

INSURANCE CODE - NOT CODIFIED
TITLE 1. THE INSURANCE CODE OF 1951
CHAPTER 1. THE BOARD, ITS POWERS AND DUTIES

Art. 1.04D. DUTIES OF COMPTROLLER.

(b) The duties transferred to the comptroller relative to taxes, fees, and assessments imposed under this code or another insurance law of this state relate to the collection, reporting, enforcement, and administration of all such amounts currently provided for under this code or another insurance law of this state, and also of any taxes, fees, or assessments that have been repealed or are otherwise inactive but for which amounts may still be owing or refunds may be due on or after the effective date of this article.

Added by Acts 1993, 73rd Leg., ch. 685, Sec. 3.01, eff. Sept. 1, 1993. Subsec. (a) amended by Acts 1999, 76th Leg., ch. 101, Sec. 3, eff. Sept. 1, 1999; Subsecs. (a), (c), (d) repealed by Acts 2003, 78th Leg., ch. 1274, Sec. 26(b)(1), eff. April 1, 2005.

Art. 1.09-1. REPRESENTED BY THE ATTORNEY GENERAL. (a) The department, the State Board of Insurance, and the Commissioner shall be represented and advised by the Attorney General in all legal matters before them or in which they shall be interested or concerned. The department, the Board, and the Commissioner may not employ or obtain any other legal services without the written approval of the Attorney General.

(b) Repealed by Acts 2007, 80th Leg., R.S., Ch. 730, Sec. 1L.001(b), eff. April 1, 2009.

Added by Acts 1957, 55th Leg., p. 1454, ch. 499, Sec. 3.

Amended by Acts 1987, 70th Leg., 1st C.S., ch. 1, Sec. 1.03, eff. Sept. 2, 1987; Acts 1991, 72nd Leg., ch. 242, Sec. 1.02, eff. Sept. 1, 1991. Subsec. (b) amended by Acts 1993, 73rd Leg., ch. 685, Sec. 1.06, eff. Sept. 1, 1993.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 730 (H.B. [2636](#)), Sec. 1L.001(b), eff. April 1, 2009.

CHAPTER 3. LIFE, HEALTH AND ACCIDENT INSURANCE

SUBCHAPTER E. GROUP, INDUSTRIAL AND CREDIT INSURANCE

Art. 3.51. GROUP INSURANCE FOR EMPLOYEES OF STATE AND ITS SUBDIVISIONS AND COLLEGE AND SCHOOL EMPLOYEES.

Sec. 1. (a) The State of Texas and each of its political, governmental and administrative subdivisions, departments, agencies, associations of public employees, and the governing boards and authorities of each state university, colleges, common and independent school districts or of any other agency or subdivision of the public school system of the State of Texas are authorized to procure contracts with any insurance company authorized to do business in this state insuring their respective employees, or if an association of public employees is the policyholder, insuring its respective members, or any class or classes thereof under a policy or policies of group health, accident, accidental death and dismemberment, disability income replacement and hospital, surgical and/or medical expense insurance or a group contract providing for annuities. The dependents of any such employees or association members, as the case may be, may be insured under group policies which provide hospital, surgical and/or medical expense insurance. The insureds' contributions to the premiums for such insurance or annuities issued to the employer or to an association of public employees as the policyholder may be deducted by the employer from the insureds' salaries when authorized in writing by the respective employees so to do. The premium for the policy or contract may be paid in whole or in part from funds contributed by the employer or in whole or in part from funds contributed by the insured employees. When an association of public employees is the holder of such a policy of insurance or contract, the premium for employees that are members of such association may be paid in whole or in part by the State of Texas or other agency authorized to procure contracts or policies of insurance under this section, or in whole or in part from funds contributed by the insured employees that are members of such association; provided, however, that any monies or credits received by or allowed to the policyholder or contract holder pursuant to any participation agreement contained in or issued in connection with the policy or contract shall be applied to the payment of future premiums and to the pro rata abatement of the insured employee's contribution therefor.

The term employees as used herein in addition to its usual

meaning shall include elective and appointive officials of the state.

