

INSURANCE CODE

TITLE 6. ORGANIZATION OF INSURERS AND RELATED ENTITIES

SUBTITLE E. MUTUAL AND FRATERNAL COMPANIES AND RELATED ENTITIES

CHAPTER 881. STATEWIDE MUTUAL ASSESSMENT COMPANIES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 881.001. DEFINITION. In this chapter, "statewide mutual assessment company" means a corporation engaged in the statewide business of mutually protecting or insuring members' lives with money provided by assessments on those members.

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

Sec. 881.002. LIMITED EXEMPTION FROM INSURANCE LAWS. (a) Except as provided by this chapter and Chapter 887, the insurance laws of this state do not apply to a statewide mutual assessment company.

(b) A law enacted after June 20, 1933, does not apply to statewide mutual assessment companies unless statewide mutual assessment companies are expressly designated in the law.

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

Sec. 881.003. COMPLIANCE WITH INSURANCE LAWS. An individual, firm, unincorporated association, or corporation may not engage in business as a statewide mutual assessment company in this state unless the entity complies with this chapter and Chapter 887.

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

Sec. 881.004. EXEMPTION FROM CHAPTER. This chapter applies only to a statewide mutual assessment company. This chapter does not apply to a company operating as a local mutual aid association, fraternal benefit society, or reciprocal exchange or to a foreign assessment company operating under any other law in this state.

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

Sec. 881.005. ORGANIZATION OF NEW COMPANY PROHIBITED. A

new statewide mutual assessment company may not be organized under this chapter.

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

Sec. 881.006. ANNUAL STATEMENT. (a) For the filing of each annual statement, the department shall charge the appropriate fee. The fee must be deposited in the Texas Department of Insurance operating account.

(b) Sections 201.001 and 201.002 apply to the fee.

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

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 730 (H.B. 2636), Sec. 2E.072, eff. April 1, 2009.

SUBCHAPTER B. STRUCTURE AND OPERATION OF STATEWIDE MUTUAL ASSESSMENT COMPANIES

Sec. 881.051. AUTHORITY TO ACT AS STATEWIDE MUTUAL ASSESSMENT COMPANY. A corporation may engage in business as a statewide mutual assessment company only if the corporation:

(1) was incorporated in this state under a law that was amended, repealed, or reenacted before June 20, 1933;

(2) was engaged in business as a statewide mutual assessment company in this state on December 31, 1932;

(3) does not have capital stock; and

(4) is not for profit.

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

Sec. 881.052. APPLICABILITY OF TEXAS NON-PROFIT CORPORATION ACT. (a) Except to the extent of any conflict with this code, the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes) applies to a statewide mutual assessment company. The commissioner has each power and duty of, and shall perform each act to be performed by, the secretary of state under that Act with respect to statewide mutual assessment companies.

(b) On advance approval of the commissioner, a statewide

mutual assessment company may pay dividends to its members.

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

Sec. 881.053. SEPARATE GROUPS, CLUBS, OR CLASSES. A statewide mutual assessment company may provide in its by-laws for the creation of separate groups, clubs, or classes based on reasonable classifications specified in the by-laws.

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

Sec. 881.054. MINIMUM MEMBERSHIP REQUIRED. A statewide mutual assessment company may not issue a certificate or policy unless the membership of the company or the group, class, or club of the company that is liable for assessments on the certificate or policy is sufficient in number at the assessment rate charged the company, group, class, or club to pay 50 percent of the maximum benefit in the certificate or policy.

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

Sec. 881.055. USE OF COMPANY NAME. A statewide mutual assessment company may not operate an independent branch office or a separate group, club, or class under a name different from the name of the company.

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

Sec. 881.056. ISSUANCE OF CERTIFICATE OR POLICY TO SEPARATE GROUPS, CLUBS, OR CLASSES. (a) A certificate or policy issued by the company to members of a group, club, or class may limit benefits under the certificate or policy to the assessments made, levied, and collected from the group, club, or class.

(b) The assets or benefits of a group, club, or class may not be pledged or transferred without the consent of at least three-fourths of the members of the group, club, or class.

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

Sec. 881.057. INSUFFICIENT MEMBERSHIP: CONSOLIDATION OR DISCONTINUATION OF GROUP, CLUB, OR CLASS OR LIQUIDATION OF COMPANY.

(a) If membership of a group, club, or class of a statewide mutual

assessment company is less than the number required by Section 881.054, the company shall immediately notify:

(1) the members of the group, club, or class; or

(2) if the company has only one group, club, or class, the members of the company.

(b) Not later than six months after a statewide mutual assessment company notifies the members of a group, club, or class under Subsection (a)(1), the company shall:

(1) increase the membership of the group, club, or class to at least the number required by Section 881.054;

(2) consolidate the group, club, or class with another group, club, or class; or

(3) discontinue the group, club, or class.

(c) Not later than six months after a statewide mutual assessment company notifies the members of the company under Subsection (a)(2), the company shall increase the membership to at least the number required by Section 881.054. If the membership is not increased to at least that number, the commissioner shall take steps to liquidate the company under Subchapter L, Chapter 887.

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

Sec. 881.058. AGENT. (a) A person who solicits an application for a certificate or policy providing insurance on the life of another is considered to be an agent of the statewide mutual assessment company that issues the certificate or policy in a controversy between the company and the insured or the insured's beneficiary.

(b) An agent described by Subsection (a) may not waive or alter the terms of an application, certificate, or policy.

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

SUBCHAPTER C. BENEFITS PROVIDED BY STATEWIDE MUTUAL ASSESSMENT COMPANIES

Sec. 881.101. TYPES OF CERTIFICATES OR POLICIES AUTHORIZED.

(a) A statewide mutual assessment company may issue only a certificate or policy that provides for the continuous payment of

premiums or assessments during the policyholder's life.

(b) A statewide mutual assessment company may not:

(1) issue a certificate or policy on a limited payment plan; or

(2) promise to pay an endowment or annuity benefit.

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

Sec. 881.102. MAXIMUM BENEFIT UNDER CERTIFICATE OR POLICY.

A statewide mutual assessment company may not issue a certificate or policy that provides a benefit that exceeds \$5,000.

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

Sec. 881.103. LOCATION OF ISSUANCE OF CERTIFICATES OR POLICIES. A statewide mutual assessment company may issue certificates or policies only in the home office of the company.

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

Sec. 881.104. CERTIFICATE OR POLICY AND APPLICATION; REPRESENTATIONS IN APPLICATION. (a) An application for a certificate or policy may not be used as a defense against a claim or loss under the certificate or policy unless a copy of the application is attached to the certificate or policy.

(b) A misrepresentation in an application for a certificate or policy may not be used as a defense against a claim or loss under the certificate or policy unless it is shown that the misrepresentation is material to the risk assumed.

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

SUBCHAPTER O. ENFORCEMENT; CRIMINAL PENALTY

Sec. 881.701. GENERAL CRIMINAL PENALTY. (a) A person commits an offense if:

(1) the person violates this chapter; or

(2) the person:

(A) is a corporation or a responsible officer of a corporation; and

(B) permits or participates in a violation of

this chapter by a corporation.

(b) An offense under this section is a misdemeanor punishable by a fine not to exceed \$500.

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

Sec. 881.702. ENFORCEMENT BY ATTORNEY GENERAL. (a) The attorney general may enforce the penalty provided under Section 881.701 and Section 887.705 against a corporation or unincorporated association.

(b) Notwithstanding Section 887.209, venue of a prosecution under this section may be in Travis County.

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