

INSURANCE CODE  
TITLE 4. REGULATION OF SOLVENCY  
SUBTITLE A. GENERAL PROVISIONS  
CHAPTER 401. AUDITS AND EXAMINATIONS

SUBCHAPTER A. INDEPENDENT AUDIT OF FINANCIAL STATEMENTS

Sec. 401.001. DEFINITIONS. In this subchapter:

(1) "Accountant" means an independent certified public accountant or accounting firm that meets the requirements of Section [401.011](#).

(2) "Affiliate" has the meaning assigned by Section [823.003](#).

(3) "Health maintenance organization" means a health maintenance organization authorized to engage in business in this state.

(4) "Insurer" means an insurer authorized to engage in business in this state, including:

(A) a life, health, or accident insurance company;

(B) a fire and marine insurance company;

(C) a general casualty company;

(D) a title insurance company;

(E) a fraternal benefit society;

(F) a mutual life insurance company;

(G) a local mutual aid association;

(H) a statewide mutual assessment company;

(I) a mutual insurance company other than a mutual life insurance company;

(J) a farm mutual insurance company;

(K) a county mutual insurance company;

(L) a Lloyd's plan;

(M) a reciprocal or interinsurance exchange;

(N) a group hospital service corporation;

(O) a stipulated premium company; and

(P) a nonprofit legal services corporation.

(5) "Subsidiary" has the meaning assigned by Section

823.003.

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

Sec. 401.002. PURPOSE OF SUBCHAPTER. The purpose of this subchapter is to require an annual audit by an independent certified public accountant of the financial statements reporting the financial condition and the results of operations of each insurer or health maintenance organization.

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

Sec. 401.003. EFFECT OF SUBCHAPTER ON AUTHORITY TO EXAMINE. This subchapter does not limit the commissioner's authority to order or the department's authority to conduct an examination of an insurer or health maintenance organization under this code or the commissioner's rules.

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

Sec. 401.004. FILING AND EXTENSIONS FOR FILING OF AUDITED FINANCIAL REPORT. (a) Unless exempt under Section 401.006, 401.007, or 401.008 and except as otherwise provided by Sections 401.005 and 401.016, an insurer or health maintenance organization shall:

(1) have an annual audit performed by an accountant; and

(2) file with the commissioner on or before June 30 an audited financial report for the preceding calendar year.

(b) The commissioner may require an insurer or health maintenance organization to file an audited financial report on a date that precedes June 30. The commissioner must notify the insurer or health maintenance organization of the filing date not later than the 90th day before that date.

(c) An insurer or health maintenance organization may request an extension of the filing date by submitting the request in writing before the 10th day preceding the filing date. The request

must include sufficient detail for the commissioner to make an informed decision on the requested extension. The commissioner may extend the filing date for one or more 30-day periods if the commissioner determines that there is good cause for the extension based on a showing by the insurer or health maintenance organization and the insurer's or health maintenance organization's accountant of the reasons for requesting the extension.

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

Sec. 401.005. ALTERNATIVE FILING FOR CANADIAN OR BRITISH INSURERS OR HEALTH MAINTENANCE ORGANIZATIONS. (a) Instead of the audited financial report required by Section 401.004, an insurer or health maintenance organization domiciled in Canada or the United Kingdom may file the insurer's or health maintenance organization's annual statement of total business on the form filed by the insurer or health maintenance organization with the appropriate regulatory authority in the country of domicile. The statement must be audited by an independent accountant chartered in the country of domicile.

(b) The chartered accountant must be registered with the commissioner under Section 401.014(a). The registration must be accompanied by a statement, signed by the accountant, indicating that the accountant is aware of the requirements of this subchapter and affirming that the accountant will express the accountant's opinion in conformity with those requirements.

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

Sec. 401.006. EXEMPTION FOR CERTAIN SMALL INSURERS AND HEALTH MAINTENANCE ORGANIZATIONS. (a) An insurer or health maintenance organization that has less than \$1 million in direct premiums written in this state during a calendar year is exempt from the requirement to file an audited financial report if the insurer or health maintenance organization submits an affidavit, made under oath by one of the insurer's or health maintenance organization's officers, that specifies the amount of direct premiums written in

this state during that period.

(b) Notwithstanding Subsection (a), the commissioner may require an insurer or health maintenance organization, other than a fraternal benefit society that does not have any direct premiums written in this state for accident and health insurance during a calendar year, to comply with this subchapter if the commissioner finds that the insurer's or health maintenance organization's compliance is necessary for the commissioner to fulfill the commissioner's statutory responsibilities.

(c) An insurer or health maintenance organization that has assumed premiums of at least \$1 million under reinsurance agreements is not exempt under Subsection (a).

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

Sec. 401.007. EXEMPTION FOR CERTAIN FOREIGN OR ALIEN INSURERS OR HEALTH MAINTENANCE ORGANIZATIONS. (a) A foreign or alien insurer or health maintenance organization that files an audited financial report in another state in accordance with that state's requirements for audited financial reports may be exempt from filing a report under this subchapter if the commissioner finds that the other state's requirements are substantially similar to the requirements prescribed by this subchapter.

(b) An insurer or health maintenance organization exempt under this section shall file with the commissioner a copy of:

(1) the audited financial report, the report on significant deficiencies in internal controls, and the accountant's letter of qualifications filed with the other state; and

(2) any notification of adverse financial conditions report filed with the other state.

(c) The reports and letter required by Subsection (b)(1) must be filed in accordance with the filing dates prescribed by Sections 401.004 and 401.019. The report required by Subsection (b)(2) must be filed in accordance with the filing date prescribed by Section 401.017.

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

April 1, 2007.