(b) Independent School Districts procuring policies insuring their employees under this Section may pay all or any portion of the premiums on such policies from the local funds of such Independent School District, but in no event shall any part of such premiums be paid from funds paid such districts by the State of Texas.

Sec. 2. All group insurance contracts effected pursuant hereto shall conform and be subject to all the provisions of any existing or future laws concerning group insurance.

Sec. 3. (a) Notwithstanding any other provision of this article, a common or independent school district or any other agency or subdivision of the public school system of this state that is participating in the uniform group coverage program established under Article 3.50-7 of this code may not procure contracts under this article for health insurance coverage and may not renew a health insurance contract procured under this article after the date on which the program of coverages provided under Article 3.50-7 of this code is implemented.

(b) This section does not preclude an entity described by Subsection (a) of this section from procuring contracts under this article for the provision of optional insurance coverages for the employees of the entity.

Acts 1951, 52nd Leg., ch. 491. Amended by Acts 1961, 57th Leg., p. 840, ch. 376, Sec. 1; Acts 1967, 60th Leg., p. 239, ch. 126, Sec. 1, eff. Aug. 28, 1967; Acts 1967, 60th Leg., p. 1007, ch. 437, Sec. 2, eff. Aug. 28, 1967; Acts 1969, 61st Leg., p. 1371, ch. 414, Sec. 2, eff. Sept. 1, 1969.

Sec. 3 added by Acts 2001, 77th Leg., ch. 1187, Sec. 3.16, eff. Sept. 1, 2001.

Art. 3.51-1. PAYMENT OF GROUP INSURANCE PREMIUMS BY CITIES, TOWNS OR VILLAGES. Any incorporated city, town or village in the State of Texas which is authorized by law to procure a contract insuring its respective employees or any class or classes thereof under a policy or policies of group insurance covering one or more risks may pay all or any portion of the premiums on such policy or policies from the local funds of such city, town or village.

Added by Acts 1963, 58th Leg., p. 323, ch. 121, Sec. 1. Amended by

Acts 1981, 67th Leg., p. 1868, ch. 445, Sec. 1, eff. June 11, 1981.

Art. 3.51-4. PAYMENT OF PREMIUMS OF GROUP LIFE AND HEALTH INSURANCE POLICIES FOR RETIREES OF THE CENTRAL EDUCATION AGENCY, THE TEXAS REHABILITATION COMMISSION, THE COORDINATING BOARD, TEXAS COLLEGE AND UNIVERSITY SYSTEM, RETIRED EMPLOYEES OF THE TEXAS DEPARTMENT OF MENTAL HEALTH AND MENTAL RETARDATION WHO ACCEPTED RETIREMENT UNDER THE TEACHER RETIREMENT SYSTEM OF TEXAS, RETIRED EMPLOYEES OF THE TEXAS YOUTH COMMISSION WHO ACCEPTED RETIREMENT UNDER THE TEACHER RETIREMENT SYSTEM OF TEXAS, AND RETIRED EMPLOYEES OF THE TEACHER RETIREMENT SYSTEM OF TEXAS WHO ACCEPTED RETIREMENT UNDER THE TEACHER RETIREMENT SYSTEM OF TEXAS. The premium cost of group life, health, accident, hospital, surgical and/or medical expense insurance for retirees of the Central Education Agency, the Texas Rehabilitation Commission, the Coordinating Board, Texas College and University System, for retired employees of the Texas Department of Mental Health and Mental Retardation, the Texas Youth Commission, and the Teacher Retirement System of Texas who accepted retirement under the Teacher Retirement System of Texas pursuant to Chapter 3, Texas Education Code, shall be paid by the State of Texas, subject to the following limitations and conditions:

(a) Payment shall be from the funds of the agency, commission, board or department from which the officer or employee retired, shall be limited to the same amount allowed active employees under current group life and health insurance programs of the agency, commission, board or department, and shall be made in accordance with rules and regulations to be established no later than September 1, 1973, by the Central Education Agency, the Texas Rehabilitation Commission, and the Coordinating Board, Texas College and University System for its respective retirees and no later than September 1, 1975, by the Texas Department of Mental Health and Mental Retardation, the Texas Youth Commission, and the Teacher Retirement System of Texas for their retired employees who accepted retirement under the Teacher Retirement System of Texas pursuant to Chapter 3, Texas Education Code.

