

INSURANCE CODE

TITLE 10. PROPERTY AND CASUALTY INSURANCE

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

CHAPTER 2204. TEXAS INSURANCE EXCHANGE

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2204.001. DEFINITIONS. In this chapter:

(1) "Directors" means the board of directors of the exchange.

(2) "Exchange" means the Texas Insurance Exchange.

(3) "Member" means a person, firm, corporation, or underwriting syndicate authorized by the directors to insure or reinsure risks through the exchange.

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

Sec. 2204.002. EXEMPTION. (a) This chapter, Chapters 251 and 261, and rules adopted by the commissioner or comptroller, as applicable, apply to the exchange, a member, and insurance and reinsurance written through the exchange, except to the extent exempted by rules adopted by the commissioner or comptroller, as applicable.

(b) An exemption may not be:

(1) unfairly discriminatory; or

(2) detrimental to the solvency of an insurer authorized to engage in the business of insurance in this state.

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

Sec. 2204.003. RULES. The commissioner shall adopt rules for the operation and management of the exchange.

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

SUBCHAPTER B. OPERATION AND MANAGEMENT

Sec. 2204.051. PURPOSE OF EXCHANGE; SPECIFIC AUTHORIZATION FOR CERTAIN INSURANCE. (a) The exchange shall provide a facility for underwriting:

- (1) reinsurance of any kind of insurance;
- (2) direct insurance of any kind of risk located entirely outside the United States;
- (3) direct insurance of any kind of risk that:
  - (A) is located in another state; and
  - (B) qualifies for placement under the excess and surplus lines requirements of the jurisdiction in which the risk is located; and
- (4) a risk located in this state that has been submitted to and certified as rejected by a committee representing at least three and not more than seven insurers authorized to engage in the business of insurance in this state and subject to conditions imposed by rules adopted by the commissioner.

(b) For purposes of Chapter 101, insurance or reinsurance a member writes to cover a risk described by Subsection (a)(4) is considered to be specifically authorized by the laws of this state. Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Sec. 2204.052. OPERATION OF EXCHANGE. The exchange shall operate under:

- (1) a constitution and bylaws adopted by the exchange and approved by the department; and
- (2) rules adopted by the commissioner under Section 2204.003.

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

Sec. 2204.053. CONSTITUTION AND BYLAWS. (a) In this section:

- (1) "Principal office" means an office at which officers and personnel who are engaged in administration, underwriting, claims adjustment, policyholders' service, marketing, accounting, recordkeeping, and support services are

located.

(2) "Subscriber" means a person, firm, corporation, or other organization that, on payment of fees or dues required by the constitution and bylaws, the directors designate as a subscriber.

(b) The constitution and bylaws of the exchange must provide for:

(1) the election of nine directors, four of whom represent the public interest and are not members, subscribers, or agents of the exchange;

(2) the locations of the principal offices of the exchange and the members in this state for transacting business described by Section [2204.051\(a\)](#);

(3) the submission by the exchange, members, and applicants for membership in the exchange of financial information required by rules adopted by the commissioner;

(4) the establishment and maintenance by the exchange of a security fund in a form and amount specified by rules adopted by the commissioner;

(5) the voting power of members; and

(6) members' rights and duties, including the manner of conducting business, financial stability, dues, membership fees, mandatory arbitration, and any other matter necessary or appropriate to conduct business authorized by this chapter.

(c) For an agent transacting business on the exchange to participate in the operation and management of the exchange, the constitution and bylaws of the exchange must provide for the voting power and other rights granted to a nonprofit corporation under the Business Organizations Code.

(c-1) Expired.

(c-2) Expired.

(d) In a manner that complies with the requirements adopted under this section, the exchange may, with the department's approval, amend the exchange's constitution or bylaws in accordance with the terms of the constitution and bylaws.

(e) The constitution, a bylaw, or an amendment to the constitution or a bylaw is invalid without the department's approval.

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

Sec. 2204.054. DIRECTORS. (a) The directors shall operate and manage the exchange in accordance with rules adopted under Section 2204.003.

(b) The directors shall be elected by the members and any other person authorized by the exchange's constitution and bylaws to vote in an election of directors.

(c) At least two-thirds of the directors must be citizens of the United States.

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

#### SUBCHAPTER C. FINANCES

Sec. 2204.101. TAXES. (a) Except as provided by this section and Chapters 251 and 261, the exchange is not subject to state or local taxes that are measured by income, premiums, or gross receipts.

(b) A direct premium written, procured, or received by a member through the exchange on a risk located in this state is:

(1) considered written, procured, or received by the exchange; and

(2) subject to the premium taxes imposed under Subtitle B, Title 3.

(c) Premium taxes shall be reported, paid, and administered as provided by Subtitle B, Title 3.

(d) The exchange and the members are considered insurers for purposes of:

(1) Sections 201.052, 201.053, and 201.054;

(2) Chapters 4, 202, 203, 221, 222, 224, 227, 228, 251, 257, and 1109; and

(3) Section 171.0525, Tax 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.007, eff. April 1, 2009.

Sec. 2204.102. INVESTMENTS IN MEMBER OR AGENT. (a) The commissioner by rule may establish limitations on investments in a member.

(b) An investment, directly or indirectly, in a member by an agent transacting business on the exchange or in an agent transacting business on the exchange by a member is limited in the aggregate to:

(1) less than 20 percent of the total investment in the member or agent; or

(2) a lesser amount provided by a rule adopted by the commissioner.

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

Sec. 2204.103. COVERAGE BY GUARANTY FUNDS. (a) The performance of a contractual obligation of the exchange or a member entered into under this chapter is not covered by an insurance guaranty fund provided by the laws of this state.

(b) This section does not apply to the security fund established under Section 2204.053(b)(4).

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