

INSURANCE CODE

TITLE 6. ORGANIZATION OF INSURERS AND RELATED ENTITIES

SUBTITLE E. MUTUAL AND FRATERNAL COMPANIES AND RELATED ENTITIES

CHAPTER 883. MUTUAL INSURANCE COMPANIES OTHER THAN MUTUAL LIFE

INSURANCE COMPANIES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 883.001. DEFINITIONS. In this chapter:

(1) "Domestic mutual insurance company" means a mutual insurance company organized under this chapter.

(2) "Foreign mutual insurance company" means a mutual insurance company organized under the laws of a jurisdiction other than this state and authorized to engage in the business of insurance on a mutual plan in any state, district, or territory.

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

Sec. 883.002. APPLICABILITY OF CERTAIN GENERAL LAWS. (a) Except as otherwise provided by law, domestic and foreign mutual insurance companies organized or operating under this chapter are subject to the laws applicable to:

(1) a stock insurance company engaging in the same kind of insurance;

(2) investments;

(3) valued policies;

(4) policy forms and rates;

(5) reciprocal or retaliatory laws;

(6) insolvency and liquidation; and

(7) publication and defamatory statements.

(b) This chapter does not exempt a domestic mutual insurance company from being subject to other laws of this state governing the incorporation, organization, regulation, and operation of a company or organization writing insurance in this state.

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

Sec. 883.003. APPLICABILITY OF TEXAS NON-PROFIT CORPORATION ACT. 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 domestic mutual insurance 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 mutual insurance companies.

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

#### SUBCHAPTER B. FORMATION, STRUCTURE, AND MANAGEMENT OF COMPANY

Sec. 883.051. FORMATION OF COMPANY. (a) Twenty or more persons, a majority of whom are residents of this state, may incorporate in accordance with this chapter to engage in the business of mutual insurance as provided by this chapter.

(b) To form a mutual insurance company, each incorporator must sign and acknowledge the articles of incorporation of the company.

(c) The incorporators of a proposed mutual insurance company are subject to Sections [822.001](#), [822.051](#), [822.057](#)(a)(1)-(3), (b), and (c), [822.058](#)(a), [822.059](#), [822.060](#), and [822.201](#), except that:

(1) the minimum number of persons required to adopt and sign the proposed company's articles of incorporation under Section [822.051](#) is equal to the number of the proposed company's incorporators as provided by Subsection (a); and

(2) the unencumbered surplus of the mutual insurance company is capital structure for purposes of Section [822.201](#).

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

Sec. 883.052. ARTICLES OF INCORPORATION. Articles of incorporation of a proposed mutual insurance company must specify:

(1) the name of the company;

(2) the purpose for which the company is being formed;

(3) the location of the company's principal or home office;

(4) the name and place of residence of each incorporator; and

(5) the name and address of each member of the initial

board of directors.

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

Sec. 883.053. COMPANY'S NAME. (a) The name of a mutual insurance company must contain the word "mutual."

(b) A mutual insurance company's name may not be so similar to the name of any other mutual insurance company organized or engaging in business in the United States, that it is confusing or misleading.

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

Sec. 883.054. LOCATION OF PRINCIPAL OR HOME OFFICE. The principal or home office of a mutual insurance company must be located in this state.

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

Sec. 883.055. BEGINNING OF CORPORATE EXISTENCE. The corporate existence of a mutual insurance company begins on the date on which the commissioner issues a certificate of authority to the company.

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

Sec. 883.056. BOARD OF DIRECTORS. (a) The board of directors named in a mutual insurance company's articles of incorporation shall manage the company until the initial meeting of the members of the company.

(b) After a mutual insurance company is issued a certificate of authority, the company's board of directors may:

- (1) adopt bylaws;
- (2) accept applications for insurance; and
- (3) transact the business of the company.