Sec. 401.008. HARDSHIP EXEMPTION. (a) An insurer or health maintenance organization that is not eligible for an exemption under Section 401.006 or 401.007 may apply to the commissioner for a hardship exemption.

(b) Subject to Subsection (c), the commissioner may grant an exemption under this section if the commissioner finds, after reviewing the application, that compliance with this subchapter would constitute a severe financial or organizational hardship for the insurer or health maintenance organization. The commissioner may grant the exemption at any time for one or more specified periods.

(c) The commissioner may not grant an exemption under this section if:

(1) the exemption would diminish the department's ability to monitor the financial condition of the insurer or health maintenance organization; or

(2) the insurer or health maintenance organization:

(A) during the five-year period preceding the date the application for the exemption is made:

(i) has been placed under supervision, conservatorship, or receivership;

(ii) has undergone a change in control, as described by Section 823.005; or

(iii) has been subject to a significant number of complaints, as determined by the commissioner;

(B) has been identified by the department as troubled;

(C) has been or is the subject of a disciplinary action by the department; or

(D) is not complying with the law or with a rule adopted by the commissioner.

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

Sec. 401.009. CONTENTS OF AUDITED FINANCIAL REPORT. (a) An

audited financial report required under Section 401.004 must:

(1) describe the financial condition of the insurer or health maintenance organization as of the end of the most recent calendar year and the results of the insurer's or health maintenance organization's operations, changes in financial position, and changes in capital and surplus for that year;

(2) conform to the statutory accounting practices prescribed or otherwise permitted by the insurance regulator in the insurer's or health maintenance organization's state of domicile; and

(3) include:

(A) the report of an accountant;

(B) a balance sheet that reports admitted assets, liabilities, capital, and surplus;

(C) a statement of gain or loss from operations;

(D) a statement of cash flows;

(E) a statement of changes in capital and surplus;

(F) any notes to financial statements;

(G) supplementary data and information, including any additional data or information required by the commissioner; and

(H) information required by the department to conduct the insurer's or health maintenance organization's examination under Subchapter B.

(b) The notes to financial statements required by Subsection (a)(3)(F) must include:

(1) a reconciliation of any differences between the audited statutory financial statements and the annual statements filed under this code, with a written description of the nature of those differences;

(2) any notes required by the appropriate National Association of Insurance Commissioners annual statement instructions or by generally accepted accounting principles; and

(3) a summary of the ownership of the insurer or health maintenance organization and that entity's relationship to any affiliated company.

(c) An insurer or health maintenance organization required under Section 401.004 to file an audited financial report that does not retain an independent certified public accountant to perform an annual audit for the previous year may not be required to include in the report audited statements of operations, cash flows, or changes in capital and surplus for the first year. The insurer or health maintenance organization must include those statements in the first-year report and label the statements as unaudited. The insurer or health maintenance organization must include in the first-year report all other reports described by Section 401.004.

(d) The commissioner shall adopt rules governing the information to be included in the audited financial report under Subsection (a)(3)(H).

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

Sec. 401.010. REQUIREMENTS FOR FINANCIAL STATEMENTS IN AUDITED FINANCIAL REPORT. (a) An accountant must audit the financial reports provided by an insurer or health maintenance organization for purposes of an audit under this subchapter. The accountant who audits the reports must conduct the audit in accordance with generally accepted auditing standards or with standards adopted by the Public Company Accounting Oversight Board, as applicable, and must consider the standards specified in the Financial Condition Examiner's Handbook adopted by the National Association of Insurance Commissioners or other analogous nationally recognized standards adopted by commissioner rule.

(b) The financial statements included in the audited financial report must be prepared in a form and using language and groupings substantially the same as those of the relevant sections of the insurer's or health maintenance organization's annual statement filed with the commissioner. Beginning in the second year in which an insurer or health maintenance organization is required to file an audited financial report, the financial statements must also be comparative, presenting the amounts as of December 31 of the reported year and the amounts as of December 31 of the preceding year.

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

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 730 (H.B. 2636), Sec. 3B.001(a), eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 9.001(a), eff. September 1, 2007.

Sec. 401.011. QUALIFICATIONS OF ACCOUNTANT; ACCEPTANCE OF AUDITED FINANCIAL REPORT. (a) Except as provided by Subsections (c) and (d), the commissioner shall accept an audited financial report from an independent certified public accountant or accounting firm that:

(1) is a member in good standing of the American Institute of Certified Public Accountants and is in good standing with all states in which the accountant or firm is licensed to practice, as applicable; and

(2) conforms to the American Institute of Certified Public Accountants Code of Professional Conduct and to the rules of professional conduct and other rules of the Texas State Board of Public Accountancy or a similar code.

(b) If the insurer or health maintenance organization is domiciled in Canada, the commissioner shall accept an audited financial report from an accountant chartered in Canada. If the insurer or health maintenance organization is domiciled in Great Britain, the commissioner shall accept an audited financial report from an accountant chartered in Great Britain.

(c) A partner or other person responsible for rendering a report for an insurer or health maintenance organization for seven consecutive years may not, during the two-year period after that seventh year, render a report for the insurer or health maintenance organization or for a subsidiary or affiliate of the insurer or health maintenance organization that is engaged in the business of insurance. The commissioner may determine that the limitation provided by this subsection does not apply to an accountant for a particular insurer or health maintenance organization if the insurer or health maintenance organization demonstrates to the



satisfaction of the commissioner that the limitation's application to the insurer or health maintenance organization would be unfair because of unusual circumstances. In making the determination, the commissioner may consider:

(1) the number of partners or individuals the accountant employs, the expertise of the partners or individuals the accountant employs, or the number of the accountant's insurance clients;

(2) the premium volume of the insurer or health maintenance organization; and

(3) the number of jurisdictions in which the insurer or health maintenance organization engages in business.

