

INSURANCE CODE

TITLE 3. DEPARTMENT FUNDS, FEES, AND TAXES

SUBTITLE B. INSURANCE PREMIUM TAXES

CHAPTER 229. COOPERATIVE AGREEMENTS WITH OTHER STATES

Sec. 229.001. DEFINITIONS. In this chapter:

(1) "Agent" includes:

(A) a surplus lines agent, as defined by Section 981.002;

(B) a person licensed as a surplus lines agent by another state; and

(C) any other person who performs the acts of an agent, whether through an oral, written, electronic, or other form of communication, by soliciting, negotiating, procuring, or collecting a premium on an insurance contract.

(2) "Insurer" has the meaning assigned by Section 101.002 and includes:

(A) an insurer that does not hold a certificate of authority in this state;

(B) an eligible surplus lines insurer; and

(C) an insurer that holds a certificate of authority in this state but performs acts outside the scope of its authority under the certificate.

(3) "Premium" includes:

(A) any consideration for insurance, including:

(i) a premium;

(ii) a membership fee;

(iii) an assessment; and

(iv) dues; or

(B) any other meaning of the term adopted in a cooperative agreement.

(4) "Processing entity" means a processing center or clearinghouse established under a cooperative agreement.

(5) "Stamping office" means the Surplus Lines Stamping Office of Texas or similar stamping offices in other states.

Added by Acts 2007, 80th Leg., R.S., Ch. 932 (H.B. 3315), Sec. 11, eff. June 15, 2007.

Renumbered from Insurance Code, Section 228.001 by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 27.001(60), eff. September 1, 2009.

Sec. 229.002. COOPERATIVE AGREEMENTS WITH OTHER STATES.

(a) The comptroller may enter into a cooperative agreement, reciprocal agreement, or compact with another state for the collection of insurance premium taxes imposed by Chapters 225 and 226 on a multistate basis. An agreement or amendment of an agreement takes effect according to its terms, except that an agreement or amendment may not take effect until the proposed agreement or amendment is published in the Texas Register.

(b) An agreement may provide for:

(1) determining a base state and multistate allocation of insurance premiums;

(2) tax reporting requirements;

(3) audit and refund claim procedures;

(4) exchange of information;

(5) requirements for reporting on a multistate basis;

(6) insurance and tax related terms and definitions;

(7) penalties, fees, administrative costs, and interest rates;

(8) audit assessment and refund claim limitation periods;

(9) procedures for collecting amounts due from agents, insurers, or other persons and for collecting and forwarding the amounts due to the jurisdiction to which the amount is owed;

(10) procedures for verifying refund claims by agents, insurers, or other persons and for collecting those amounts from the jurisdiction owing the refund amount;

(11) the temporary remittal of funds equal to the amounts due to another jurisdiction, subject to appropriation of funds for that purpose; and

(12) other provisions to facilitate the administration of the agreement.

(c) The comptroller may, as required by the terms of an

agreement, provide to an officer of another state any information that relates to the solicitation, negotiation, procurement, placement, issuance, receipt, or collection of premiums by an agent, insurer, or other person for an insurance contract or policy that may be subject to the premium taxes imposed by Chapter [225](#) or [226](#).

(d) An agreement may provide for each state to audit the records of an agent, insurer, or other person based in this state to determine if insurance premium taxes due each state that is a party to the agreement are properly reported and paid. An agreement may provide for each state to forward the findings of an audit performed on an agent, insurer, or other person based in this state to each other state in which the person has an allocation of taxable premiums.

(e) For an agent, insurer, or other person who has an allocation of taxable premiums in this state, the comptroller may use an audit performed by another state that is a party to an agreement with this state to make an assessment of insurance premium taxes against the agent, insurer, or other person. An assessment made by the comptroller under this subsection is prima facie evidence that the amount shown as due is correct.

(f) An agreement entered into under this section does not affect the comptroller's authority to audit any person under any other law.

(g) An agreement entered into under this section prevails over an inconsistent rule of the comptroller. Except as otherwise provided by this section, a statute of this state prevails over an inconsistent provision of an agreement entered into under this section.

(h) The comptroller may segregate in a separate fund or account the amount estimated to be due to other jurisdictions, amounts subject to refund during the fiscal year, fees, and other costs collected under the agreement. On a determination of an amount held that is due to be remitted to another jurisdiction, the comptroller may issue a warrant or make an electronic transfer of the amount as necessary to carry out the purposes of the agreement. An auditing cost, membership fee, or other cost

associated with the agreement may be paid from interest earned on funds segregated under this subsection. Any interest earnings in excess of the costs associated with the agreement shall be credited to general revenue.

(i) The legislature finds that it is in the public interest to enter into insurance tax and regulatory agreements with other jurisdictions that may provide for the temporary remittal of amounts due other jurisdictions that exceed the amounts collected and for cooperation with other jurisdictions for the collection of taxes imposed by this state under Chapters 225 and 226 and similar taxes imposed under statutes of other jurisdictions on insurance premiums. The comptroller shall ensure that reasonable measures are developed to recover insurance taxes and other amounts due this state during each biennium.

(j) The comptroller may enter into a cooperative agreement, reciprocal agreement, or compact with another state to provide for the collection of taxes imposed by this state and the other states on insurance taxes that may be due the states and this state based on a standardized premium allocation adopted by the states under the agreement. The comptroller may also enter into other cooperative agreements with surplus lines stamping offices located in this state and other states in the reporting and capturing of related tax information. In addition, the comptroller may enter into cooperative agreements with processing entities located in this state or other states related to the capturing and processing of insurance premium and tax data.

(k) The comptroller may adopt rules as necessary to implement this chapter. In adopting rules under this chapter, the comptroller may not adopt a rule that does not specifically implement this section.

Added by Acts 2007, 80th Leg., R.S., Ch. 932 (H.B. 3315), Sec. 11, eff. June 15, 2007.

Renumbered from Insurance Code, Section 228.002 by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 27.001(60), eff. September 1, 2009.