

INSURANCE CODE

TITLE 4. REGULATION OF SOLVENCY

SUBTITLE A. GENERAL PROVISIONS

CHAPTER 402. DISCLOSURE OF MATERIAL TRANSACTIONS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 402.001. APPLICABILITY OF CHAPTER. (a) Except as provided by Subsection (b), this chapter applies to:

(1) each of the following domestic or commercially domiciled insurers:

- (A) a capital stock insurance company;
- (B) a mutual insurance company;
- (C) a title insurance company;
- (D) a fraternal benefit society;
- (E) a Lloyd's plan;
- (F) a reciprocal or interinsurance exchange;
- (G) a group hospital service corporation or a nonprofit hospital, medical, or dental service corporation;
- (H) a risk retention group; and
- (I) a nonprofit legal services corporation; and

(2) a domestic or commercially domiciled health maintenance organization.

(b) This chapter does not apply to a domestic insurer that engages in the business of insurance only in this state or to a domestic health maintenance organization that engages in the business of a health maintenance organization only in this state until the insurer or health maintenance organization is authorized to engage in the business of insurance or the business of a health maintenance organization, as applicable, in another state.

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

Sec. 402.002. GENERAL REPORTING REQUIREMENTS. (a) An insurer or health maintenance organization shall file with the department a report, including any necessary exhibit or other attachment, that discloses:

(1) the material acquisition or disposition of assets;  
or

(2) the material nonrenewal, cancellation, or revision of a ceded reinsurance agreement.

(b) The insurer or health maintenance organization shall file the report required under Subsection (a) not later than the 15th day after the last day of the calendar month in which any transaction for which a report is required occurs.

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

Sec. 402.003. EXCEPTIONS TO REPORTING REQUIREMENTS. An insurer or health maintenance organization is not required to file a report under Section 402.002 if:

(1) the acquisition or disposition of assets or the nonrenewal, cancellation, or revision of a ceded reinsurance agreement is not material; or

(2) the insurer's or health maintenance organization's material acquisition or disposition of assets or material nonrenewal, cancellation, or revision of a ceded reinsurance agreement has been submitted to the commissioner for review, approval, or information under another provision of this code or another law, regulation, or requirement.

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

Sec. 402.004. REPORT MADE ON NONCONSOLIDATED BASIS. (a) An insurer or health maintenance organization shall report each material acquisition or disposition and each material nonrenewal, cancellation, or revision of a ceded reinsurance agreement on a nonconsolidated basis unless the insurer or health maintenance organization:

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

(2) has ceded substantially all of the insurer's or health maintenance organization's direct and assumed business to the pooling arrangement.

(b) For purposes of Subsection (a), an insurer or health maintenance organization is considered to have ceded substantially all of the insurer's or health maintenance organization's direct and assumed business to a pooling arrangement if:

(1) the insurer or health maintenance organization has, during a calendar year, less than \$1 million total direct and assumed written premiums that are not subject to a pooling arrangement; and

(2) the net income of the business that is not subject to the pooling arrangement represents less than five percent of the insurer's or health maintenance organization's capital and surplus. Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 1, eff. April 1, 2007.

Sec. 402.005. CONFIDENTIALITY OF REPORT. (a) A report obtained by or disclosed to the commissioner under this chapter is confidential and is not subject to a subpoena, other than a grand jury subpoena.

(b) The report may not be disclosed by the commissioner, the National Association of Insurance Commissioners, or any other person without the prior written consent of the affected insurer or health maintenance organization unless the commissioner, after providing notice and an opportunity for a hearing to the affected insurer or health maintenance organization, determines that the interest of shareholders, holders of policies or evidences of coverage, or the public will be served by publishing the report. If the commissioner makes that determination, the department may:

(1) disclose the report to the public; and

(2) publish any part of the report in a manner the commissioner considers appropriate.

(c) The report may be disclosed to the insurance department of another state or another authorized governmental agency without complying with Subsection (b).

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

SUBCHAPTER B. ACQUISITION AND DISPOSITION OF ASSETS

Sec. 402.051. ACQUISITIONS AND DISPOSITIONS CONSIDERED MATERIAL. For purposes of this chapter, an acquisition, or the aggregate of a series of related acquisitions during a 30-day period, or a disposition, or the aggregate of a series of related dispositions during a 30-day period, is material if it:

- (1) is not recurring;
- (2) is not in the ordinary course of business; and
- (3) involves more than five percent of the reporting insurer's or health maintenance organization's total admitted assets as reported in the insurer's or health maintenance organization's most recent statutory statement filed with the department.