(b) The agency, commission, board and department shall certify to the state comptroller of public accounts each month the amount required each month to pay the insurance premiums of the said retirees, and the State of Texas shall pay the amount so ascertained

each month, beginning September 1, 1973, to the Central Education Agency, the Texas Rehabilitation Commission, and the Coordinating Board, Texas College and University System, and beginning September 1, 1975, to the Texas Department of Mental Health and Mental Retardation and the Texas Youth Commission.

Added by Acts 1973, 63rd Leg., p. 600, ch. 254, Sec. 1, eff. June 11, 1973. Amended by Acts 1975, 64th Leg., p. 1027, ch. 394, Sec. 1, eff. June 19, 1975.

Amended by Acts 1983, 68th Leg., p. 181, ch. 44, art. 3, Sec. 1, eff. April 26, 1983; Acts 1997, 75th Leg., ch. 1423, Sec. 11.13, eff. Sept. 1, 1997.

Art. 3.51-5. PAYMENTS OF GROUP LIFE AND HEALTH INSURANCE PREMIUMS FOR RETIRED EMPLOYEES OF THE TEXAS CENTRAL EDUCATION AGENCY, THE TEXAS REHABILITATION COMMISSION, THE TEXAS DEPARTMENT OF MENTAL HEALTH AND MENTAL RETARDATION, THE TEXAS YOUTH COMMISSION, A TEXAS SENIOR COLLEGE OR UNIVERSITY, AND THE COORDINATING BOARD, TEXAS COLLEGE AND UNIVERSITY SYSTEM. (a) The costs of group life and health insurance premiums to persons retired under the Teacher Retirement Act, who at the time of their retirement were employed by the Texas Central Education Agency, the Texas Rehabilitation Commission, the Texas Department of Mental Health and Mental Retardation, the Texas Youth Commission, a Texas senior college or university, and the Coordinating Board, Texas College and University System, shall be fully paid from the funds of such agency, commission, institution, or board under the following provisions and conditions: (1) The coverage of this Act shall extend to all such retired persons within the limits of eligibility under state contracts in force on the effective date of this Act or as may be otherwise provided by law; (2) such payment shall be in accordance with rules and regulations established by such agency, commission, institution, or board; (3) such agency, commission, institution, and board shall certify to the Comptroller of Public Accounts each month the amount so ascertained each month to such agency, commission, institution, and board; (4) payments shall begin on the first day of the month following the month in which this Act takes effect and shall continue to be paid until otherwise provided by law.

(b) There are hereby authorized to be paid out of the funds of

each agency, commission, institution, or board named in the Act the sums necessary to fund the payments of premiums provided in this Act.

Added by Acts 1975, 64th Leg., p. 1062, ch. 408, Sec. 1, eff. Sept. 1, 1975.

Amended by Acts 1983, 68th Leg., p. 182, ch. 44, art. 3, Sec. 2, eff. April 26, 1983; Subsec.(a) amended by Acts 1997, 75th Leg., ch. 1423, Sec. 11.14, eff. Sept. 1, 1997.

Art. 3.51-7. PAYMENTS OF ADDITIONAL DEATH BENEFITS FOR RETIRED APPOINTED OFFICERS AND EMPLOYEES OF THE TEACHER RETIREMENT SYSTEM OF TEXAS, AND THE TEXAS CENTRAL EDUCATION AGENCY, AND THE TEXAS SCHOOLS FOR THE BLIND AND VISUALLY IMPAIRED AND FOR THE DEAF. (a) This article shall apply only to persons retired as annuitants under the provisions of the Teacher Retirement System of Texas who were immediately prior to retirement appointed officers or employees of the Central Education Agency, the Teacher Retirement System of Texas, the Texas School for the Blind and Visually Impaired, or for the Texas School for the Deaf.

(b) There shall be paid from the funds of the Central Education Agency, the Teacher Retirement System of Texas, the Texas School for the Blind and Visually Impaired, or for the Texas School for the Deaf an additional lump-sum death benefit in such amount as, when added to any lump-sum death benefit payable under the provisions of the Teacher Retirement System of Texas, shall equal \$5,000 upon satisfactory proof of the death, occurring on or after September 1, 1977, of any person defined in Part (a) of this article. Each such additional lump-sum death benefit shall be paid from the funds of the agency or school from which such person retired.