(d) The commissioner may not accept an audited financial report prepared wholly or partly by an individual or firm who the commissioner finds:

(1) has been convicted of fraud, bribery, a violation of the Racketeer Influenced and Corrupt Organizations Act (18 U.S.C. Section 1961 et seq.), or a state or federal criminal offense involving dishonest conduct;

(2) has violated the insurance laws of this state with respect to a report filed under this subchapter;

(3) has demonstrated a pattern or practice of failing to detect or disclose material information in reports filed under this subchapter; or

(4) has directly or indirectly entered into an agreement of indemnity or release of liability regarding an audit of an insurer.

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

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 730 (H.B. [2636](#)), Sec. 3B.002(a), eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. [3167](#)), Sec. 9.002(a), eff. September 1, 2007.

Sec. 401.012. HEARING ON ACCOUNTANT QUALIFICATIONS; REPLACEMENT OF ACCOUNTANT. The commissioner may hold a hearing to

determine if an accountant is qualified and independent. If, after considering the evidence presented, the commissioner determines that an accountant is not qualified and independent for purposes of expressing an opinion on the financial statements in an audited financial report filed under this subchapter, the commissioner shall issue an order directing the insurer or health maintenance organization to replace the accountant with a qualified and independent accountant.

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

Sec. 401.013. ACCOUNTANT'S LETTER OF QUALIFICATIONS. (a) The audited financial report required under Section 401.004 must be accompanied by a letter provided by the accountant who performed the audit stating:

(1) the accountant's general background and experience;

(2) the experience of each individual assigned to prepare the audit in auditing insurers or health maintenance organizations and whether the individual is an independent certified public accountant; and

(3) that the accountant:

(A) is properly licensed by an appropriate state licensing authority, is a member in good standing of the American Institute of Certified Public Accountants, and is otherwise qualified under Section 401.011;

(B) is independent from the insurer or health maintenance organization and conforms to the standards of the profession contained in the American Institute of Certified Public Accountants Code of Professional Conduct, the statements of that institute, and the rules of professional conduct adopted by the Texas State Board of Public Accountancy, or a similar code;

(C) understands that:

(i) the audited financial report and the accountant's opinion on the report will be filed in compliance with this subchapter; and

(ii) the commissioner will rely on the

report and opinion in monitoring and regulating the insurer's or health maintenance organization's financial position; and

(D) consents to the requirements of Section [401.020](#) and agrees to make the accountant's work papers available for review by the department or the department's designee.

(b) Subsection (a)(2) does not prohibit an accountant from using any staff the accountant considers appropriate if use of that staff is consistent with generally accepted auditing standards. Added by Acts 2005, 79th Leg., Ch. 727 (H.B. [2017](#)), Sec. 1, eff. April 1, 2007.

Sec. 401.014. REGISTRATION OF ACCOUNTANT. (a) Not later than December 31 of the calendar year to be covered by an audited financial report required by this subchapter, an insurer or health maintenance organization must register in writing with the commissioner the name and address of the accountant retained to prepare the report.

(b) The insurer or health maintenance organization must include with the registration a statement signed by the accountant:

(1) indicating that the accountant is aware of the requirements of this subchapter and of the rules of the insurance department of the insurer's or health maintenance organization's state of domicile that relate to accounting and financial matters; and

(2) affirming that the accountant will express the accountant's opinion on the financial statements in terms of the statements' conformity to the statutory accounting practices prescribed or otherwise permitted by the insurance department described by Subdivision (1) and specifying any exceptions the accountant believes are appropriate.

(c) The commissioner may not accept an audited financial report prepared by an accountant who is not registered under this section.

(d) The commissioner may not accept the registration of a person who does not qualify under Section [401.011](#) or does not comply with the other requirements of this subchapter.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. [2017](#)), Sec. 1, eff.

April 1, 2007.

Sec. 401.015. RESIGNATION OR DISMISSAL OF ACCOUNTANT; STATEMENT CONCERNING DISAGREEMENTS. (a) If an accountant who signed an audited financial report for an insurer or health maintenance organization resigns as accountant for the insurer or health maintenance organization or is dismissed by the insurer or health maintenance organization after the report is filed, the insurer or health maintenance organization shall notify the department not later than the fifth business day after the date of the resignation or dismissal.

(b) Not later than the 10th business day after the date the insurer or health maintenance organization notifies the department under Subsection (a), the insurer or health maintenance organization shall file a written statement with the commissioner advising the commissioner of any disagreements between the accountant and the insurer's or health maintenance organization's personnel responsible for presenting the insurer's or health maintenance organization's financial statements that:

(1) relate to accounting principles or practices, financial statement disclosure, or auditing scope or procedures;

(2) occurred during the 24 months preceding the date of the resignation or dismissal; and

(3) would have caused the accountant to note the disagreement in connection with the audited financial report if the disagreement were not resolved to the satisfaction of the accountant.

(c) The statement required by Subsection (b) must include a description of disagreements that were resolved to the accountant's satisfaction and those that were not resolved to the accountant's satisfaction.

(d) The insurer or health maintenance organization shall file with the statement required by Subsection (b) a letter signed by the accountant stating whether the accountant agrees with the insurer's or health maintenance organization's statement and, if not, the reasons why the accountant does not agree. If the accountant fails to provide the letter, the insurer or health

maintenance organization shall file with the commissioner a copy of a written request to the accountant for the letter.

