

INSURANCE CODE

TITLE 4. REGULATION OF SOLVENCY

SUBTITLE C. DELINQUENT INSURERS

CHAPTER 441. SUPERVISION AND CONSERVATORSHIP

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 441.001. FINDINGS AND PURPOSE. (a) An insurer delinquency, or the state's inability to properly proceed in a threatened delinquency, directly or indirectly affects other insurers by creating a lack of public confidence in insurance and insurers. Insurer delinquencies destroy public confidence in the state's ability to regulate insurers. The harmful results of insurer delinquencies, including those described by this subsection, are properly minimized by laws designed to protect and assist insureds, creditors, and owners.

(b) Placing an insurer in receivership often destroys or diminishes, or is likely to destroy or diminish, the value of the insurer's assets, including:

- (1) the insurer's insurance account or in-force business;
- (2) the insurer as a going concern; and
- (3) the insurer's agency force.

(c) The value of the assets described by Subsection (b) should be preserved if the circumstances of the insurer's financial condition warrant an attempt to rehabilitate or conserve the insurer and the rehabilitation or conservation is otherwise feasible.

(d) It is a proper concern of this state and proper policy to attempt to correct or remedy insurer misconduct, ineptness, or misfortune.

(e) The purpose of this chapter is to:

- (1) provide for the rehabilitation and conservation of insurers by authorizing and requiring supervision and conservatorship by the commissioner;

- (2) authorize action to determine whether an attempt should be made to rehabilitate and conserve an insurer;

(3) avoid, if possible and feasible, the necessity of placing an insurer under temporary or permanent receivership;

(4) provide for the protection of an insurer's assets pending determination of whether the insurer may be successfully rehabilitated; and

(5) alleviate concerns regarding insurance and insurers.

(f) Rehabilitation of an insurer might not be accomplished in every case, but this chapter facilitates and directs an attempt to rehabilitate an insurer without immediate resort to the harsher remedy of receivership. If receivership becomes necessary, the preliminary supervision and conservatorship may prevent a dissipation of assets, which will benefit policyholders, creditors, and owners.

(g) For the reasons stated by this section, the substance and procedures of this chapter are the public policy of this state and are necessary to the public welfare. That policy and welfare require the availability of this chapter and the application of this chapter if circumstances warrant.

(h) This chapter provides, in conjunction with other law, a generally ordered sequence, and provides for review at each step, of supervision, concurrent conservatorship and rehabilitation, including reinsurance, and cessation of the conservatorship by rehabilitation or by receivership and liquidation if at any time that cessation is indicated or determined to be appropriate.

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

Sec. 441.002. DEFINITION. In this chapter, unless the purposes of this chapter clearly require or the context clearly indicates another meaning, "insurer" means a person, organization, or company, regardless of whether the person or entity is authorized or admitted, that engages in the business of insurance or that acts as a principal or agent of a person, organization, or company engaged in the business of insurance. The term includes a stock insurance company, reciprocal or interinsurance exchange, Lloyd's plan, fraternal benefit society, stipulated premium

company, title insurance company, and mutual insurance company of any kind, including a statewide mutual assessment company, local mutual aid association, burial association, county mutual insurance company, and farm mutual insurance company.

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

Sec. 441.003. APPLICABILITY OF AND COMPLIANCE WITH CHAPTER. Compliance with this chapter is a condition of engaging in the business of insurance in this state. This chapter applies to, and is a consequence of, any other transaction with respect to an insurer or insurance.

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

Sec. 441.004. ACTIONS OF COMMISSIONER. (a) In the event of an insurer's delinquency or suspected delinquency, the commissioner, in the commissioner's administrative discretion, may act under this chapter, another applicable law, or a combination of this chapter and another applicable law.

(b) If the commissioner determines to act under this chapter or is directed by a court to act under this chapter, the commissioner shall comply with the requirements of this chapter.

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

Sec. 441.005. RULES; AUTHORITY FOR ADMINISTRATIVE ACTION.

(a) The commissioner may:

(1) adopt reasonable rules as necessary to implement and supplement this chapter and the purposes of this chapter; and

(2) take any administrative action required by the findings of Section [441.001](#).