(c) Such benefit shall be paid as provided by the laws of descent and distribution unless the retiree has directed in writing that it be paid otherwise.

(d) Such payment shall be made in accordance with rules and regulations established by the Central Education Agency, the Teacher Retirement System of Texas, the Texas School for the Blind and Visually Impaired, or for the Texas School for the Deaf, and each shall certify to the Comptroller of Public Accounts of Texas each month the amounts of all such payments made in the preceding month.

(e) There are hereby authorized to be paid out of the funds of

the Central Education Agency, the Teacher Retirement System of Texas, the Texas School for the Blind and Visually Impaired, or for the Texas School for the Deaf the sums necessary to pay such additional lump-sum death benefits.

Added by Acts 1977, 65th Leg., p. 1272, ch. 494, Sec. 1, eff. June 15, 1977.

Amended by Acts 1989, 71st Leg., ch. 247, Sec. 17, eff. June 14, 1989; Subsec. (d) amended by Acts 1997, 75th Leg., ch. 1423, Sec. 11.15, eff. Sept. 1, 1997.

SUBCHAPTER G. ACCIDENT AND SICKNESS INSURANCE

Text of article effective upon appropriation of funds

Art. 3.70-3D. CONSUMER ASSISTANCE PROGRAM FOR HEALTH MAINTENANCE ORGANIZATIONS. (a) The consumer assistance program for health maintenance organizations is established. The commissioner may contract, through a request for proposals, with a nonprofit organization to operate the program.

(b) The program shall:

(1) assist individual consumers in complaints or appeals within the operation of a health maintenance organization, and outside of the operation of a health maintenance organization, including appeals under Article 21.58A of this code or in Medicaid and Medicare fair hearings; and

(2) refer consumers to other programs or agencies if appropriate.

(c) The program may:

(1) operate a statewide clearinghouse for objective consumer information about health care coverage, including options for obtaining health care coverage; and

(2) accept gifts, grants, or donations from any source for the purpose of operating the program. The program may charge reasonable fees to consumers to support the program.

(d) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 1147, Sec. 2.008(1), eff. September 1, 2011.

(e) A nonprofit organization contracting with the commissioner pursuant to Subsection (a) must not be involved in providing health care or health care plans and must demonstrate that it has expertise in providing direct assistance to consumers with respect to their

concerns and problems with health maintenance organizations.

Added by Acts 1999, 76th Leg., ch. 1457, Sec. 5, eff. Sept. 1, 1999.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1147 (H.B. 1951), Sec. 2.008(1), eff. September 1, 2011.

CHAPTER 4. TAXES AND FEES

SUBCHAPTER A. IMPOSITION AND COLLECTION OF TAXES AND FEES

Art. 4.01. TAX OTHER THAN PREMIUM TAX. All insurance companies incorporated under the laws of this state shall hereafter be required to render for county and municipal taxation all of their real estate and all furniture, fixtures, automobiles, equipment, and data processing systems, as other such real estate and tangible personal property is rendered in the city and county where such property is located.

All other personal property owned by such insurance companies, except fire insurance companies and casualty insurance companies, shall be valued as other such property is valued for assessment by the taxing authority in the following manner:

From the total valuation of the entire assets of each insurance company shall be deducted:

(a) All the debts of every kind and character owed by such insurance company;

(b) All intangible personal property owned by such insurance company;

(c) All reserves, being the amount of the debts of such insurance company by reason of its outstanding policies in gross.

From the remainder shall be deducted the assessed value of all real estate and the assessed value of all furniture, fixtures, automobiles, equipment, and data-processing systems, rendered for taxation, and the remainder, if any there be, shall be taxable as personal property by the city and county where the principal business office of any such company is fixed by its charter.

All other personal property of fire insurance companies and casualty insurance companies incorporated under the laws of this state shall be valued as other such property is valued for assessment by the taxing authority in the following manner:

From the total valuation of the entire assets of each insurance

company shall be deducted:

(a) All the debts of every kind and character owed by such insurance company;

(b) All intangible personal property owned by such insurance company;

(c) All reserves, which reserves shall be computed in such manner as may be prescribed by the rules and regulations of the State Board of Insurance, for unearned premiums and for all bona fide outstanding losses.

