

INSURANCE CODE

TITLE 4. REGULATION OF SOLVENCY

SUBTITLE A. GENERAL PROVISIONS

CHAPTER 406. SPECIAL DEPOSITS REQUIRED UNDER POTENTIALLY  
HAZARDOUS CONDITIONS

Sec. 406.001. DEFINITION. In this chapter, "insurer" includes:

- (1) a capital stock insurance company;
- (2) a reciprocal or interinsurance exchange;
- (3) a Lloyd's plan;
- (4) a fraternal benefit society;
- (5) a mutual company, including a mutual assessment company;
- (6) a statewide mutual assessment company;
- (7) a local mutual aid association;
- (8) a burial association;
- (9) a county mutual insurance company;
- (10) a farm mutual insurance company;
- (11) a fidelity, guaranty, or surety company;
- (12) a title insurance company;
- (13) a stipulated premium company;
- (14) a group hospital service corporation;
- (15) a health maintenance organization;
- (16) a risk retention group; and
- (17) any other organization or person engaged in the business of insurance.

Added by Acts 2007, 80th Leg., R.S., Ch. 730 (H.B. 2636), Sec. 1C.001, eff. April 1, 2009.

Sec. 406.002. APPLICABILITY OF CHAPTER. This chapter applies to a person or organization engaged in the business of insurance without regard to whether the person or organization is listed in Section 406.001, unless another statute specifically cites this chapter and exempts the person or organization from this chapter.

Added by Acts 2007, 80th Leg., R.S., Ch. 730 (H.B. 2636), Sec.

1C.001, eff. April 1, 2009.

Sec. 406.003. REQUIRED DEPOSIT: STANDARDS AND CRITERIA. The commissioner, in the commissioner's sole discretion, may require an insurer to make a deposit under this chapter if the commissioner determines that one of the following conditions, if not rectified, may potentially be hazardous to the insurer's policyholders, enrollees, or creditors, or to the public:

- (1) the insurer's financial or operating condition, reviewed in conjunction with the kinds and nature of risks insured;
- (2) the insurer's method of operation;
- (3) the insurer's relationship with affiliates;
- (4) the nature and amount of the insurer's investments;
- (5) the insurer's contracts that may lead to a contingent liability; or
- (6) the insurer's agreements with respect to guaranty and surety.

Added by Acts 2007, 80th Leg., R.S., Ch. 730 (H.B. 2636), Sec. 1C.001, eff. April 1, 2009.

Sec. 406.004. REQUIRED DEPOSIT: FORM OF SECURITY. A deposit required under Section 406.003 must be made with the comptroller and approved by the commissioner. The deposit must be made in:

- (1) cash;
- (2) securities authorized under this code to be a legal investment for the insurer that:
  - (A) are readily marketable over a national exchange with a maturity date of not more than one year, are listed by the Securities Valuation Office of the National Association of Insurance Commissioners, and qualify as admitted assets; or
  - (B) are clean, irrevocable, and unconditional letters of credit issued or confirmed by a financial institution organized and licensed under the laws of the United States or a state of the United States; or
- (3) another form of security acceptable to the commissioner.

Added by Acts 2007, 80th Leg., R.S., Ch. 730 (H.B. 2636), Sec. 1C.001, eff. April 1, 2009.

Sec. 406.005. DURATION OF DEPOSIT. Subject to Section 406.006, the comptroller shall hold a deposit required under this chapter until the commissioner issues a written order finding that the condition for which the deposit was required no longer exists. Added by Acts 2007, 80th Leg., R.S., Ch. 730 (H.B. 2636), Sec. 1C.001, eff. April 1, 2009.

Sec. 406.006. SUBSTITUTION OR WITHDRAWAL OF DEPOSIT. (a) An insurer may file a written application with the commissioner requesting:

(1) withdrawal of all or part of the deposit held by the comptroller under this chapter; or

(2) substitution of all or part of the deposited securities held by the comptroller under this chapter.

(b) The application must state the basis for the request to withdraw the deposit or to substitute the deposited security.

(c) An insurer's application for the substitution of a deposited security must provide specific information regarding the security to be deposited as a substitute for the security held by the comptroller.

(d) The commissioner shall issue a letter approving or an order denying an application under this section not later than the 30th day after the date the department receives the application. If the commissioner does not approve or deny the application within that period, the application is denied.

(e) The commissioner may, in the commissioner's sole discretion, approve an application to withdraw a deposit or substitute a deposited security if the commissioner determines that the withdrawal or substitution will not be hazardous to the insurer's policyholders, enrollees, or creditors, or to the public.

(f) The comptroller may not release a deposit made under this chapter, or any part of the deposit, and may not accept a substitute for a deposited security unless the commissioner issues a letter approving the withdrawal or substitution.

Added by Acts 2007, 80th Leg., R.S., Ch. 730 (H.B. 2636), Sec. 1C.001, eff. April 1, 2009.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 553 (S.B. 631), Sec. 1, eff. June 14, 2013.

Sec. 406.007. APPEAL. An insurer may appeal an action of the commissioner under this chapter in accordance with Subchapter D, Chapter 36.

Added by Acts 2007, 80th Leg., R.S., Ch. 730 (H.B. 2636), Sec. 1C.001, eff. April 1, 2009.

Sec. 406.008. CUMULATIVE OF OTHER DEPOSITS. A deposit required to be made under this chapter is in addition to any other deposit that the insurer is required or authorized to make under this code.

Added by Acts 2007, 80th Leg., R.S., Ch. 730 (H.B. 2636), Sec. 1C.001, eff. April 1, 2009.