(b) The authority granted by this section may be inferred from the context of this chapter.

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

Sec. 441.006. RULES AND PROCEDURES FOR MERGER OF INSURERS.

(a) The commissioner shall adopt rules that encourage the merger of insurers in weak financial condition with insurers in strong financial condition in cases in which rehabilitation or conservation of an insurer would be inefficient or impracticable.

(b) The rules and procedures for conservatorship may not be used unless the rules and procedures adopted to promote the merger of insurers in weak financial condition are followed.

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

Sec. 441.007. CONFLICT WITH OTHER LAWS. If this chapter conflicts with any other law, this chapter prevails.

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

Sec. 441.008. INAPPLICABILITY OF CERTAIN ADMINISTRATIVE PROCEDURE PROVISIONS. Section 2001.062, Government Code, does not apply to a hearing conducted under this chapter.

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

SUBCHAPTER B. DETERMINATION AND NOTICE

Sec. 441.051. CIRCUMSTANCES CONSTITUTING INSOLVENCY OR DELINQUENCY. For the purposes of this chapter, the circumstances in which an insurer is considered insolvent, delinquent, or threatened with delinquency include circumstances in which the insurer:

(1) has required surplus, capital, or capital stock that is impaired to an extent prohibited by law;

(2) continues to write new business when the insurer does not have the surplus, capital, or capital stock that is required by law to write new business;

(3) conducts the insurer's business fraudulently; or

(4) attempts to dissolve or liquidate without first having made provisions satisfactory to the commissioner for

liabilities arising from insurance policies issued by the insurer. Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 1, eff. April 1, 2007.

Sec. 441.052. CIRCUMSTANCES CONSTITUTING INSURER EXCEEDING POWERS. For the purposes of this chapter, the circumstances in which an insurer is considered to have exceeded the insurer's powers include circumstances in which the insurer:

(1) refuses to permit the commissioner, the commissioner's deputy, or an examiner appointed by the department to examine the insurer's books, papers, accounts, records, or affairs;

(2) is organized in this state and removes from the state books, papers, accounts, or records that are necessary to examine the insurer;

(3) fails to promptly answer inquiries authorized by Section 38.001;

(4) fails to comply with an order of the commissioner to remedy, within the time prescribed by law, a prohibited deficiency in the insurer's capital, capital stock, or surplus;

(5) without obtaining the commissioner's prior written approval:

(A) totally reinsures the insurer's entire outstanding business; or

(B) merges or consolidates substantially all of the insurer's property or business with another insurer;

(6) continues to write business after the insurer's certificate of authority has been revoked or suspended; or

(7) is in a condition that makes the insurer's continuation in business hazardous to the public or to the insurer's policyholders or certificate holders.

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

Sec. 441.053. NOTICE TO INSURER. (a) If at any time the commissioner determines that an insurer is insolvent, has exceeded the insurer's powers, or has otherwise failed to comply with the

law, the commissioner shall:

(1) notify the insurer of that determination;

(2) provide to the insurer a written list of the commissioner's requirements to abate the conditions on which that determination was based; and

(3) if the commissioner determines that the insurer requires supervision, notify the insurer that the insurer is under the commissioner's supervision and that the commissioner is invoking this chapter.

(b) The commissioner may provide the notice and information to an insurer that agrees to supervision.

(c) The insurer shall comply with the commissioner's requirements.

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

SUBCHAPTER C. SUPERVISION

Sec. 441.101. APPOINTMENT OF SUPERVISOR. The commissioner may appoint a supervisor to supervise an insurer.

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

Sec. 441.102. TIME FOR COMPLIANCE WITH REQUIREMENTS OF SUPERVISION. An insurer under supervision must comply with the commissioner's requirements under Section 441.053 not later than the 180th day after the date of the commissioner's notice of supervision.

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

Sec. 441.103. PAYMENT OF CLAIMS. An insurer under supervision shall continue to pay claims under an insurance policy according to the terms of the policy.