From the remainder shall be deducted the assessed value of all real estate and the assessed value of all furniture, fixtures, automobiles, equipment, and data-processing systems, rendered for taxation, and the remainder, if any there be, shall be taxable as personal property by the city and county where the principal business office of any company is fixed by its charter.

Acts 1951, 52nd Leg., p. 868, ch. 491. Amended by Acts 1957, 55th Leg., p. 812, ch. 344, Sec. 3; Acts 1969, 61st Leg., p. 2470, ch. 831, Sec. 1, eff. Jan. 1, 1970.

Amended by Acts 2001, 77th Leg., ch. 763, Sec. 1, eff. Sept. 1, 2001.

CHAPTER 5. RATING AND POLICY FORMS

SUBCHAPTER A. MOTOR VEHICLE OR AUTOMOBILE INSURANCE

Art. 5.01. FIXING RATE OF AUTOMOBILE INSURANCE. (a) Every insurance company, corporation, interinsurance exchange, mutual, reciprocal, association, Lloyd's or other insurer, hereinafter called insurer, writing any form of motor vehicle insurance in this State, shall annually file with the State Board of Insurance, hereinafter called Board, on forms prescribed by the Board, a report showing its premiums and losses on each classification of motor vehicle risks written in this State.

(b) The Board shall have the sole and exclusive power and authority, and it shall be its duty to determine, fix, prescribe, and promulgate just, reasonable and adequate rates of premiums to be charged and collected by all insurers writing any form of insurance on motor vehicles in this State, including fleet or other rating plans designed to discourage losses from fire and theft and similar hazards and any rating plans designed to encourage the prevention of accidents. In promulgating any such rating plans the Board shall

give due consideration to the peculiar hazards and experience of individual risks, past and prospective, within and outside the State and to all other relevant factors, within and outside the State. The Board shall have the authority also to alter or amend any and all of such rates of premiums so fixed and determined and adopted by it, and to raise or lower the same or any part thereof.

(c) At least annually, the Board shall conduct a hearing to review the reports of premiums earned and losses incurred in the writing of motor vehicle insurance in this State and may fix, determine, and adopt new rates in whole or in part or may alter or amend rates previously fixed, determined, and adopted by the Board to assure that those rates comply with the requirements of this subchapter.

(d) Said Board shall have authority to employ clerical help, inspectors, experts, and other assistants, and to incur such other expenses as may be necessary in carrying out the provisions of this law; provided, however, that the number of employees and salary of each shall be fixed in the General Appropriation Bill passed by the Legislature. The Board shall ascertain as soon as practicable the annual insurance losses incurred under all policies on motor vehicles in this State, make and maintain a record thereof, and collect such data as will enable said Board to classify the various motor vehicles of the State according to the risk and usage made thereof, and to classify and assign the losses according to the various classes of risks to which they are applicable; the Board shall also ascertain the amount of premiums on all such policies for each class of risks, and maintain a permanent record thereof in such manner as will aid in determining just, reasonable and adequate rates of premiums.

(e) Motor vehicle or automobile insurance as referred to in this subchapter shall be taken and construed to mean every form of insurance on any automobile or other vehicle hereinafter enumerated and its operating equipment or necessitated by reason of the liability imposed by law for damages arising out of the ownership, operation, maintenance, or use in this State of any automobile, motorcycle, motorbicycle, truck, truck-tractor, tractor, traction engine, or any other self-propelled vehicle, and including also every vehicle, trailer or semi-trailer pulled or towed by a motor vehicle, but excluding every motor vehicle running only upon fixed rails or tracks. Workers' Compensation Insurance is excluded from the foregoing definition.

(f) Notwithstanding Subsections (a) through (d) of this article, on and after the effective date of S.B. No. 14, Acts of the 78th Legislature, Regular Session, 2003, rates for personal automobile insurance in this state are determined as provided by Article 5.101 of this code, and rates for commercial motor vehicle insurance in this state are determined as provided by Article 5.13-2 of this code. On and after December 1, 2004, rates for personal automobile insurance and commercial automobile insurance in this state are determined as provided by Article 5.13-2 of this code.