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

Sec. 883.057. MEMBERSHIP OF PUBLIC OR PRIVATE ENTITIES IN COMPANY AUTHORIZED. (a) Any public or private corporation, board, association, or estate may make an application for, enter into an agreement for, or hold a policy in a mutual insurance company. An

officer, shareholder, trustee, or legal representative may act on behalf of the entity for that participation.

(b) An officer, shareholder, trustee, or legal representative of a public or private entity described by Subsection (a) may not be held personally liable on a contract of insurance executed by the person in the person's capacity as a representative of the entity under Subsection (a).

(c) The right of a corporation organized under the laws of this state to participate as a member of a mutual insurance company is:

(1) incidental to the purpose for which the corporation was organized; and

(2) in addition to the corporate rights or powers expressly conferred in the corporation's articles of incorporation.

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

Sec. 883.058. MEMBERSHIP VOTES. Each member of a mutual insurance company is entitled to one vote on each matter submitted to a vote unless a different number of votes is authorized by the company's bylaws based on:

(1) the insurance in force;

(2) the number of policies held by the member; or

(3) the amount of the premium paid by the member.

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

#### SUBCHAPTER C. AUTHORITY TO ENGAGE IN BUSINESS IN THIS STATE

Sec. 883.101. MUTUAL INSURANCE BUSINESS. Mutual insurance of any kind may not be written in this state except as authorized by this chapter or any other law.

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

Sec. 883.102. CHARTER AND CERTIFICATE OF AUTHORITY REQUIRED. A domestic mutual insurance company may not engage in the business of insurance until:

(1) the company obtains a charter as provided by

Chapter 822; and

(2) the commissioner issues to the company a certificate of authority for that purpose.

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

Sec. 883.103. AUTHORIZATION OF FOREIGN MUTUAL INSURANCE COMPANY TO ENGAGE IN BUSINESS. (a) The department shall authorize a foreign mutual insurance company to write the kinds of insurance authorized by the company's charter or articles of incorporation in this state if the company:

(1) is solvent as determined under this chapter;

(2) files with the department:

(A) a copy of the company's bylaws certified by the company's secretary; and

(B) a certified copy of the company's charter or articles of incorporation;

(3) appoints the commissioner as the company's agent for service of process as provided by Chapter 804;

(4) files a financial statement under oath in a form as required by the department; and

(5) complies with legal requirements applicable to the filing of documents and the furnishing of information by a stock insurance company that files an application with the department for authority to transact the same kind of insurance as the company.

(b) A foreign mutual insurance company's name may not be so similar to a name of a mutual insurance company or foreign mutual insurance company organized or authorized to engage in business in this state that it is confusing or misleading.

(c) A foreign mutual insurance company authorized to engage in the business of insurance under this section has, to the same extent, all of the powers granted to and privileges of a mutual insurance company organized and operating under this chapter.

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

#### SUBCHAPTER D. POWERS, DUTIES, AND OPERATION OF COMPANY

Sec. 883.151. AUTHORITY TO WRITE CERTAIN INSURANCE. A

domestic mutual insurance company may write any kind of insurance that may be lawfully written in this state, other than life insurance.

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

Sec. 883.152. PRIOR AUTHORITY NOT AFFECTED. This chapter does not affect any authority that existed before September 6, 1955, that allowed mutual insurance companies to write non-assessable policies in this state, subject to any prerequisite imposed by law on that authority.

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

Sec. 883.153. POLICY RATES. A mutual insurance company operating under this chapter shall charge the insurance rates prescribed by the commissioner and is subject to the same rate requirements as a domestic insurance company.

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

Sec. 883.154. MAXIMUM PREMIUMS. (a) The maximum premium of an insurance policy issued by a domestic mutual insurance company must be stated in the policy.

(b) A policy's maximum premium may consist only of:

(1) a cash premium; or

(2) a cash premium and a contingent premium in an amount equal to one additional cash premium.