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

Sec. 441.104. PROHIBITED ACTS DURING SUPERVISION. During supervision, the commissioner may prohibit the insurer from taking any of the following actions without the prior approval of the commissioner or supervisor:

- (1) disposing of, conveying, or encumbering any of the insurer's assets or business in force;
- (2) withdrawing money from the insurer's bank accounts;
- (3) lending or investing the insurer's money;
- (4) transferring the insurer's property;
- (5) incurring a debt, obligation, or liability;
- (6) merging or consolidating with another company;
- (7) entering into a new reinsurance contract or treaty;
- (8) terminating, surrendering, forfeiting, converting, or lapsing an insurance policy, except for nonpayment of premiums due; or
- (9) releasing, paying, or refunding premium deposits, accrued cash or loan values, unearned premiums, or other reserves on an insurance policy.

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

Sec. 441.105. HEARING ON SUPERVISION; TERMINATION BY CONSERVATION OR RELEASE. (a) On the commissioner's own motion or the motion of a party of record, a hearing may be scheduled relating to an insurer under supervision after at least 10 days' written notice to each party of record. Notice may be waived by the parties of record.

(b) The commissioner shall place the insurer in conservatorship if, after the hearing, it is determined that the insurer:

- (1) failed to comply with the commissioner's requirements;
- (2) has not been rehabilitated;
- (3) is insolvent; or
- (4) appears to have exceeded the insurer's powers.

(c) The commissioner may release the insurer from supervision if, after the hearing, it is determined that the insurer:

(1) has been rehabilitated; or

(2) is no longer in a condition that makes the insurer's continuation in business hazardous to the public or to the insurer's policyholders or certificate holders.

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

SUBCHAPTER D. CONSERVATORSHIP

Sec. 441.151. APPOINTMENT OF CONSERVATOR. (a) The commissioner may appoint a conservator for an insurer:

(1) if:

(A) after notice and opportunity for hearing, it is determined that the insurer:

(i) is insolvent;

(ii) appears to have exceeded the insurer's powers; or

(iii) has failed to comply with any requirement of the commissioner; or

(B) the insurer agrees to the appointment of a conservator; and

(2) if it is determined that supervision is inadequate to rehabilitate the insurer.

(b) The commissioner may appoint a conservator.

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

Sec. 441.152. NOTICE OF CONSERVATORSHIP. (a) Not later than the seventh day after the date the commissioner enters an order appointing a conservator for an insurer as provided by Section 441.151 or Subchapter F, the commissioner shall publish notice of the conservatorship in at least one newspaper of general circulation in each county with a population of at least 100,000.

(b) The notice must include:

- (1) the name of the insurer placed in conservatorship;
- (2) the date the insurer was placed in conservatorship in this state;
- (3) the reasons for placing the insurer in conservatorship;
- (4) any action with respect to the insurer that is available to a policyholder; and
- (5) any requirement with which a policyholder must comply.

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

Sec. 441.153. POWERS AND DUTIES OF CONSERVATOR. (a) The conservator appointed for an insurer under Section 441.151 shall immediately take charge of the insurer and all of the insurer's property, books, records, and effects, conduct the insurer's business, and act to remove the causes and conditions that made the conservatorship order necessary, as directed by the commissioner.

(b) During the conservatorship, the conservator shall provide reports to the commissioner as required by the commissioner and may:

- (1) take all necessary measures in the conservator's own name as conservator to preserve, protect, or recover any asset or property of the insurer, including a claim or cause of action that the insurer may assert; and

- (2) file a suit, or prosecute and defend a suit filed by or against the insurer, as the conservator considers necessary to protect all of the interested parties or any property affected by the suit.

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

Sec. 441.154. PAYMENT OF CLAIMS. An insurer under conservatorship shall continue to pay claims under an insurance policy according to the terms of the policy.

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

Sec. 441.155. REINSURANCE DURING CONSERVATORSHIP. (a) If during a conservatorship it appears that the interest of the insurer's policyholders or certificate holders is best protected by reinsuring the policies or certificates, the conservator may, with the approval of or at the direction of the commissioner:

(1) reinsure all or part of the insurer's policies or certificates with a solvent insurer authorized to engage in business in this state; and

(2) to the extent that the insurer has reserves attributable to the reinsured policies or certificates, transfer to the reinsurer reserves in an amount sufficient to reinsure the policies or certificates.

(b) A transfer of reserves under this section may not be considered a preference of a creditor.

