

INSURANCE CODE

TITLE 10. PROPERTY AND CASUALTY INSURANCE

SUBTITLE A. GENERAL PROVISIONS

CHAPTER 1805. JOINT UNDERWRITING AND ADVISORY ORGANIZATIONS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 1805.001. APPLICABILITY OF CHAPTER. This chapter applies to the kinds of insurance and insurers subject to:

- (1) Section 403.002;
- (2) Section 941.003 with respect to the application of a law described by Section 941.003(b)(1) or (c);
- (3) Section 942.003 with respect to the application of a law described by Section 942.003(b)(1) or (c);
- (4) Subchapter A, B, or C, Chapter 5;
- (5) Subchapter H, Chapter 544;
- (6) Subchapter A, Chapter 2301;
- (7) Chapter 252, 253, 254, 255, 426, 1806, 1807, 2001, 2002, 2003, 2004, 2005, 2006, 2008, 2051, 2052, 2053, 2055, 2171, 2251, or 2252;
- (8) Subtitle B or C, Title 10; or
- (9) Chapter 2154, Occupations Code.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 730 (H.B. 2636), Sec. 2H.001, eff. April 1, 2009.

Acts 2007, 80th Leg., R.S., Ch. 730 (H.B. 2636), Sec. 3B.0591(e), eff. September 1, 2007.

SUBCHAPTER B. ADVISORY ORGANIZATIONS

Sec. 1805.051. LICENSE APPLICATION. (a) A corporation, unincorporated association, partnership, or individual may file with the commissioner an application for an advisory organization license for the kinds of insurance specified in the application.

(b) The applicant must:

- (1) file with the commissioner:
  - (A) a copy of the applicant's:
    - (i) constitution and bylaws;
    - (ii) article of agreement or association or certificate of incorporation; and
    - (iii) rules governing the applicant's activities as an advisory organization; and
  - (B) a statement of qualifications to act as an advisory organization; and
- (2) pay a \$100 license fee.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Sec. 1805.052. ISSUANCE OF LICENSE; TERM. (a) The commissioner shall issue a license to an applicant the commissioner determines is qualified, without regard to:

- (1) the state of domicile or residence of the applicant; or

- (2) the location of the applicant's place of business.

(b) The commissioner shall grant or deny a license to an applicant not later than the 60th day after the date the commissioner receives the application.

(c) A license issued under this subchapter remains in effect until the commissioner suspends or revokes the license.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Sec. 1805.053. INFORMATION REPORTED BY ADVISORY ORGANIZATION. (a) An advisory organization may file with the commissioner prospective loss costs, supplementary rating information, and policy forms. A filing made by an advisory organization under this section is subject to the provisions of this code or other insurance laws of this state governing rate filings.

(b) An advisory organization at least quarterly shall file with the commissioner a list of:

- (1) each subscriber company engaging in business in

this state; and

(2) the products or information the subscriber company purchases.

(c) On request by the commissioner, an advisory organization shall provide to the department a summary of the actuarial assumptions, trend factors, economic factors, and other criteria used in trending data for companies engaging in business in this state.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Sec. 1805.054. INSURER'S AUTHORITY TO SUBSCRIBE TO ADVISORY ORGANIZATION. An insurer engaging in business in this state may subscribe to an advisory organization.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Sec. 1805.055. SUBMISSION, RECEIPT, AND USE OF INFORMATION BY INSURER. (a) Except as provided by Subsection (b), an insurer may submit to or receive from an advisory organization the following only if the advisory organization holds a license issued under this subchapter:

- (1) statistical plans;
- (2) historical data;
- (3) prospective loss costs;
- (4) supplementary rating information;
- (5) policy forms and endorsements;
- (6) research;
- (7) rates of individual insurers that are effective at the time the information is submitted or received or that were previously in effect; and
- (8) performance of inspections.

(b) An insurer may not:

(1) accept from an advisory organization recommendations for rates; or

(2) submit to or receive from an advisory organization recommendations for profit or expenses other than loss adjustment

expenses.

(c) An insurer that subscribes to an advisory organization may use prospective loss costs, supplementary rating information, and policy forms filed by the advisory organization under Section [1805.053](#)(a) and may incorporate the information into the insurer's filings.

