

INSURANCE CODE

TITLE 6. ORGANIZATION OF INSURERS AND RELATED ENTITIES

SUBTITLE A. GENERAL PROVISIONS APPLICABLE TO INSURERS AND RELATED ENTITIES

CHAPTER 805. DIRECTORS, OFFICERS, AND OTHER INTERESTED PERSONS

SUBCHAPTER A. ACTIVITIES OF DIRECTORS, OFFICERS, AND SHAREHOLDERS

Sec. 805.001. DEFINITIONS. In this subchapter:

(1) "Major shareholder" means an individual, corporation, partnership, association, joint-stock company, business trust, or unincorporated organization that is directly or indirectly the beneficial owner of more than 10 percent of any class of an equity security of an insurer.

(2) "Subsidiary" means a corporation:

(A) of which at least 50 percent of any class of an equity security is owned by an insurer; or

(B) that is managed, directly or indirectly controlled, or subject to control by an insurer.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Sec. 805.002. APPLICABILITY OF SUBCHAPTER. (a) This subchapter applies to any insurer, including a:

- (1) capital stock company;
- (2) reciprocal or interinsurance exchange;
- (3) Lloyd's plan;
- (4) fraternal benefit society;
- (5) mutual company, including a mutual assessment company;
- (6) local mutual aid association;
- (7) burial association;
- (8) county mutual insurance company;
- (9) farm mutual insurance company;
- (10) fidelity, guaranty, or surety company;
- (11) mutual life insurance company;
- (12) mutual insurance company other than a mutual life insurance company;

(13) stipulated premium company;
(14) title insurance company; and
(15) any other insurance company engaged in the business of insurance in or organized under the laws of this state or otherwise regulated under this code.

(b) A provision of this code limiting regulation under this code does not limit the application of this subchapter.

(c) This subchapter controls if there is ambiguity or a conflict between this subchapter and another provision of this code.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Sec. 805.003. PROHIBITED ACTIVITIES. (a) A director, officer, or major shareholder of an insurer may not:

(1) except as provided by this subchapter, directly, indirectly, or through a substantial interest in another corporation, firm, or business unit receive money or another thing of value for negotiating, procuring, recommending, or aiding in a purchase, sale, or exchange of property or a loan from the insurer or its subsidiary;

(2) directly, indirectly, or through a substantial interest in another corporation, firm, or business unit have a pecuniary interest in a purchase, sale, exchange, or loan described by Subdivision (1) as a principal, co-principal, agent, or beneficiary; or

(3) directly or indirectly accept a loan or guarantee described by Subsection (b).

(b) An insurer may not directly, indirectly, or through its subsidiary make a loan to or guarantee the financial obligation of a director, officer, or major shareholder of an insurer.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Sec. 805.004. ACTIVITIES NOT PROHIBITED. This subchapter does not prohibit:

(1) a director, officer, or major shareholder of an insurer from:

(A) becoming a policyholder of the insurer and

exercising the usual rights of a policyholder;

(B) participating as beneficiary in a pension plan, deferred compensation plan, profit-sharing or bonus plan, stock option plan, or similar plan adopted by the insurer and for which the director, officer, or major shareholder may be eligible under the terms of the plan;

(C) receiving a salary, bonus, or other remuneration for a service rendered to the insurer as an employee of the insurer and not in violation of another provision of this code; or

(D) entering into an arms-length transaction with the insurer if:

(i) the transaction is not prohibited by another statute; and

(ii) the commissioner approves the transaction before the transaction is made;

(2) a director of an insurer from:

(A) performing professional services not required of a director by law; or

(B) receiving director's fees or reimbursement for an expense incurred in the performance of a duty as a director;

(3) a transaction within an insurance holding company system by an insurer with its holding company, subsidiary, or affiliate that:

(A) is not prohibited by law;

(B) meets the test of being fair and proper; and

(C) is regulated by another statute;

(4) a transaction or arrangement that:

(A) is not prohibited by law; and

(B) meets the test of being fair and proper as prescribed by rules adopted by the commissioner; or

(5) the approval and payment of lawful dividends to policyholders and shareholders.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

SUBCHAPTER B. CERTAIN PAYMENTS BY DIRECTORS, OFFICERS, AND TRUSTEES

Sec. 805.021. LIABILITY FOR FEE AND TAX PAYMENTS. (a) In this section, "fee or tax" includes a license, excise, privilege, premium, or occupation fee or tax.

(b) A director, officer, or trustee of an insurer is not personally liable, in complying with the law, for the payment of or for the determination not to contest the payment of a fee or tax to a state or a political subdivision of a state that the board of directors or trustees considers to be in the corporate interest of the insurer.

(c) Subsection (b) does not apply if, before the payment of the fee or tax, the state court of final appellate jurisdiction or the United States Supreme Court expressly holds that the law imposing the fee or tax is invalid.

(d) This section does not directly or indirectly limit, minimize, or interpret the rights and powers of an insurer or the directors, officers, or trustees of an insurer.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.