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

Sec. 441.156. HEARINGS DURING CONSERVATORSHIP. (a) On the commissioner's own motion or the motion of a party of record, a hearing relating to an insurer in conservatorship may be scheduled after at least 10 days' written notice to each party of record.

(b) The notice required by this section may be waived by the parties of record.

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

Sec. 441.157. IMMUNITY. A conservator and the conservator's agents and employees are not liable, and a cause of action does not arise against the conservator or an agent or employee, for an action taken or not taken by the conservator, agent, or employee in connection with the adjustment, negotiation, or settlement of a claim.

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

Sec. 441.158. VENUE. (a) A suit against an insurer in

conservatorship or against the conservator may be filed only in Travis County unless the cause of action is based on the terms of an insurance policy issued by the insurer.

(b) A conservator appointed under this chapter may file suit in Travis County against any person to preserve, protect, or recover any asset or property of the insurer, including a claim or cause of action that may be asserted by the insurer.

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

Sec. 441.159. DURATION OF CONSERVATORSHIP. (a) Except as provided by Subsection (b), a conservator appointed under this chapter shall complete the conservator's duties as required by this chapter not later than the 90th day after the date of appointment.

(b) If the commissioner issues written findings that there is a substantial likelihood of rehabilitation of the insurer in conservatorship, the commissioner may extend the conservatorship for additional successive 30-day periods. The total period of extensions may not exceed 180 consecutive days. A hearing is not required before the commissioner issues the findings.

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

Sec. 441.160. RETURN TO MANAGEMENT. An insurer that is rehabilitated shall be returned to management or placed under new management under reasonable conditions that best tend to prevent defeat of the purposes of the conservatorship.

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

SUBCHAPTER E. PROVISIONS APPLYING TO SUPERVISION AND CONSERVATORSHIP

Sec. 441.201. CONFIDENTIALITY. (a) Hearings and orders, notices, correspondence, reports, records, and other information in the department's possession relating to the supervision or conservatorship of an insurer are confidential during the

supervision or conservatorship. On termination of the supervision or conservatorship, the information in the department's custody that relates to the supervision or conservatorship is public information.

(b) This section does not prohibit access by the department to hearings or orders, notices, correspondence, reports, records, or other information.

(c) The provisions of Chapter 2001, Government Code, relating to discovery apply to the parties of record in a proceeding under this chapter.

(d) The commissioner may open a proceeding under this chapter or disclose information that is confidential under this section to a department, agency, or instrumentality of this state, another state, or the United States if the commissioner determines that opening the proceeding or disclosing the information is necessary or proper to enforce the laws of this state, another state, or the United States.

(e) An officer or employee of the department is not liable for a release of information that is confidential under this section unless it is shown that the release was accomplished with actual malice.

(f) This section does not apply to information:

(1) if the insurer's insureds are not protected by Chapter 462, 463, or 2602, or substantially similar statutes; or

(2) on the appointment by a court of a receiver for the insurer.

(g) Notwithstanding Subsection (a), if the commissioner places a title insurance agent licensed under Title 11 or an insurance agent licensed under Title 13 under supervision or in conservatorship, the commissioner shall provide written notice of the order of supervision or conservatorship to each insurer for which the agent holds an appointment under Subchapter A, Chapter 2651, or Subchapter E, Chapter 4001, or other applicable law, on the date the supervisor or conservator is appointed.

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. 482 (H.B. 2542), Sec. 1, eff. September 1, 2017.

Sec. 441.202. COSTS OF SUPERVISION AND CONSERVATORSHIP. The commissioner shall determine the costs related to services provided by a supervisor or conservator under this chapter. Subject to Section 442.551, the costs shall be charged against the insurer's assets and paid as determined by the commissioner.

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

Sec. 441.203. COLLECTION OF FEES FROM REHABILITATED INSURER. (a) The commissioner may collect fees from an insurer described by Section 82.002 that is successfully rehabilitated by the commissioner. The fees must be in amounts sufficient to cover the cost of rehabilitating the insurer, but may not exceed that cost.

(b) The department may use fees collected under this section only for the rehabilitation of the insurer from which the fees are collected.

(c) Fees collected under this section shall be deposited in and expended through the Texas Department of Insurance operating account.