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

Sec. 401.016. AUDITED COMBINED OR CONSOLIDATED FINANCIAL STATEMENTS. (a) An insurer or health maintenance organization described by Section 401.001(3) or (4) that is required to file an audited financial report under this subchapter may apply in writing to the commissioner for approval to file audited combined or consolidated financial statements instead of separate audited financial reports if the insurer or health maintenance organization:

(1) is part of a group of insurers or health maintenance organizations that uses a pooling arrangement or 100 percent reinsurance agreement that affects the solvency and integrity of the insurer's or health maintenance organization's reserves; and

(2) cedes all of the insurer's or health maintenance organization's direct and assumed business to the pool.

(b) An insurer or health maintenance organization must file an application under Subsection (a) not later than December 31 of the calendar year for which the audited combined or consolidated financial statements are to be filed.

(c) An insurer or health maintenance organization that receives approval from the commissioner under this section shall file a columnar combining or consolidating worksheet for the audited combined or consolidated financial statements that includes:

(1) the amounts shown on the audited combined or consolidated financial statements;

(2) the amounts for each insurer or health maintenance organization stated separately;

(3) the noninsurance operations shown on a combined or individual basis;

(4) explanations of consolidating and eliminating entries; and

(5) a reconciliation of any differences between the amounts shown in the individual insurer or health maintenance organization columns of the worksheet and comparable amounts shown on the insurer's or health maintenance organization's annual statements.

(d) An insurer or health maintenance organization that does not receive approval from the commissioner to file audited combined or consolidated financial statements for the insurer or health maintenance organization and any of the insurer's or health maintenance organization's subsidiaries or affiliates shall file a separate audited financial report.

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

Sec. 401.017. NOTICE OF ADVERSE FINANCIAL CONDITION OR MISSTATEMENT OF FINANCIAL CONDITION. (a) An insurer or health maintenance organization required to file an audited financial report under this subchapter shall require the insurer's or health maintenance organization's accountant to immediately notify the board of directors of the insurer or health maintenance organization or the insurer's or health maintenance organization's audit committee in writing of any determination by that accountant that:

(1) the insurer or health maintenance organization has materially misstated the insurer's or health maintenance organization's financial condition as reported to the commissioner as of the balance sheet date being audited; or

(2) the insurer or health maintenance organization does not meet the minimum capital and surplus requirements prescribed by this code for the insurer or health maintenance organization as of that date.

(b) An insurer or health maintenance organization that receives a notice described by Subsection (a) shall:

(1) provide to the commissioner a copy of the notice not later than the fifth business day after the date the insurer or health maintenance organization receives the notice; and

(2) provide to the accountant evidence that the notice

was provided to the commissioner.

(c) If the accountant does not receive the evidence required by Subsection (b)(2) on or before the fifth business day after the date the accountant notified the insurer or health maintenance organization under Subsection (a), the accountant shall file with the commissioner a copy of the accountant's written notice not later than the 10th business day after the date the accountant notified the insurer or health maintenance organization.

(d) An accountant is not liable to an insurer or health maintenance organization or the insurer's or health maintenance organization's policyholders, shareholders, officers, employees, directors, creditors, or affiliates for a statement made under this section if the statement was made in good faith to comply with this section.

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

Sec. 401.018. INFORMATION DISCOVERED AFTER DATE OF AUDITED FINANCIAL REPORT. If, after the date of an audited financial report filed under this subchapter, the accountant becomes aware of facts that might have affected the report, the accountant must take action as prescribed in Volume 1, AU Section 561, Professional Standards of the American Institute of Certified Public Accountants.

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

Sec. 401.019. REPORT ON SIGNIFICANT DEFICIENCIES IN INTERNAL CONTROL. (a) In addition to the audited financial report required by this subchapter, each insurer or health maintenance organization shall provide to the commissioner a written report of significant deficiencies required and prepared by an accountant in accordance with the Professional Standards of the American Institute of Certified Public Accountants.

(b) The insurer or health maintenance organization shall annually file with the commissioner the report required by this section not later than the 60th day after the date the audited

financial report is filed. The insurer or health maintenance organization shall also provide a description of remedial actions taken or proposed to be taken to correct significant deficiencies, if the actions are not described in the accountant's report.

(c) The report must follow generally the form for communication of internal control structure matters noted in an audit described in Statement on Auditing Standard (SAS) No. 60, AU Section 325, Professional Standards of the American Institute of Certified Public Accountants.

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

Sec. 401.020. ACCOUNTANT WORK PAPERS. (a) In this section, "work papers" means the records kept by an accountant of the procedures followed, the tests performed, the information obtained, and the conclusions reached that are pertinent to the accountant's audit of an insurer's or health maintenance organization's financial statements. The term includes work programs, analyses, memoranda, letters of confirmation and representation, abstracts of company documents and schedules, and commentaries prepared or obtained by the accountant in the course of auditing the financial statements that support the accountant's opinion.

(b) An insurer or health maintenance organization required to file an audited financial report under this subchapter shall require the insurer's or health maintenance organization's accountant to make available for review by the department's examiners the work papers and any record of communications between the accountant and the insurer or health maintenance organization relating to the accountant's audit that were prepared in conducting the audit. The insurer or health maintenance organization shall require that the accountant retain the work papers and records of communications until the earlier of:

(1) the date the department files a report on the examination covering the audit period; or

(2) the seventh anniversary of the date of the last day of the audit period.



(c) The department may copy and retain the copies of pertinent work papers when the department's examiners conduct a review under Subsection (b). The review is considered an investigation, and work papers obtained during that investigation may be made confidential by the commissioner, unless the work papers are admitted as evidence in a hearing before a governmental agency or in a court.

