

INSURANCE CODE

TITLE 10. PROPERTY AND CASUALTY INSURANCE

SUBTITLE D. FIRE INSURANCE AND ALLIED LINES,
INCLUDING RESIDENTIAL PROPERTY INSURANCE

CHAPTER 2003. PROCEDURES FOR EVALUATING FIRE LOSS RISK

SUBCHAPTER A. EVALUATING FIRE LOSS RISK

Sec. 2003.001. FIRE LOSS INFORMATION. (a) The department shall ascertain as soon as practicable the annual fire loss in this state.

(b) The department shall, in a manner that will aid in determining equitable insurance rates and methods to reduce annual fire loss and insurance rates of this state or subdivisions of this state:

(1) obtain, make, and maintain records regarding the annual fire loss in this state; and

(2) collect data concerning the annual fire loss as necessary to enable the department to classify:

(A) fire losses in this state;

(B) the causes of those fire losses;

(C) the amount of the premiums collected for fire loss for each class of risk; and

(D) the amount paid for the fire losses.

(c) The commissioner may designate one or more advisory organizations or other agencies to gather, audit, and compile the fire loss experience of insurers. The insurers shall bear the costs incurred under this subsection.

(d) To implement this section, the department may:

(1) employ clerical personnel, inspectors, experts, and other assistants; and

(2) incur other necessary expenses.

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

Sec. 2003.002. FIRE SUPPRESSION RATINGS FOR BORDER MUNICIPALITIES. In assigning or evaluating a fire suppression

rating for a municipality at or near the border between this state and another state or the United Mexican States, the commissioner shall consider the existence and capabilities of a fire department or volunteer fire department that:

(1) serves an adjoining or nearby municipality in the other state or the United Mexican States; and

(2) by agreement or by long-standing practice provides fire suppression services to the municipality in this state.

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

Sec. 2003.003. CREDIT FOR REDUCING FIRE HAZARD. The commissioner may give a locality, municipality, or other political subdivision credit for:

(1) each fire hazard that the locality, municipality, or other political subdivision reduces or removes;

(2) additional fire-fighting equipment, increased police protection, or any other equipment or improvement that tends to reduce the fire hazard of the locality, municipality, or other political subdivision; and

(3) a good fire record made by the locality, municipality, or other political subdivision.

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

Sec. 2003.004. POLICYHOLDER CREDIT FOR REDUCING HAZARD.

(a) The commissioner may require an insurer to give credit to a policyholder for a hazard that the policyholder reduces or removes.

(b) For purposes of this section, the following actions constitute a reduction in hazard by a policyholder:

(1) the installation of a new standard fire hydrant approved by the department within the required distance of a risk, as prescribed by the department; or

(2) the use of compressed air foam technology in fire-fighting equipment.

(c) The insurer shall give credit in the proportion that the hazard is reduced or removed and shall refund to the policyholder

the proportional part of the unearned premium charged for the hazard that is reduced or removed.

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

SUBCHAPTER B. MUNICIPAL FIRE LOSS LISTS

Sec. 2003.051. ANNUAL LIST OF INSURED FIRE LOSSES BY MUNICIPALITY. (a) The department shall compile for each municipality in this state a list for distribution to the municipality of the insured fire and lightning losses that:

(1) exceed \$100; and

(2) are paid in the municipality for the preceding statistical year under policy forms:

(A) adopted or approved by the commissioner and authorized for use by Section 2301.052(b); or

(B) filed and in effect as provided by Section 2301.052(a).

(b) Each list must include:

(1) the name of each person recovering a loss under a policy form described by Subsection (a);

(2) the address or location where the loss occurred; and

(3) the amount paid by the insurer on the loss.

(c) The department shall develop each list from information obtained from insurer reports of individual losses during the statistical year.

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

Sec. 2003.052. MUNICIPALITY'S REQUEST FOR LIST; RETURN REPORT. (a) The department shall provide to a municipality a copy of the list compiled under Section 2003.051 for the municipality on the request of the municipality or the municipality's authorized agent or fire marshal.

(b) Each municipality shall investigate the information contained in the list to determine the losses actually occurring

within the limits of the municipality. The municipality shall report to the department:

(1) a list of the losses that actually occurred within the limits of the municipality;

(2) a list of the losses that did not occur within the limits of the municipality; and

(3) other evidence essential to establishing the losses occurring in the municipality.