(d) The commissioner may determine the terms of the collection or repayment of the fees.

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

Sec. 441.204. REVIEW AND STAY OF CERTAIN ACTS OF SUPERVISOR OR CONSERVATOR. (a) An insurer under supervision or conservatorship may request the commissioner or, in the commissioner's absence, the commissioner's appointed deputy to review an action taken or proposed to be taken by the supervisor or conservator.

(b) A request for review under this section must specify the manner in which the action is believed to not be in the insurer's

best interests.

(c) A request for review under this section stays the specified action pending review by the commissioner or the commissioner's deputy.

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

Sec. 441.205. APPEAL OF CERTAIN ORDERS. The following orders of the commissioner may be appealed under Subchapter D, Chapter 36:

(1) an order appointing a supervisor and providing that the insurer may not engage in certain acts as provided by Section 441.104;

(2) an order appointing a conservator; and

(3) an order following the review under Section 441.204 of an action of a supervisor or conservator.

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

Sec. 441.206. EX PARTE MEETING WITH COMMISSIONER. Notwithstanding any other law, the commissioner may, at the time of any proceeding or while a proceeding is pending under this chapter, meet with a supervisor or conservator appointed under this chapter and with the attorney or other representative of the supervisor or conservator, without another person present, to implement the commissioner's duties under this chapter or for the supervisor or conservator to implement that person's duties under this chapter.

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

Sec. 441.207. INSURER EMPLOYEES DURING SUPERVISION OR CONSERVATORSHIP. (a) Notwithstanding any other provision of this chapter, an insurer may employ an attorney, actuary, and accountant of the insurer's choice to assist the insurer during supervision. The supervisor shall authorize payment from the insurer for the reasonable fees and expenses of the attorney, actuary, or accountant.

(b) The supervisor, conservator, or commissioner shall, to the maximum extent possible, use the insurer's employees instead of outside consultants, actuaries, attorneys, accountants, and other personnel or department employees to minimize the expense of rehabilitation or the necessity of fees to cover the cost of rehabilitation.

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

SUBCHAPTER F. OUT-OF-STATE INSURERS

Sec. 441.251. APPLICABILITY. This chapter applies to an insurer engaged in the business of insurance in this state but not domiciled in this state, regardless of whether the insurer is authorized to engage in the business of insurance in this state.

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

Sec. 441.252. APPOINTMENT OF ANCILLARY SUPERVISOR OR CONSERVATOR. (a) The commissioner may appoint an ancillary supervisor or ancillary conservator for the assets located in this state of an insurer described by Section 441.251 in the same manner as the commissioner appoints a supervisor or conservator for an insurer domiciled in this state as provided by this chapter if:

(1) the commissioner makes a determination described by Section 441.053 with regard to the insurer;

(2) the commissioner determines that the insurer does not have the minimum surplus, capital, or capital stock required by this code for similar domestic insurers; or

(3) the insurer agrees to the appointment.

(b) Subject to Section 441.205, the commissioner may immediately, without prior notice and hearing, appoint an ancillary conservator for the assets, property, books, and records located in this state of an insurer described by Section 441.251 if a conservator, rehabilitator, receiver, liquidator, or equivalent official is appointed in the state in which the insurer is domiciled.

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

Sec. 441.253. POWERS AND DUTIES OF ANCILLARY SUPERVISOR OR CONSERVATOR. (a) An ancillary supervisor or ancillary conservator appointed under this subchapter has all the powers provided by Sections 441.153 and 441.155 with respect to the insurer's assets, property, books, and records located in this state.

(b) An ancillary conservator appointed under this subchapter may:

(1) reinsure all or part of the insurer's policies or certificates in this state with a solvent insurer authorized to engage in business in this state; and

(2) transfer to the reinsurer as reserves any assets in the ancillary conservator's possession in an amount sufficient to reinsure the policies or certificates.

(c) A transfer of assets under this section is not considered a preference of a creditor.

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

Sec. 441.254. FAILURE TO COMPLY WITH REQUIREMENTS OF SUPERVISION. The failure of an insurer described by Section 441.251 to comply during supervision with the requirements of Section 441.104 with respect to any asset or policy located in this state is grounds for the immediate revocation of the insurer's certificate of authority to engage in business in this state and for the immediate appointment of an ancillary conservator to take charge of the insurer's assets located in this state.