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

Sec. 401.021. PENALTY FOR FAILURE TO COMPLY. (a) If an insurer or health maintenance organization fails to comply with this subchapter, the commissioner shall order that the insurer's or health maintenance organization's annual audit be performed by a qualified independent certified public accountant.

(b) The commissioner shall assess against the insurer or health maintenance organization the cost of auditing the insurer's or health maintenance organization's financial statement under this section.

(c) The insurer or health maintenance organization shall pay to the commissioner the amount of the assessment not later than the 30th day after the date the commissioner issues the notice of assessment to the insurer or health maintenance organization.

(d) Money collected under this section shall be deposited to the credit of the Texas Department of Insurance operating account for use by the commissioner and the department to pay the expenses incurred under this subchapter.

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

#### SUBCHAPTER B. EXAMINATION OF CARRIERS

Sec. 401.051. DUTY TO EXAMINE CARRIERS. (a) The department or an examiner appointed by the department shall visit at the carrier's principal office:

(1) each carrier that is organized under the laws of this state; and

(2) each other carrier that is authorized to engage in business in this state.

(b) The department or an examiner appointed by the department may visit the carrier for the purpose of investigating the carrier's affairs and condition. The department or an examiner appointed by the department shall examine the carrier's financial condition and ability to meet the carrier's liabilities and compliance with the laws of this state that affect the conduct of the carrier's business.

(c) The department or an examiner appointed by the department may conduct the visit and examination of a carrier described by Subsection (a)(2) alone or with representatives of the insurance supervising departments of other states.

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

Sec. 401.052. FREQUENCY OF EXAMINATION. (a) Subject to Subsection (b) and except as provided by the rules adopted under that subsection, the department shall visit and examine a carrier as frequently as the department considers necessary. At a minimum, the department shall examine a carrier not less frequently than once every five years.

(b) The commissioner shall adopt rules governing the frequency of examinations of carriers that have been organized or incorporated for less than five years.

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

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 188 (S.B. 1253), Sec. 1, eff. September 1, 2007.

Sec. 401.053. EXAMINATION PERIOD. Unless the department requests that an examination cover a longer period, the examination must cover the period beginning on the last day covered by the most recent examination and ending on December 31 of the year preceding the year in which the examination is being conducted.

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

April 1, 2007.

Sec. 401.054. POWERS RELATED TO EXAMINATION. The department or the examiner appointed by the department:

(1) has free access, and may require the carrier or the carrier's agent to provide free access, to all books and papers of the carrier or the carrier's agent that relate to the carrier's business and affairs; and

(2) has the authority to summon and examine under oath, if necessary, an officer, agent, or employee of the carrier or any other person in relation to the carrier's affairs and condition.

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

Sec. 401.055. EFFECT OF SUBCHAPTER ON AUTHORITY TO USE INFORMATION. This subchapter does not limit the commissioner's authority to use a final or preliminary examination report, an examiner's or company's work papers or other documents, or any other information discovered or developed during an examination in connection with a legal or regulatory action that the commissioner, in the commissioner's sole discretion, considers appropriate.

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

Sec. 401.056. RULES RELATED TO REPORTS AND HEARINGS. The commissioner by rule shall adopt:

(1) procedures governing the filing and adoption of an examination report;

(2) procedures governing a hearing to be held under this subchapter; and

(3) guidelines governing an order issued under this subchapter.

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

Sec. 401.057. USE OF AUDIT AND WORK PAPERS. (a) In this

section, "work papers" has the meaning assigned by Section 401.020(a).

(b) In conducting an examination under this subchapter, the department shall use audits and work papers that the carrier makes available to the department and that are prepared by an accountant or accounting firm meeting the qualifications of Section 401.011. The department may conduct a separate audit of the carrier if necessary. Work papers developed in the audit shall be maintained in the manner provided by Sections 401.020(b) and (c).

(c) The carrier shall provide the department with:

(1) the work papers of an accountant or accounting firm or the carrier; and

(2) a record of any communications between the accountant or accounting firm and the carrier that relate to an audit.

(d) The accountant or accounting firm shall deliver the information described by Subsection (c) to the examiner. The examiner shall retain the information during the department's examination of the carrier.

(e) Information obtained under this section is confidential and may not be disclosed to the public except when introduced as evidence in a hearing.

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

Sec. 401.058. CONFIDENTIALITY OF REPORTS AND RELATED INFORMATION. (a) A final or preliminary examination report and any information obtained during an examination are confidential and privileged for all purposes. This information is not subject to:

(1) disclosure under Chapter 552, Government Code;

(2) a subpoena, other than a grand jury subpoena; or

(3) discovery or admissibility in evidence in a civil action.

(b) Subsection (a) applies if the examined carrier is under supervision or conservatorship. Subsection (a) does not apply to an examination conducted in connection with a liquidation or receivership under this code or another insurance law of this

state.

(c) Subsection (a) does not limit the commissioner's authority to use a final or preliminary examination report and any information obtained during an examination in the furtherance of any legal or regulatory action relating to the administration of this code that the commissioner, in the commissioner's sole discretion, considers appropriate.

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

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 164 (H.B. 2437), Sec. 1, eff. May 26, 2017.

Sec. 401.059. DETERMINATION OF VALUE. In determining the value or market value of an investment in or on real estate or an improvement to real estate by a carrier authorized to engage in business in this state, the department, in administering this code, may consider any factor or matter that the department considers proper and material, including:

- (1) an appraisal by a real estate board or other qualified person;
- (2) an affidavit by another person familiar with those values;
- (3) a tax valuation;
- (4) the cost of acquisition after deducting for depreciation and obsolescence;
- (5) the cost of replacement;
- (6) sales of other comparable property;
- (7) enhancement in value from any cause;
- (8) income received or to be received; and
- (9) any improvements made.

