

INSURANCE CODE

TITLE 2. TEXAS DEPARTMENT OF INSURANCE

SUBTITLE A. ADMINISTRATION OF THE TEXAS DEPARTMENT OF INSURANCE

CHAPTER 31. ORGANIZATION OF DEPARTMENT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 31.001. DEFINITIONS. In this code and other insurance laws:

(1) "Commissioner" means the commissioner of insurance.

(2) "Department" means the Texas Department of Insurance.

Added by Acts 1999, 76th Leg., ch. 101, Sec. 1, eff. Sept. 1, 1999.

Sec. 31.002. DUTIES OF DEPARTMENT. In addition to the other duties required of the Texas Department of Insurance, the department shall:

(1) regulate the business of insurance in this state;

(2) administer the workers' compensation system of this state as provided by Title 5, Labor Code;

(3) ensure that this code and other laws regarding insurance and insurance companies are executed;

(4) protect and ensure the fair treatment of consumers; and

(5) ensure fair competition in the insurance industry in order to foster a competitive market.

Added by Acts 1999, 76th Leg., ch. 101, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 265 (H.B. 7), Sec. 6.051, eff. September 1, 2005.

Acts 2011, 82nd Leg., R.S., Ch. 1147 (H.B. 1951), Sec. 1.001, eff. September 1, 2011.

Sec. 31.003. COMPOSITION OF DEPARTMENT. The department is composed of the commissioner and other officers and employees required to efficiently implement:

- (1) this code;
- (2) other insurance laws of this state; and
- (3) other laws granting jurisdiction or applicable to the department or the commissioner.

Added by Acts 1999, 76th Leg., ch. 101, Sec. 1, eff. Sept. 1, 1999.

Sec. 31.004. SUNSET PROVISION. (a) The Texas Department of Insurance is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the department is abolished September 1, 2023.

(b) Unless continued as provided by Chapter 325, Government Code, the duties of the division of workers' compensation of the Texas Department of Insurance under Title 5, Labor Code, expire September 1, 2021, or another date designated by the legislature.

Added by Acts 1999, 76th Leg., ch. 101, Sec. 1, eff. Sept. 1, 1999.

Amended by Acts 2003, 78th Leg., ch. 1112, Sec. 2.02, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 265 (H.B. 7), Sec. 6.052, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 1227 (H.B. 1116), Sec. 2.05, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 928 (H.B. 3249), Sec. 3.09, eff. June 15, 2007.

Acts 2009, 81st Leg., 1st C.S., Ch. 2 (S.B. 2), Sec. 1.06, eff. July 10, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 1147 (H.B. 1951), Sec. 1.002, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1162 (H.B. 2605), Sec. 1, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 1279 (H.B. 1675), Sec. 4.02, eff. June 14, 2013.

Sec. 31.005. DEFENSE BY ATTORNEY GENERAL. The attorney general shall defend an action brought against the commissioner or an employee or officer of the department as a result of that person's official act or omission, whether or not at the time of the

institution of the action that person has terminated service with the department.

Added by Acts 1999, 76th Leg., ch. 101, Sec. 1, eff. Sept. 1, 1999.

Sec. 31.006. TEXAS WORKERS' COMPENSATION COMMISSION NOT AFFECTED. This code does not affect the duties imposed by law on the Texas Workers' Compensation Commission.

Added by Acts 1999, 76th Leg., ch. 101, Sec. 1, eff. Sept. 1, 1999.

Sec. 31.007. REFERENCES TO BOARD. A reference in this code or other law to the State Board of Insurance, the Board of Insurance Commissioners, or an individual commissioner means the commissioner or the department as consistent with the respective duties of the commissioner and the department under this code and other insurance laws.

Added by Acts 1999, 76th Leg., ch. 101, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER B. COMMISSIONER OF INSURANCE

Sec. 31.021. CHIEF EXECUTIVE. (a) The commissioner is the department's chief executive and administrative officer. The commissioner shall administer and enforce this code, other insurance laws of this state, and other laws granting jurisdiction or applicable to the department or the commissioner.

(b) The commissioner has the powers and duties vested in the department by:

(1) this code and other insurance laws of this state; and

(2) Title 5, Labor Code, and other workers' compensation insurance laws of this state.

Added by Acts 1999, 76th Leg., ch. 101, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 265 (H.B. 7), Sec. 6.053, eff. September 1, 2005.

Sec. 31.022. APPOINTMENT; TERM. (a) The governor, with the advice and consent of the senate, shall appoint the

commissioner. The commissioner serves a two-year term that expires on February 1 of each odd-numbered year.

(b) The governor shall appoint the commissioner without regard to the race, color, disability, sex, religion, age, or national origin of the appointee.

Added by Acts 1999, 76th Leg., ch. 101, Sec. 1, eff. Sept. 1, 1999.

Sec. 31.023. QUALIFICATIONS. The commissioner must:

- (1) be a competent and experienced administrator;
- (2) be well informed and qualified in the field of insurance and insurance regulation; and
- (3) have at least five years of experience in the administration of business or government or as a practicing attorney or certified public accountant.

Added by Acts 1999, 76th Leg., ch. 101, Sec. 1, eff. Sept. 1, 1999.

Amended by Acts 2003, 78th Leg., 3rd C.S., ch. 3, Sec. 10.01, eff. Jan. 11, 2004.

Sec. 31.024. INELIGIBILITY FOR PUBLIC OFFICE. The commissioner is ineligible to be a candidate for a public elective office in this state, unless the commissioner has resigned and the governor has accepted the resignation.

