

INSURANCE CODE

TITLE 10. PROPERTY AND CASUALTY INSURANCE

SUBTITLE G. POOLS, GROUPS, PLANS, AND SELF-INSURANCE

CHAPTER 2202. JOINT UNDERWRITING

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2202.001. DEFINITIONS. In this chapter:

(1) "Insurer" means any insurance company, corporation, reciprocal or interinsurance exchange, mutual association, county mutual insurance company, Lloyd's plan, or other insurer authorized to engage in business in this state. The term does not include an insurer that writes only life, health, or accident insurance, variable life insurance, or variable annuity contracts.

(2) "Joint underwriting association" means a voluntary unincorporated association of insurers authorized to engage in business in this state that has been authorized by the association's member insurers to act on behalf of the member insurers in joint underwriting or in issuing syndicate insurance policies on a several, but not joint, basis.

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

Sec. 2202.002. INAPPLICABILITY OF CHAPTER. This chapter does not apply to the transaction of life, health, or accident insurance business.

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

Sec. 2202.003. DEPOSIT OF FEES. Fees collected under this chapter shall be deposited to the credit of the Texas Department of Insurance operating account.

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

Sec. 2202.004. CERTAIN APPROPRIATIONS FROM GENERAL REVENUE

FUND PROHIBITED. The legislature may not appropriate money from the general revenue fund to administer this chapter, other than fees collected under this chapter and deposited to the credit of the Texas Department of Insurance operating account.

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

#### SUBCHAPTER B. AUTHORITY TO ACT AS JOINT UNDERWRITING ASSOCIATION

Sec. 2202.051. CERTIFICATE OF AUTHORITY REQUIRED. An association of insurers may not act as a joint underwriting association in this state on behalf of the association's member insurers unless the association holds a certificate of authority issued under this chapter.

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

#### Sec. 2202.052. APPLICATION FOR CERTIFICATE OF AUTHORITY.

(a) An association of insurers that applies for a certificate of authority under this chapter must file a written application on forms prescribed by the commissioner.

(b) The application must include:

(1) the names and addresses of the association's officers and directors;

(2) a copy of the association's constitution, articles of agreement or association, bylaws, rules, powers of attorney, or other agreements governing the association's activities;

(3) a list of the insurers authorized to engage in business in this state who are association members and the addresses of those insurers' principal administrative offices;

(4) the name and address of a resident of this state who will act as the association's agent for receipt of notices or orders of the commissioner and for service of process; and

(5) other information as required by the commissioner.

(c) At least one officer of the association must swear to the application.

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

April 1, 2007.

Sec. 2202.053. ISSUANCE OF CERTIFICATE OF AUTHORITY. The commissioner shall issue a certificate of authority to a joint underwriting association that complies with the requirements of this chapter.

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

Sec. 2202.054. TERM OF CERTIFICATE OF AUTHORITY. Unless renewed, a certificate of authority issued under this chapter expires on the third anniversary of the date the certificate is issued.

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

Sec. 2202.055. RENEWAL OF CERTIFICATE OF AUTHORITY. (a) An applicant for the renewal of a certificate of authority must file an application for renewal with the commissioner and pay the renewal fee on or before the date the certificate expires.

(b) The applicant shall file a list of the names and addresses of the association's officers and directors and a list of the association's member insurers with the application for renewal. At least one officer of the association must swear to the list.

(c) A renewed certificate of authority expires on the third anniversary of the renewal date.

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

Sec. 2202.056. FEE FOR CERTIFICATE OF AUTHORITY. (a) An applicant for the issuance or renewal of a certificate of authority must pay a nonrefundable fee in an amount set by the commissioner when the applicant files the application.

(b) The fee may not exceed \$200.

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

Sec. 2202.057. RECIPROCITY. The commissioner may waive any requirement for a certificate of authority for an applicant who holds a certificate of authority from another state if the other state has requirements for a certificate of authority that are substantially equivalent to the requirements of this state.

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

SUBCHAPTER C. POWERS AND DUTIES OF JOINT UNDERWRITING  
ASSOCIATION

Sec. 2202.101. AUTHORITY TO ACT. A joint underwriting association may:

(1) act only on behalf of association members who are authorized to engage in business in this state; and

(2) engage in only those activities the association is authorized to perform by the association members.

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

Sec. 2202.102. NOTIFICATION OF CERTAIN INFORMATION REQUIRED. An association holding a certificate of authority under this chapter shall notify the commissioner of a change in the information required to be filed under Section 2202.052 not later than the 30th day after the date the change takes effect.

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

Sec. 2202.103. MAINTENANCE OF INFORMATION. (a) A joint underwriting association shall maintain at the association's principal administrative office adequate records of all transactions.

(b) The association shall maintain the records in accordance with prudent recognized industry standards of recordkeeping.

(c) The commissioner or the commissioner's designated

representative is entitled to access to records maintained under Subsection (a) for examination, audit, and inspection.