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

Sec. 401.060. RIGHT TO INFORMATION RELATING TO DETERMINATION OF VALUE OR MARKET VALUE. (a) If the department determines the value or market value of an insurer's investment in

or on real estate or an improvement to real estate, the insurer is entitled to make a written request for a written finding by the commissioner in relation to that determination.

(b) Not later than the 10th day after the date the commissioner receives a request under Subsection (a), the commissioner shall enter a written order or finding that:

(1) states separately the department's findings on each factor or matter on which the department relied in making the determination; and

(2) includes the name and address of each person who provided evidence relating to a factor or matter on which the department relied in making the determination.

(c) The commissioner shall provide to the insurer that requested a written finding under this section a copy of the finding or order.

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

Sec. 401.061. DISCIPLINARY ACTION FOR FAILURE TO COMPLY WITH SUBCHAPTER. A carrier is subject to disciplinary action under Chapter 82 if the carrier or the carrier's agent fails or refuses to comply with:

(1) this subchapter or a rule adopted under this subchapter; or

(2) a request by the department or an appointed examiner to be examined or to provide information requested as part of an examination.

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

Sec. 401.062. STAY OF RULE, ORDER, DECISION, OR FINDING. The filing of a petition under Subchapter D, Chapter 36, for judicial review of a rule, order, decision, or finding of the commissioner or department under this subchapter operates as a stay of the rule, order, decision, or finding until the court directs otherwise.

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

April 1, 2007.

SUBCHAPTER C. EXAMINERS AND ACTUARIES

Sec. 401.101. USE OF DEPARTMENT EXAMINER OR OTHER QUALIFIED PERSON OR FIRM. The department may use a salaried department examiner or may appoint a qualified person or firm to perform an examination of an insurance organization as provided by law or to assist in the performance of an examination.

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

Sec. 401.102. LEGISLATIVE INTENT AS TO APPOINTMENT OR EMPLOYMENT OF EXAMINERS AND ACTUARIES. (a) The legislature recognizes that experienced, highly qualified examiners and actuaries are necessary for the department to effectively monitor and regulate the solvency of insurers in this state. It is the intent of the legislature that the department, in appointing or employing an examiner or actuary, select a person who:

(1) has substantial experience in financial matters relating to insurance or other areas of financial activity that are compatible with the business of insurance; and

(2) is recognized for the outstanding quality of the person's work in relation to areas of responsibility typically assigned to an examiner or actuary in the insurance field.

(b) The legislature pledges to provide to the department the necessary funding to implement this section and to support the department in the department's efforts to attract the highly qualified persons necessary to fulfill regulatory responsibilities relating to insurer solvency assigned to those persons under the insurance laws of this state.

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

Sec. 401.103. APPOINTMENT OF EXAMINERS AND ACTUARIES. (a) The department shall appoint:

(1) a chief examiner and the number of assistant

examiners the department considers necessary to conduct examinations of insurance companies, corporations, and associations at the expense of the insurance company, corporation, or association as provided by law; and

(2) the number of actuaries the department considers necessary to:

(A) advise the department in connection with the performance of the department's duties; and

(B) otherwise aid and counsel the department in connection with the examinations.

(b) The department may increase or decrease the number of examiners or actuaries as needed for examination duties.

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

Sec. 401.104. APPOINTMENT OF EXAMINERS, ACTUARIES, AND OTHER PERSONS FOR CERTAIN EXAMINATIONS. (a) The department may commission a department actuary, the chief examiner, another department examiner or employee, or any other person to conduct or assist in the examination of a company that is not organized under the laws of this state.

(b) The department may compensate a person described by Subsection (a). If the department compensates the person, the person may not receive any other compensation while the person is assigned to the examination.

(c) Except as provided by this section and Section 401.152, a department actuary or examiner may not continue to serve in that capacity if the person directly or indirectly accepts employment or compensation for a service rendered or to be rendered from any insurance company for any reason.

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

Sec. 401.105. OATH OF EXAMINERS AND ASSISTANTS. Before entering into the duties of appointment as an examiner or assistant examiner, an individual must take and file in the office of the secretary of state an oath to:



(1) support the constitution of this state;

(2) faithfully conduct the individual's duties of office;

(3) make fair and impartial examinations;

(4) not accept, directly or indirectly, as a gift or emolument any pay for the discharge of the individual's duty, other than the compensation to which the individual is entitled by law; and

(5) not reveal the condition of a corporation, firm, or person or any information secured while examining a corporation, firm, or person to anyone other than:

(A) the department or an authorized representative of the department; or

(B) as required when testifying in an administrative hearing under this code or another insurance law of this state or in court.

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

Sec. 401.106. RIGHT OF ACTION ON BOND. If an examiner or assistant examiner knowingly makes a false report or gives any information in violation of law that relates to an examination of a corporation, firm, or person, the corporation, firm, or person has a right of action on a bond authorized under Chapter 653, Government Code, for the entity's injuries in a suit brought in the name of the state at the relation of the entity.

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

Sec. 401.107. REGISTRATION OF CONTRACT EXAMINERS. (a) A person with whom another state contracts to perform any examination initiated by the other state of an insurer domiciled in this state shall register with and provide the following information to the department's chief examiner:

(1) the person's name;

(2) if the person is not an individual, the identity of each examiner or other person who will perform any part of the

examination;

(3) the name of the state that contracted with the person;

(4) the identity of the insurer to be examined;

(5) a description of each issue that the person has been contracted to examine;

(6) an estimate of the examination costs to be charged to the insurer to be examined;

(7) a copy of any contract between the person and the state regulatory body that initiated the examination and a letter authorizing the examination; and

(8) a list of the previous examinations conducted on the same insurer on behalf of any state within the last three years.