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

Sec. 883.155. ISSUANCE OF POLICY FOR CASH PREMIUM ONLY. (a) A domestic mutual insurance company may not issue an insurance policy for a cash premium only unless:

(1) the company possesses surplus above all liabilities in an amount at least equal to the minimum capital and surplus required of a stock insurance company engaging in the same kinds of insurance;

(2) the company files with the department:

(A) an application for the issuance of this type of policy; and

(B) a certified copy of the resolution of the company's board of directors authorizing the issuance; and

(3) the commissioner approves the documents filed under Subdivision (2).

(b) A mutual insurance company that issues a policy for a cash premium only may waive all contingent premiums in any outstanding policies.

(c) A foreign mutual insurance company authorized to engage in the business of insurance in this state may issue an insurance policy for a cash premium only and may waive contingent premiums on any of its outstanding policies in the same manner and subject to the same requirements as a mutual insurance company under this section that is engaged in the same kinds of insurance.

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

Sec. 883.156. ASSESSMENT ON POLICYHOLDERS. (a) A policyholder is not liable for an assessment imposed on a policy issued by a mutual insurance company with approval of the commissioner under Section 883.155(a).

(b) An assessment may not be imposed on the holder of a policy described by Section 883.155(a) by:

- (1) the officers or directors of a mutual insurance company;
- (2) the department;
- (3) a receiver; or
- (4) a liquidator.

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

Sec. 883.157. REINSURANCE OF POLICY. (a) Subject to Subsection (c), a mutual insurance company authorized to engage in the business of insurance in this state may enter into an agreement with an insurer to cede to or accept from the insurer all or part of an insurance risk.

(b) A reinsurance agreement under this section does not create or confer contingent liability, participation, or membership unless otherwise provided by the agreement.

(c) A mutual insurance company may not enter into an

agreement with a reinsurer that has been disapproved for that purpose by written order of the commissioner filed in the department's offices.

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

Sec. 883.158. REQUIREMENTS FOR COMPANIES WRITING BONDS. A mutual insurance company qualifying to write bonds under this chapter is subject to the same legal requirements as any other insurance company writing bonds under this chapter.

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

Sec. 883.159. NECESSARY OR INCIDENTAL POWERS. A domestic mutual insurance company has such powers as are necessary or incidental to the transaction of its business.

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

Sec. 883.160. RIGHTS AND PRIVILEGES OF CERTAIN COMPANIES RETAINED. A mutual insurance company engaged in business under Chapters 5, 9, 12, 13, 14, and 15, Title 78, Revised Statutes, before their repeal by Section 18, Chapter 40, Acts of the 41st Legislature, 1st Called Session, 1929, as amended by Section 1, Chapter 60, Acts of the 41st Legislature, 2nd Called Session, 1929, retains the rights and privileges under the repealed law to the extent provided by those sections.

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

Sec. 883.161. DIVIDENDS. On advance approval of the commissioner, a mutual insurance company may pay dividends to its members.

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

Sec. 883.162. LOANS TO COMPANY. (a) A person, including a director, officer, or member of a mutual insurance company, may loan to the company money necessary:

(1) for the company to engage in the company's business; or

(2) to enable the company to comply with a legal



requirement.

(b) The mutual insurance company may repay a loan and agreed interest, at an annual rate not to exceed 20 percent, only from the surplus remaining after the company provides for the company's reserves, other liabilities, and required surplus.

(c) A loan under this section or interest on a loan is not otherwise a liability or claim against the company or any of its assets.

(d) A mutual insurance company may not pay a commission or promotion expense in connection with a loan made to the company.

(e) A mutual insurance company shall report in its annual statement the amount of each loan made to the company.

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

Sec. 883.163. IMMEDIATE NOTIFICATION WHEN ASSETS ARE INSUFFICIENT; EXAMINATION. The president and the secretary of a mutual insurance company operating under the law providing for the incorporation of mutual fire, lightning, hail, and storm insurance companies shall immediately notify the commissioner any time the admitted assets of the company are less than the largest single risk for which the company is liable. The commissioner may make an examination into the affairs of the company as the commissioner considers best.