(d) Trade secrets, including the identity and addresses of policyholders and certificate holders, are confidential, except that the commissioner may use information otherwise confidential in proceedings instituted against an association.

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

#### SUBCHAPTER D. AUDIT AND EXAMINATION REQUIREMENTS

Sec. 2202.151. ANNUAL AUDIT. An independent certified public accountant shall annually audit the books of accounts of a joint underwriting association as provided by Subchapter A, Chapter 401. A copy of the audit must be filed with the commissioner.

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

Sec. 2202.152. EXAMINATION BY COMMISSIONER. (a) The commissioner may require an examination of a joint underwriting association as often as the commissioner considers necessary. The association shall pay the reasonable costs of the examination on presentation to the association of a detailed account of the costs of the examination.

(b) The association's officers and employees may be examined under oath at any time and shall exhibit on request all books, records, accounts, documents, or agreements governing the association's operations.

(c) Instead of the examination, the commissioner may accept the report of an examination made by the insurance supervisory official of another state under the laws of that state.

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

#### SUBCHAPTER E. DISCIPLINARY ACTIONS AND PROCEDURES; ENFORCEMENT

Sec. 2202.201. GROUNDS FOR DENIAL OF CERTIFICATE OF AUTHORITY OR FOR DISCIPLINARY ACTION. The commissioner may deny an application for a certificate of authority or discipline a certificate holder under this subchapter if the commissioner finds that the applicant or certificate holder, or an officer or director of an applicant or certificate holder:

(1) wilfully violated or participated in the violation of this chapter or any other insurance law of this state;

(2) intentionally made a material misstatement in the original or renewal application;

(3) obtained or attempted to obtain the certificate by fraud or misrepresentation;

(4) misappropriated, converted to a personal or other inappropriate use, or illegally withheld money required to be held in a fiduciary capacity;

(5) has been convicted of a felony or convicted of a misdemeanor of which criminal fraud is an essential element; or

(6) is incompetent or untrustworthy.

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

Sec. 2202.202. DENIAL OF CERTIFICATE OF AUTHORITY OR DISCIPLINARY ACTION. If the commissioner finds that a ground for a denial of a certificate of authority or disciplinary action under Section 2202.201 exists, the commissioner may:

(1) deny the application for the certificate; or

(2) suspend, revoke, or refuse to renew the certificate of authority.

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

Sec. 2202.203. NOTICE AND HEARING. (a) Before the commissioner may deny an application for a certificate of authority or discipline a certificate holder under this subchapter, the commissioner must:

(1) give notice by certified mail to the applicant or certificate holder; and

(2) set a date on which the applicant or certificate holder may appear to be heard and produce evidence.

(b) A hearing under Subsection (a) may not be set for a date that is earlier than the 20th day or later than the 30th day after the date the notice is mailed.

(c) The notice must contain specific reasons for the hearing and a list of the matters to be considered at the hearing.

(d) At the hearing, the commissioner or a department employee designated to conduct the hearing may:

(1) administer oaths, require the appearance of witnesses, and examine any person under oath; and

(2) on the commissioner's initiative or on the request of the applicant or certificate holder, require the production of books, records, or papers relevant to the inquiry.

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

Sec. 2202.204. ISSUANCE OF ORDER. On the termination of the hearing, the findings shall be written and filed with the department. The commissioner shall issue an order showing the findings approved by the commissioner and shall send the order by certified mail to the applicant or certificate holder.

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

Sec. 2202.205. APPEAL. If the commissioner denies an application for a certificate of authority as provided by this chapter or suspends, revokes, or refuses to renew a certificate at a hearing as provided by this chapter, the applicant or certificate holder may appeal the commissioner's action as provided by Subchapter D, Chapter 36.

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

Sec. 2202.206. APPLICATION AFTER DENIAL, REFUSAL, OR REVOCATION. (a) Except as provided by Subsection (b), an applicant for a certificate of authority or certificate holder whose

certificate of authority has been denied, refused, or revoked under this chapter may not file another application for a certificate of authority before the first anniversary of the effective date of the denial, refusal, or revocation.

(b) If an applicant or certificate holder seeks judicial review of a denial, refusal, or revocation, the applicant or certificate holder may not file another application for a certificate of authority before the first anniversary of the date of a final court order or decree affirming the denial, refusal, or revocation.

(c) If an applicant files an application after the date specified by this section, the commissioner may refuse the application unless the applicant shows good cause why the denial of the previous application or the refusal to renew or the revocation of the original certificate of authority should not be a bar to the issuance of a new certificate.

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

Sec. 2202.207. ADDITIONAL SANCTIONS; INJUNCTION. (a) An association that violates this chapter or a rule or order adopted under this chapter is subject to sanctions under Chapter 82.

(b) The attorney general, a district or county attorney, or the commissioner may institute proceedings for an injunction or any other proceeding necessary to enforce this chapter.

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