Added by Acts 1999, 76th Leg., ch. 101, Sec. 1, eff. Sept. 1, 1999.

Sec. 31.026. COMPENSATION. The commissioner is entitled to compensation as provided by the General Appropriations Act.

Added by Acts 1999, 76th Leg., ch. 101, Sec. 1, eff. Sept. 1, 1999.

Sec. 31.027. GROUNDS FOR REMOVAL. (a) It is a ground for removal from office if the commissioner:

- (1) does not have at the time of appointment the qualifications required by Section [31.023](#);
- (2) does not maintain during service as commissioner the qualifications required by Section [31.023](#);
- (3) violates a prohibition established by Section [33.001](#), [33.003](#), [33.004](#), or [33.005](#); or
- (4) cannot, because of illness or disability,

discharge the commissioner's duties for a substantial part of the commissioner's term.

(b) The validity of an action of the commissioner or the department is not affected by the fact that it is taken when a ground for removal of the commissioner exists.

Added by Acts 1999, 76th Leg., ch. 101, Sec. 1, eff. Sept. 1, 1999.

Sec. 31.028. TRAINING PROGRAM FOR COMMISSIONER. (a) Not later than the 90th day after the date on which the commissioner takes office, the commissioner shall complete a training program that complies with this section.

(b) The training program must provide the commissioner with information regarding:

- (1) the legislation that created the department;
- (2) the programs operated by the department;
- (3) the role and functions of the department;
- (4) the rules of the department, with an emphasis on the rules that relate to disciplinary and investigatory authority;
- (5) the current budget for the department;
- (6) the results of the most recent formal audit of the department;
- (7) the requirements of:
 - (A) the open meetings law, Chapter 551, Government Code;
 - (B) the public information law, Chapter 552, Government Code;
 - (C) the administrative procedure law, Chapter 2001, Government Code; and
 - (D) other laws relating to public officials, including conflict of interest laws; and
- (8) any applicable ethics policies adopted by the department or the Texas Ethics Commission.

Added by Acts 2003, 78th Leg., 3rd C.S., ch. 3, Sec. 10.04, eff. Jan. 11, 2004.

SUBCHAPTER C. PERSONNEL

Sec. 31.041. DEPARTMENT PERSONNEL. (a) Subject to the General Appropriations Act or other law, the commissioner shall appoint deputies, assistants, and other personnel as necessary to carry out the powers and duties of the commissioner and the department under this code, other insurance laws of this state, and other laws granting jurisdiction or applicable to the department or the commissioner.

(b) A person appointed under this section must have the professional, administrative, and insurance experience necessary to qualify the person for the position to which the person is appointed.

(c) A person appointed as an associate or deputy commissioner or to hold an equivalent position must have at least five years of the experience required for appointment as commissioner under Section 31.023. At least two years of that experience must be in work related to the position to be held.

Added by Acts 1999, 76th Leg., ch. 101, Sec. 1, eff. Sept. 1, 1999.

Sec. 31.042. DIVISION OF RESPONSIBILITIES. The commissioner shall develop and implement policies that clearly define the respective responsibilities of the commissioner and the staff of the department.

Added by Acts 1999, 76th Leg., ch. 101, Sec. 1, eff. Sept. 1, 1999.

Sec. 31.043. EQUAL EMPLOYMENT OPPORTUNITY POLICY; REPORT.

(a) The commissioner or the commissioner's designee shall prepare and maintain a written policy statement to ensure implementation of a program of equal employment opportunity under which all personnel transactions are made without regard to race, color, disability, sex, religion, age, or national origin. The policy statement must include:

(1) personnel policies, including policies relating to recruitment, evaluation, selection, appointment, training, and promotion of personnel that are in compliance with Chapter 21, Labor Code;

(2) a comprehensive analysis of the department workforce that meets federal and state guidelines;

(3) procedures by which a determination can be made of significant underuse in the department workforce of all persons for whom federal or state guidelines encourage a more equitable balance; and

(4) reasonable methods to appropriately address those areas of significant underuse.

(b) A policy statement prepared under this section must:

(1) cover an annual period;

(2) be updated annually;

(3) be reviewed by the Commission on Human Rights for compliance with Subsection (a); and

(4) be filed with the governor.

(c) The governor shall deliver a biennial report to the legislature based on the information received under Subsection (b). The report may be made separately or as a part of other biennial reports made to the legislature.

Added by Acts 1999, 76th Leg., ch. 101, Sec. 1, eff. Sept. 1, 1999.

Sec. 31.044. QUALIFICATIONS AND STANDARDS OF CONDUCT. The commissioner shall provide to department employees, as often as necessary, information regarding their:

(1) qualification for office or employment under this code; and

(2) responsibilities under applicable laws relating to standards of conduct for state employees.

Added by Acts 1999, 76th Leg., ch. 101, Sec. 1, eff. Sept. 1, 1999.

Sec. 31.045. CAREER LADDER PROGRAM; PERFORMANCE EVALUATIONS. (a) The commissioner or the commissioner's designee shall develop an intra-agency career ladder program. The program must require intra-agency posting of all nonentry level positions concurrently with any public posting.

(b) The commissioner or the commissioner's designee shall develop a system of annual performance evaluations. All merit pay for department employees must be based on the system established under this subsection.

Added by Acts 1999, 76th Leg., ch. 101, Sec. 1, eff. Sept. 1, 1999.