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

#### SUBCHAPTER E. REGULATION OF COMPANY

Sec. 883.201. SURPLUS REQUIREMENTS. A domestic mutual insurance company must possess a surplus over and above all liabilities in an amount equal to the minimum capital stock and surplus required of a stock insurance company engaged in the same kinds of insurance.

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

Sec. 883.202. REQUIRED DEPOSIT FOR COMPANIES WRITING BONDS.

(a) A domestic mutual insurance company that writes fidelity and surety bond coverage shall maintain on deposit with the comptroller

cash or securities of the kind described by a provision of Subchapter B, Chapter 424, other than Section 424.052, 424.072, or 424.073, in an amount equal to the amount of cash or securities required of a domestic stock insurance company.

(b) The commissioner must approve for deposit the cash or securities required by this section.

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.075, eff. April 1, 2009.

Sec. 883.203. RESERVES. (a) A domestic mutual insurance company shall maintain unearned premiums and other reserves separately for each kind of insurance. The reserves must be maintained on the same basis as those reserves are required to be maintained by a domestic stock insurance company engaging in the same kinds of insurance.

(b) A mutual insurance company operating under this chapter is subject to the same reserve requirements as a domestic insurance company under law.

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

Sec. 883.204. ANNUAL REPORT. (a) Domestic and foreign mutual insurance companies organized or operating under this chapter shall submit to the commissioner an annual report in the form required by the commissioner.

(b) To the extent practicable, the commissioner shall adopt a form that is similar to a form that is generally used for submission of the annual report throughout the United States.

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

Sec. 883.205. EXAMINATION OF FOREIGN MUTUAL INSURANCE COMPANY. To the extent practicable, an examination of a foreign mutual insurance company must be conducted in cooperation with the insurance departments of other states in which the foreign company is authorized to transact business.

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

Sec. 883.206. FEES. Each domestic or foreign mutual insurance company organized or operating under this chapter is subject to a fee imposed by law on a stock insurance company engaging in the same kinds of insurance.

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

Sec. 883.207. PREMIUM TAX. Each domestic or foreign mutual insurance company organized or operating under this chapter is subject to taxes imposed by law on that company. The company shall pay the tax on the gross premiums received for direct insurance written on property or risks located in this state. The tax payable must be computed on the portion of the gross premiums remaining after deducting:

- (1) premiums charged on policies not taken;
- (2) premiums returned on canceled policies; and
- (3) any refund or other return made to the policyholders other than for the incurrence of a loss.

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

#### SUBCHAPTER O. CRIMINAL PENALTIES

Sec. 883.701. VIOLATION OF CHAPTER. (a) Except as otherwise provided by this subchapter, a person or corporation commits an offense if the person or corporation violates this chapter.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than \$50 or more than \$500.

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

Sec. 883.702. FAILURE TO REPORT CONDITION. (a) A person commits an offense if the person is a president or secretary described by Section [883.163](#) and the person fails to make the report required by that section.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than \$100 or more than \$500.

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

Sec. 883.703. FALSE STATEMENT OR MISAPPROPRIATION. (a) A person commits an offense if the person intentionally submits a false statement or misappropriates the funds of a mutual insurance company organized under the laws providing for the incorporation of mutual fire, lightning, hail, and storm insurance companies.

(b) An offense under this section is a felony punishable by confinement in the Texas Department of Criminal Justice for not less than 5 years or more than 10 years.

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

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 25.122, eff. September 1, 2009.

Sec. 883.704. UNAUTHORIZED MUTUAL FIRE INSURANCE. (a) A person commits an offense if the person engages in the business of mutual fire insurance in this state in violation of the laws regulating mutual fire insurance.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than \$50 or more than \$500.

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