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

Sec. 402.052. ACQUISITIONS AND DISPOSITIONS SUBJECT TO CHAPTER. (a) An asset acquisition subject to this chapter includes a purchase, lease, exchange, merger, consolidation, succession, or other acquisition of assets, except the construction or development of real property by or for the reporting insurer or health maintenance organization or the acquisition of materials for that purpose.

(b) An asset disposition subject to this chapter includes a sale, lease, exchange, merger, consolidation, mortgage, hypothecation, assignment, whether for the benefit of a creditor or otherwise, abandonment, destruction, or other disposition of assets.

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

Sec. 402.053. CONTENT OF REPORT CONCERNING MATERIAL ACQUISITIONS AND DISPOSITIONS. In a report of a material

acquisition or disposition of assets under Section 402.002, an insurer or health maintenance organization shall disclose:

- (1) the date of the transaction;
- (2) the manner of acquisition or disposition;
- (3) a description of the assets involved;
- (4) the nature and amount of the consideration given or received;
- (5) the purpose of the transaction;
- (6) the manner by which the amount of consideration was determined;
- (7) the gain or loss recognized or realized as a result of the transaction; and
- (8) the name of each person from whom the assets were acquired or to whom they were disposed.

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

SUBCHAPTER C. NONRENEWAL, CANCELLATION, AND REVISION  
OF CEDED REINSURANCE AGREEMENTS

Sec. 402.101. NONRENEWALS, CANCELLATIONS, AND REVISIONS CONSIDERED MATERIAL. For purposes of this chapter, a nonrenewal, cancellation, or revision of a ceded reinsurance agreement is material if, on an annual basis, as reported in an insurer's or health maintenance organization's most recent statutory statement filed with the department, the nonrenewal, cancellation, or revision affects:

- (1) for property and casualty business, including accident and health business when written as property and casualty business, more than 50 percent of the insurer's or health maintenance organization's ceded written premium; or
- (2) for life, annuity, and accident and health business, more than 50 percent of the total reserve credit taken for business ceded by the insurer or health maintenance organization.

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

Sec. 402.102. CONDITIONS UNDER WHICH REPORT CONCERNING NONRENEWAL, CANCELLATION, OR REVISION REQUIRED. Except as provided by Section 402.103, an insurer or health maintenance organization shall file a report of a material nonrenewal, cancellation, or revision of ceded reinsurance under Section 402.002, without regard to which party initiated the nonrenewal, cancellation, or revision, if:

(1) the entire cession has been canceled, nonrenewed, or revised, and ceded indemnity and loss adjustment expense reserves after the nonrenewal, cancellation, or revision represent less than 50 percent of the comparable reserves that would have been ceded had the nonrenewal, cancellation, or revision not occurred;

(2) an authorized or accredited reinsurer has been replaced by an unauthorized reinsurer on an existing cession, and the result of the revision affects more than 10 percent of the cession; or

(3) a collateral requirement previously established for an unauthorized reinsurer has been reduced, in that the requirement to collateralize incurred but unreported claim reserves has been waived for at least one unauthorized reinsurer newly participating in an existing cession, and the result of the revision affects more than 10 percent of the cession.

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

Sec. 402.103. CONDITIONS UNDER WHICH REPORT CONCERNING NONRENEWAL, CANCELLATION, OR REVISION NOT REQUIRED. An insurer or health maintenance organization is not required to file a report under Section 402.002 if the insurer's or health maintenance organization's ceded written premium of the total reserve credit taken for business ceded is, on an annual basis, less than an amount equal to:

(1) 10 percent of direct and assumed written premiums; or

(2) 10 percent of the statutory reserve requirement before a cession.

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

April 1, 2007.

Sec. 402.104. CONTENT OF REPORT CONCERNING MATERIAL NONRENEWALS, CANCELLATIONS, AND REVISIONS. In a report of a material nonrenewal, cancellation, or revision of a ceded reinsurance agreement under Section [402.002](#), an insurer or health maintenance organization shall disclose:

- (1) the effective date of the nonrenewal, cancellation, or revision;
- (2) a description of the transaction that identifies the initiator of the transaction;
- (3) the purpose of the transaction; and
- (4) if applicable, the identity of each replacement reinsurer.

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