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

Sec. 2003.053. LIST CORRECTIONS; USE. The department shall:

(1) make changes that the department considers appropriate to correct the list compiled under Section 2003.051 for a municipality; and

(2) use the corrected list to determine the fire record credit or debit for the municipality for the next year.

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

Sec. 2003.054. CHARGE FOR LIST AND FIRE RECORD SYSTEM. The commissioner shall set and collect a charge for compiling and providing a list under this subchapter and as the commissioner considers appropriate for administering the fire record system.

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

Sec. 2003.055. DEPARTMENT AUTHORITY TO REQUIRE PROVISION OF FIRE LOSS INFORMATION. To accumulate statistical information for the control and prevention of fires, the department may require each municipality in this state and each insurer engaged in business in this state to provide to the department a complete and accurate report that lists all fire and lightning losses occurring in this state that are reflected in the municipality's or insurer's records.

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

April 1, 2007.

Sec. 2003.056. DISCRETIONARY PROVISION OF LIST. The department is not required to provide a list compiled under this subchapter if the fire record system is not in effect.

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

SUBCHAPTER C. VOLUNTARY INSPECTION PROGRAM

Sec. 2003.101. DEFINITIONS. In this subchapter:

(1) "Inspection" means a physical inspection of property for which residential property insurance is sought.

(2) "Inspection certificate" means a certificate issued under this subchapter by an inspector indicating that the condition of property meets or exceeds minimum standards.

(3) "Inspector" means a person authorized by the commissioner to perform inspections under this subchapter.

(4) "Minimum standards" means the standards adopted by the commissioner by rule regarding the insurability of property under this subchapter.

(5) "Residential property insurance" means insurance against loss to real or tangible personal property at a fixed location that is provided through a homeowners insurance policy, a residential fire and allied lines insurance policy, or a farm and ranch owners insurance policy.

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

Sec. 2003.102. RIGHT TO VOLUNTARY INSPECTION OF PROPERTY CONDITION. A person with an insurable interest in real or tangible personal property at a fixed location who desires to purchase residential property insurance may obtain an independent inspection of the condition of the property by an inspector authorized to perform inspections under this subchapter.

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

Sec. 2003.103. PLAN OF OPERATION. (a) The commissioner shall adopt a plan of operation for the voluntary inspection program.

(b) The plan of operation must include rules and standards for the voluntary inspection program, including:

(1) the manner and scope of the inspections to be performed;

(2) the contents of the written evaluation report;

(3) the form of the inspection certificate to be issued;

(4) the term during which an inspection certificate is valid;

(5) rules for the certification or licensing of persons authorized to perform inspections under the program; and

(6) the fee that may be charged a person requesting an inspection under the program.

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

Sec. 2003.104. ELIGIBLE INSPECTORS. Persons who may be certified or licensed to perform inspections under this subchapter include:

(1) a person licensed to perform real property inspections under Chapter 1102, Occupations Code; and

(2) a designated employee or agent of a county or municipality that chooses to establish a voluntary inspection program to inspect residential properties within the territorial limits of the county or municipality.

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

Sec. 2003.105. PRESUMPTION OF INSURABILITY. (a) The existence of an inspection certificate issued under this subchapter creates a presumption that the condition of the property inspected is adequate for the issuance of residential property insurance.

(b) If an inspection certificate is used in whole or in part

to determine insurability, an insurer may require as a condition of issuing a residential property insurance policy that the applicant for that insurance provide a written statement that there has not been a material or substantial change to the property condition since the date of the inspection certificate.

(c) An insurer who receives an inspection certificate may not use the condition of the property as grounds to refuse to issue or renew residential property insurance unless the insurer:

(1) reinspects the property; and

(2) specifies the areas of deficiency in the insurer's declination letter.

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

Sec. 2003.106. ENFORCEMENT. The commissioner by rule may provide for the use of any disciplinary procedure authorized by this code to:

(1) maintain the integrity of the voluntary inspection program; or

(2) ensure compliance with this subchapter.

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

Sec. 2003.107. RULES. In addition to the plan of operation adopted under Section 2003.103, the commissioner may adopt rules that are appropriate to accomplish the purposes of this subchapter.

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