

INSURANCE CODE

TITLE 5. PROTECTION OF CONSUMER INTERESTS

SUBTITLE F. INSURANCE FRAUD AND IDENTITY THEFT

CHAPTER 703. COVERED ENTITY'S ANTIFRAUD ACTION

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 703.001. DEFINITION. In this chapter, "covered entity" means a health maintenance organization or insurer regulated by the department, including:

- (1) a stock life, health, or accident insurance company;
- (2) a mutual life, health, or accident insurance company;
- (3) a stock fire or casualty insurance company;
- (4) a mutual fire or casualty insurance company;
- (5) a Mexican casualty insurance company;
- (6) a Lloyd's plan;
- (7) a reciprocal or interinsurance exchange;
- (8) a fraternal benefit society;
- (9) a title insurance company;
- (10) a stipulated premium company;
- (11) a nonprofit legal services corporation;
- (12) a statewide mutual assessment company;
- (13) a local mutual aid association;
- (14) a local mutual burial association;
- (15) an association exempt under Section [887.102](#);
- (16) a nonprofit hospital, medical, or dental service corporation, including a corporation subject to Chapter [842](#);
- (17) a county mutual insurance company; and
- (18) a farm mutual insurance company.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 2, eff. April 1, 2005.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 967 (S.B. [2065](#)), Sec. 5.005, eff. September 1, 2017.

Sec. 703.002. RIGHT OF INTERVENTION. This chapter does not

affect the right of any person, including a state agency, to intervene in an antifraud action brought under this chapter.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 2, eff. April 1, 2005.

#### SUBCHAPTER B. ANTIFRAUD ACTION; CERTIFICATION

Sec. 703.051. ANTIFRAUD ACTION AUTHORIZED. (a) A covered entity acting alone or through a person, corporation, or legal entity affiliated with the covered entity may bring an action in a court, including a counter-action or cross-action, to:

(1) prevent a person from fraudulently engaging in the business of insurance or the business of a health maintenance organization in this state; or

(2) redress the effects of a person who has fraudulently engaged in the business of insurance or the business of a health maintenance organization in this state.

(b) An action may be brought under this section if:

(1) the acts of the person may adversely affect or have adversely affected at least 10 residents of this state; and

(2) the department has not brought an antifraud action in a court against the person.

(c) An action may be brought under this section regardless of whether the covered entity is directly affected by the person's acts.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 2, eff. April 1, 2005.

Sec. 703.052. REQUEST FOR CERTIFICATION. A covered entity may request the court to certify that the action is an antifraud action under this chapter.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 2, eff. April 1, 2005.

Sec. 703.053. NOTICE OF REQUEST FOR CERTIFICATION. (a) When a covered entity files a request for certification, the covered entity shall provide at least 10 days' notice of the request to the department and the attorney general by serving each with a copy of the request in the manner provided for service of notice under Rule 21a, Texas Rules of Civil Procedure.

(b) The covered entity shall provide the notice regardless of whether the department or the state is a party to the action.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 2, eff. April 1, 2005.

Sec. 703.054. HEARING ON REQUEST FOR CERTIFICATION. As soon as practicable after a covered entity files a request for certification, the court shall hold a hearing to determine whether the action is an antifraud action under this chapter.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 2, eff. April 1, 2005.

Sec. 703.055. CERTIFICATION. The court shall certify that the action is an antifraud action if the court determines that:

(1) the requirements of Section 703.051 are met; and

(2) the pleadings and evidence demonstrate that the covered entity has a probable right of recovery.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 2, eff. April 1, 2005.

#### SUBCHAPTER C. EXPENSES OF ANTIFRAUD ACTION

Sec. 703.101. DETERMINATION OF EXPENSES. (a) The court that certifies an action as an antifraud action by order may determine the amount of reasonable and necessary expenses incurred in bringing the action, including court costs, reasonable attorney's fees, witness fees, fees of experts, and deposition expenses.

(b) In making the determination, the court may consider the contribution to the action of any person, including a state agency, that has intervened in the action.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 2, eff. April 1, 2005.

Sec. 703.102. DEDUCTION OR OFFSET FOR EXPENSES; REIMBURSEMENT. (a) Subject to Subsection (b), a covered entity has a deduction or offset against any obligation, assessment, or debt owed by the covered entity to this state in the amount of the reasonable and necessary expenses determined by the court order.

(b) The covered entity shall reimburse the state the amount of any expenses actually recovered from the parties to the private

antifraud action under a final judgment awarding, wholly or partly, expenses to or for the covered entity's benefit. The amount of reimbursement may not exceed the actual amount of deductions or offsets taken by the covered entity.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 2, eff. April 1, 2005.

Sec. 703.103. ASSIGNMENT OF DEDUCTION OR OFFSET. The covered entity may assign the covered entity's deduction or offset to any other covered entity or reinsurer.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 2, eff. April 1, 2005.

Sec. 703.104. TREATMENT OF DEDUCTION OR OFFSET AS ADMITTED ASSET. A covered entity or a covered entity's assignee entitled to an offset or deduction that has not been used may show, in the covered entity's or assignee's books and records, the balance of the deduction or offset as an admitted asset for any purpose.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 2, eff. April 1, 2005.