(d) Notwithstanding any other law, an insurer that reports data under this subchapter is not relieved of the responsibility of reporting that data directly to the department at the department's request.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. [2017](#)), Sec. 2, eff. April 1, 2007.

Sec. 1805.056. AUDIT. (a) The department shall require an annual audit of an advisory organization that provides statistics or other information to the department in a proceeding to set rates.

(b) The audit must:

(1) be conducted at the expense of the advisory organization under rules adopted by the commissioner; and

(2) examine the advisory organization's method of collecting, analyzing, and reporting data to ensure the accuracy of data.

(c) The audit may examine source documents within individual companies.

(d) Except for individual company information, an audit is public information.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. [2017](#)), Sec. 2, eff. April 1, 2007.

Sec. 1805.057. RATE FILING REVIEW. The commissioner may:

(1) review the rate filing of an insurer that relies on the prospective loss costs provided by an advisory organization; and

(2) require the insurer to provide the insurer's actual data and loss experience in addition to the information provided by the advisory organization.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. [2017](#)), Sec. 2, eff.

April 1, 2007.

Sec. 1805.058. PROHIBITED ACTS. (a) An advisory organization may not compile or distribute recommendations for:

- (1) rates; or
- (2) profit or expenses other than loss adjustment expenses.

(b) An insurer or advisory organization may not:

- (1) attempt to monopolize, combine, or conspire with another person to monopolize an insurance market;
- (2) engage in a boycott, on a concerted basis, of an insurance market; or
- (3) make an agreement with another insurer, advisory organization, or person if the agreement has the purpose or effect of restraining trade unreasonably or substantially lessening competition in the business of insurance.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Sec. 1805.059. DISCIPLINARY ACTION. (a) If, after a hearing, the commissioner determines that the furnishing of specified services by an advisory organization involves an act or practice that is unfair, unreasonable, or otherwise inconsistent with this chapter or other applicable laws of this state, the commissioner may issue a written order:

- (1) specifying the manner in which the act or practice is unfair, unreasonable, or inconsistent with the applicable law; and
- (2) requiring the advisory organization to discontinue the act or practice.

(b) In addition to any other remedies available at law, the commissioner may impose a sanction authorized under Chapter 82.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Sec. 1805.060. SUNSET REVIEW. During the period in which the Sunset Advisory Commission performs its review of the

department under Chapter 325, Government Code, the commission shall review the authority granted under this subchapter.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Sec. 1805.061. CONFLICT WITH OTHER LAW. To the extent this subchapter conflicts with Section 2053.052(c), 2053.055, 2053.151, 2053.152, or 2053.153, or Subchapter A or C, Chapter 2053, with respect to the setting of rates for workers' compensation insurance, the referenced provision of Chapter 2053 controls.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

#### SUBCHAPTER C. EXAMINATIONS

Sec. 1805.101. EXAMINATION AUTHORIZED. (a) As often as the department determines expedient, the department may examine a group, association, or other organization referred to in this chapter, including an advisory organization described by Subchapter B.

(b) An officer, manager, agent, or employee of the group, association, or organization may be examined at any time under oath and shall make available any book, record, account, document, or agreement governing the method of operation of the group, association, or organization.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Sec. 1805.102. EXAMINATION COSTS. The group, association, or other organization shall pay the reasonable costs of an examination under this subchapter on presentation of a detailed account of the costs.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Sec. 1805.103. OUT-OF-STATE EXAMINATION. In lieu of an examination under this subchapter, the department may accept the

report of an examination made by the insurance supervisory official of another state in accordance with the laws of that state.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

SUBCHAPTER D. CERTAIN PRACTICES IN JOINT UNDERWRITING OR JOINT REINSURANCE

Sec. 1805.151. AUTHORITY OF COMMISSIONER. If, after a hearing, the commissioner determines that an activity or practice of a group, association, or other organization of insurers engaging in joint underwriting or joint reinsurance is unfair, unreasonable, or otherwise inconsistent with this chapter or other applicable law, the commissioner may issue a written order:

(1) specifying the manner in which the activity or practice is unfair, unreasonable, or inconsistent with the applicable law; and

(2) requiring the group, association, or organization to discontinue the activity or practice.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.