(a-1) On accepting a person's registration under Subsection (a), the department shall send written confirmation of the acceptance to:

(1) the person;

(2) the insurer to be examined; and

(3) the state regulatory body that initiated the examination.

(b) It is a violation of this code for a person to accept compensation from multiple states for the same examination, if doing so results in duplicative costs to the insurer being examined. It is not a violation of this code for:

(1) an examiner to conduct an examination of an insurer for the benefit of multiple states in a coordinated examination; and

(2) the examiner to accept compensation from the states participating in the coordinated examination to reduce the examination costs to the insurer being examined.

Added by Acts 2009, 81st Leg., R.S., Ch. 1030 (H.B. [4359](#)), Sec. 2, eff. June 19, 2009.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 185 (S.B. [1229](#)), Sec. 1, eff. May 28, 2011.

#### SUBCHAPTER D. EXAMINATION EXPENSES

Sec. 401.151. EXPENSES OF EXAMINATION OF DOMESTIC INSURER.

(a) A domestic insurer examined on behalf of this state by the department or under the department's authority shall pay the expenses of the examination in an amount the commissioner certifies as just and reasonable.

(b) The department shall collect an assessment at the time of the examination to cover all expenses attributable directly to that examination, including:

(1) the salaries and expenses of department employees; and

(2) expenses described by Section 803.007.

(c) The department shall also impose an annual assessment on domestic insurers in an amount sufficient to meet all other expenses and disbursements necessary to comply with the laws of this state relating to the examination of insurers.

(d) In determining the amount of the assessment under Subsection (c), the department:

(1) shall consider:

(A) the insurer's total annual premium receipts or admitted assets, or both, that are not attributable to 90 percent of pension plan contracts as defined by Section 818(a), Internal Revenue Code of 1986; or

(B) the total amount of the insurer's insurance in force; and

(2) may not consider insurance premiums for insurance contracted for by a state or federal governmental entity to provide welfare benefits to designated welfare recipients or contracted for in accordance with or in furtherance of Title 2, Human Resources Code, or the federal Social Security Act (42 U.S.C. Section 301 et seq.).

(e) The amount of all examination and evaluation fees paid to the state by an insurer in each taxable year shall be allowed as a credit on the amount of premium taxes due.

(f) Expired.

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

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 932 (H.B. 3315), Sec. 17, eff. June 15, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 659 (S.B. 1291), Sec. 2, eff. September 1, 2011.

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 2.04, eff. September 28, 2011.

Sec. 401.152. EXPENSES OF EXAMINATION OF OTHER INSURERS.

(a) An insurer not organized under the laws of this state shall reimburse the department for the salary and expenses of each examiner participating in an examination of the insurer and for other department expenses that are properly allocable to the department's participation in the examination.

(a-1) The department shall also impose an annual assessment on insurers not organized under the laws of this state subject to examination as described by this section in an amount sufficient to meet all other expenses and disbursements necessary to comply with the laws of this state relating to the examination of insurers. The amount imposed under this subsection must be computed in the same manner as the amount imposed under Section 401.151(c) for domestic insurers.

(b) An insurer shall pay the expenses under this section regardless of whether the examination is made only by the department or jointly with the insurance supervisory authority of another state.

(c) The insurer shall pay the expenses directly to the department on presentation of an itemized written statement from the commissioner.

(d) The commissioner shall determine the salary of an examiner participating in an examination of an insurer's books or records located in another state based on the salary rate recommended by the National Association of Insurance Commissioners or the examiner's regular salary rate.

(e) The limitations provided by Sections 803.007(1) and (2)(B) for a domestic company apply to a foreign insurer.

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

April 1, 2007.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1286 (H.B. 2163), Sec. 1, eff. September 1, 2013.

Sec. 401.153. REIMBURSEMENT OF EXPENSES OF CERTAIN PERSONS OR FIRMS. (a) A person or firm appointed by the department to examine an insurer or to assist in the insurer's examination shall be paid for those services at the usual and customary rates charged for those services. The insurer being examined shall pay the fee for those services.

(b) The commissioner may disapprove the payment of a fee under Subsection (a) if the fee is excessive in relation to the services actually performed.

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

Sec. 401.154. TAX CREDIT AUTHORIZED. (a) An insurer is entitled to a credit on the amount of premium taxes to be paid by the insurer for all examination fees paid under Section 401.153. The insurer may take the credit for the taxable year during which the examination fees are paid and may take the credit to the same extent the insurer may take a credit for examination fees paid when a salaried department examiner conducts the examination.

(b) Expired.

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

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 932 (H.B. 3315), Sec. 18, eff. June 15, 2007.

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 2.05, eff. September 28, 2011.

Sec. 401.155. ADDITIONAL ASSESSMENTS. (a) The department shall impose additional assessments against insurers on a pro rata basis as necessary to:

(1) cover all expenses and disbursements required by

law; and

(2) comply with this subchapter and Sections [401.103](#), [401.104](#), [401.105](#), and [401.106](#).

(b) The department shall use any surplus resulting from an assessment under this section to reduce the amount of subsequent assessments.

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

Sec. 401.156. DEPOSIT AND USE OF ASSESSMENT AND FEE.

(a) The department shall deposit any assessments or fees collected under this subchapter relating to the examination of insurers and other regulated entities by the financial examinations division or actuarial division, as those terms are defined by Section [401.251](#), to the credit of an account with the Texas Treasury Safekeeping Trust Company to be used exclusively to pay examination costs, as defined by Section [401.251](#), to reimburse administrative support costs for the Texas Department of Insurance operating account, and to reimburse premium tax credits for examination costs and examination overhead assessments.

