the information filed be broken down by quarter.

Sec. 38.403. PUBLIC INFORMATION. (a) Requires TDI to post the data contained in claims information filings under Section 38.402 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 is required to be posted.

(b) Requires that information provided under this section be aggregate data by line of insurance for each insurer and prohibits the information from revealing proprietary or trade secret information of any insurer.

Sec. 38.404. RULES. Authorizes the commissioner adopt rules necessary to implement this subchapter.

ARTICLE 10. STUDY ON RATE FILING AND APPROVAL REQUIREMENTS FOR CERTAIN INSURERS WRITING IN UNDERSERVED AREAS; UNDERSERVED AREA DESIGNATION

SECTION 10.001. Amends Section 2004.002, Insurance Code, by amending Subsection (b) and adding Subsections (c) and (d), as follows:

(b) Requires the commissioner, in determining which areas to designate as underserved, to consider certain factors, including whether access to the full range of coverages and

policy forms for residential property insurance does not reasonably exist. Makes nonsubstantive changes.

(c) Requires the commissioner to determine which areas to designate as underserved under this section not less than once every six years.

(d) Requires the commissioner to conduct a study concerning the accuracy of current designations of underserved areas under this section for the purpose of increasing and improving access to insurance in those areas not less than once every six years.

SECTION 10.002. Amends Subchapter F, Chapter 2251, Insurance Code, by adding Section 2251.253, as follows:

Sec. 2251.253. REPORT. (a) Requires the commissioner to conduct a study concerning the impact of increasing the percentage of the total amount of premiums collected by insurers for residential property insurance under Section 2251.252 (Exemption from Certain Other Law).

(b) Requires the commissioner to report the results of the study in the biennial report required under Section 32.022 (Biennial Report to Legislature).

(c) Provides that this section expires September 1, 2011.

ARTICLE 11. TRANSITION; EFFECTIVE DATE

SECTION 11.001. Makes application of this Act prospective to January 1, 2010, except as otherwise provided by this Act.

SECTION 11.002. Effective date: September 1, 2009.