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

Sec. 441.255. REFERRAL FOR REMEDIAL ACTION. The commissioner may refer an insurer described by Section 441.251 to the attorney general for remedial action, including application for appointment of a receiver under Chapter 442, on any grounds on which an insurer domiciled in this state may be referred to the attorney

general for remedial action. The commissioner may refer the insurer at any time, and action against the insurer in the insurer's state of domicile is not a prerequisite.

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

SUBCHAPTER G. POWERS AND DUTIES OF ATTORNEY GENERAL

Sec. 441.301. REMEDIAL ACTION BY ATTORNEY GENERAL. (a) The commissioner may, at any time and regardless of whether an insurer is under supervision or conservatorship, determine that the insurer is not in a condition to continue business in the interest of the insurer's policyholders or certificate holders. The commissioner shall give notice of that determination to the attorney general.

(b) On receipt of notice under Subsection (a), the attorney general shall file suit in the nature of quo warranto in a court in Travis County to:

(1) forfeit the insurer's charter; or

(2) require the insurer to comply with the law or prove to the commissioner that the insurer is solvent, and satisfy the requirement that the insurer's condition does not make the continuation of the insurer's business hazardous to the public or to the insurer's policyholders or certificate holders.

(c) The commissioner may at any time refer an insurer to the attorney general for the purpose of taking any remedial action, including applying for the appointment of a receiver under Chapter 442.

(d) Supervision or conservatorship of the insurer is not required before the attorney general may take remedial action under this section.

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

Sec. 441.302. FORFEITURE AND CANCELLATION OF CHARTER ON CONCLUSION OF BUSINESS. (a) Once all an insurer's policies are reinsured or terminated and the insurer's affairs are concluded as provided by this chapter, the commissioner shall report that fact

to the attorney general. On receipt of the report, the attorney general shall take action necessary to forfeit or cancel the insurer's charter.

(b) The commissioner shall report to the attorney general the commissioner's approval of the merger or consolidation of an insurer with another insurer or the reinsurance of the insurer's policies. On receipt of the report, the attorney general shall take action to forfeit or cancel the insurer's charter in the manner provided for the forfeiture or cancellation of the charter of an insurer that is totally reinsured or liquidated.

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

SUBCHAPTER H. AGENTS OF RECORD FOR CERTAIN INSURED

Sec. 441.351. AGENTS OF RECORD. (a) Unless otherwise prohibited, the supervisor, conservator, or receiver of an insurer shall provide to the insured's agent of record a copy of each communication provided to an insured if, in the judgment of the supervisor, conservator, or receiver, providing the copy will serve to materially protect the interests of policyholders. The supervisor, conservator, or receiver may also request the assistance of any statewide association of insurance agents in providing to the association's members information that, in the judgment of the supervisor, conservator, or receiver, may serve to materially protect policyholders' interests.

(b) If the supervisor, conservator, or receiver sells a delinquent insurer's policies to another insurer, the purchaser shall:

(1) recognize the pecuniary interest of the agent of record in the policies being sold, regardless of whether the purchaser customarily conducts the purchaser's business through insurance agents;

(2) conduct the purchaser's business with the insured through the agent of record; and

(3) provide to the agent of record a written limited agency contract providing the terms that apply to the conduct of

their business together.

(c) A limited agency contract provided under Subsection (b) must provide a level of commission that is reasonable, adequate, and nonconfiscatory.

(d) This subchapter does not prohibit the agent of record from renewing with another insurer an insurance policy purchased by an insurer from a delinquent insurer.

(e) This section does not apply to:

(1) a life, accident, or health insurance policy or contract delivered or issued for delivery by an insurer that is subject to any provision of a law specified in Section [841.002](#) or any provision of Chapter [882](#), [884](#), [887](#), [888](#), or [982](#);

(2) a contract or certificate delivered or issued for delivery by a group hospital service corporation organized under Chapter [842](#); or

(3) a contract or evidence of coverage delivered or issued for delivery by a health maintenance organization operating under a certificate of authority issued under Chapter [843](#).

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