(b) Money deposited under Subsection (a) accumulates and may be disbursed to the department in a manner consistent with that subsection and Subchapter F.

(c) Revenue that is not related to the examination of insurers or other regulated entities by the financial examinations division or actuarial division shall be deposited to the credit of the Texas Department of Insurance operating account.

(d) To the extent that another provision of law conflicts with this section or a provision of this section, this section or the provision of this section controls.

(e) The department may transfer funds between the account described by Subsection (a) and the Texas Department of Insurance operating account as necessary to ensure that funds are deposited to the correct account and used for the correct purposes. This subsection does not authorize a disbursement or transfer of funds in a manner that is inconsistent with the purposes of Subchapter F and this section.

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

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 659 (S.B. 1291), Sec. 3, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 489 (S.B. 1665), Sec. 1, eff. June 14, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1286 (H.B. 2163), Sec. 2, eff. September 1, 2013.

Reenacted and amended by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 11.001, eff. September 1, 2015.

#### SUBCHAPTER E. CONFIDENTIALITY OF CERTAIN INFORMATION

Sec. 401.201. CONFIDENTIALITY OF EARLY WARNING SYSTEM INFORMATION. Information relating to the financial solvency of an organization regulated by the department under this code or another insurance law of this state that is obtained by the department's early warning system is confidential and is not subject to disclosure under Chapter 552, Government Code.

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

#### SUBCHAPTER F. SELF-DIRECTED BUDGET FOR CERTAIN DIVISIONS

Sec. 401.251. DEFINITIONS. In this subchapter:

(1) "Actuarial division" means the division within the financial program that conducts actuarial examinations of insurers and other entities regulated by the department and administers state laws relating to the level of reserves required of an insurer.

(2) "Examination cost" means a cost associated with salary, travel, or other personnel expenses associated with the examination of insurers and other entities regulated by the department by the financial examinations division or actuarial division.

(3) "Financial examinations division" means the division within the financial program that conducts financial and

market conduct examinations of insurers and other entities regulated by the department.

(4) "Financial program" means the program within the department through which the department regulates the financial and operating conditions of, and issues licenses to, domestic and foreign insurers and other entities regulated by the department. Added by Acts 2011, 82nd Leg., R.S., Ch. 659 (S.B. [1291](#)), Sec. 1, eff. September 1, 2011.

Sec. 401.252. SELF-DIRECTED BUDGET. (a) The senior associate commissioner of the financial program shall submit to the commissioner an annual budget of examination costs using generally accepted accounting principles. Notwithstanding any other provision of law, the budget may be adopted and approved only by the commissioner. The commissioner shall approve a budget under this subsection not later than August 31 of the year in which the associate commissioner submits the budget to the commissioner.

(b) The financial program may not directly or indirectly cause the Texas Department of Insurance operating account to incur any examination cost.

(c) Subject to any limitations in this code or another insurance law of this state, the department may set the amounts of fees required or permitted by statute or rule as necessary to:

(1) carry out the functions of the financial examinations and actuarial divisions relating to the examination of insurers and other regulated entities; and

(2) fund the budget adopted and approved under this section.

(d) Notwithstanding this section, the financial program may receive funds appropriated from the state to fund costs other than examination costs.

(e) An assessment, fee, charge, or other source of revenue collected by the financial program relating to the examination of insurers and other regulated entities by the financial examinations division or actuarial division shall be deposited to the credit of the account described by Section [401.156\(a\)](#) for the purposes described by that section.



Added by Acts 2011, 82nd Leg., R.S., Ch. 659 (S.B. [1291](#)), Sec. 1, eff. September 1, 2011.

Sec. 401.253. AUDITS. This subchapter does not affect the duty of the state auditor to audit the financial program.

Added by Acts 2011, 82nd Leg., R.S., Ch. 659 (S.B. [1291](#)), Sec. 1, eff. September 1, 2011.

Sec. 401.254. RECORDS; REPORTING REQUIREMENTS. (a) The financial program shall keep financial and statistical information as necessary to disclose completely and accurately the financial program's receipts and examination costs.

(b) The financial program shall submit to the commissioner and the Legislative Budget Board an annual report that states:

(1) the revenue received by the financial program from assessments and fees collected by the department relating to the examination of insurers and other regulated entities;

(2) the total salary for each financial program employee who performs examinations of insurers and other regulated entities;

(3) the portion of the salary paid to each employee from the self-directed budget approved under Section [401.252](#);

(4) the portion of the salary paid to each employee from funds appropriated to the financial program by the state;

(5) the total travel expenses incurred by each employee who performs examinations of insurers and other regulated entities;

(6) the portion of travel expenses paid for each employee from the self-directed budget approved under Section [401.252](#);

(7) the portion of travel expenses paid for each employee from funds appropriated to the financial program by the state; and

(8) all other examination costs of the financial program.

Added by Acts 2011, 82nd Leg., R.S., Ch. 659 (S.B. [1291](#)), Sec. 1, eff. September 1, 2011.

Sec. 401.255. MEMBERSHIP IN EMPLOYEES RETIREMENT SYSTEM. Employees of the actuarial division and financial examinations division are members of the Employees Retirement System of Texas under Chapter [812](#), Government Code, and the transition to a self-directed budget as provided by this subchapter has no effect on their membership or any benefits under that system. Added by Acts 2011, 82nd Leg., R.S., Ch. 659 (S.B. [1291](#)), Sec. 1, eff. September 1, 2011.