Acts 1951, 52nd Leg., ch. 491. Amended by Acts 1953, 53rd Leg., p. 64, ch. 50, Sec. 2.

Amended by Acts 1987, 70th Leg., 1st C.S., ch. 1, Sec. 2.06, eff. Sept. 2, 1987; Subsec. (f) added by Acts 1991, 72nd Leg., ch. 242, Sec. 2.02, eff. Sept. 1, 1991; Subsec. (f) amended by Acts 1991, 72nd Leg., 2nd C.S., ch. 12, Sec. 8.04, eff. Jan. 1, 1992; amended by Acts 1995, 74th Leg., ch. 984, Sec. 2, eff. Sept. 1, 1995; Subsec. (f) amended by Acts 2003, 78th Leg., ch. 206, Sec. 21.01, eff. June 11, 2003.

Art. 5.01B. PUBLIC INFORMATION. (a) Information filed or otherwise provided by an insurer to the State Board of Insurance for the purpose of determining, fixing, prescribing, promulgating, altering, or amending commercial automobile liability insurance rates under Article 5.01 of this code, obtaining a rate deviation under Article 5.03 of this code, or reporting losses under Article 5.04-1 of this code is public information unless it is exempt under Section 3(a), Chapter 424, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252-17a, Vernon's Texas Civil Statutes), or Section (b) of this article.

(b) Information provided with an application under Section (d), Article 5.03, of this code is exempt from the disclosure requirements of this article.

Added by Acts 1987, 70th Leg., 1st C.S., ch. 1, Sec. 2.03, eff. Sept. 2, 1987. Sec. (a) amended by Acts 1991, 72nd Leg., ch. 750, Sec. 1, eff. Sept. 1, 1991.

Art. 5.03. PROMULGATED RATES AS CONTROLLING. (a) On and after

the filing and effective date of such classification of such risks and rates, no such insurer, except as otherwise provided herein, shall issue or renew any such insurance at premium rates which are greater or lesser than those promulgated by the Board as just, reasonable, adequate and not excessive for the risks to which they respectively apply, and not confiscatory as to any class of insurance carriers authorized by law to write such insurance after taking into consideration the deviation provisions of this Article. Any insurer desiring to write insurance at rates different from those promulgated by the Board shall make a written application to the Board for permission to file a uniform percentage deviation for a lesser or greater rate, on a statewide basis unless otherwise ordered by the Board, from the class rates or classes of rates promulgated by the Board. Any insurer desiring to write insurance under a classification plan different from that promulgated by the Board shall make written application to the Board for permission to do so; provided, however, the Board shall approve the use of only such additions or refinements in its classification plan as will produce subclassifications which, when combined, will enable consideration of the insurer's experience under both the Board classification plan and its own classification plan. Such application shall be approved in whole or in part by the Board, provided the Board finds that the resulting premiums will be just, adequate, reasonable, not excessive and not unfairly discriminatory, taking into consideration the following:

- (1) the financial condition of the insurer;
- (2) the method of operation and expenses of such insurer;
- (3) the actual paid and incurred loss experience of the insurer;
- (4) earnings of the insurer from investments together with a projection of prospective earnings from investments during the period for which the application is made; and
- (5) such application meets the reasonable conditions, limitations, and restrictions deemed necessary by the Board.

In considering all matters set forth in such application the Board shall give consideration to the composite effect of items (2), (3), and (4) above and the Board shall deny such application if it finds that the resulting premiums would be inadequate, excessive, or unfairly discriminatory. Any original or renewal policy of insurance issued pursuant to an approved plan of deviation shall have attached to or imprinted on the face of such policy the following notice:

"The premium charged for this policy is greater than the premium rates promulgated by the State Board of Insurance." The notice shall be in 10-point or larger prominent typesize.

Except as the Board may authorize, the deviation provisions in this Article shall not apply to insurance written pursuant to other provisions of this Chapter in which a deviation from standard rates is authorized, including, but not limited to, automobile liability experience rating and fleet rating plans.

(b) The Board shall issue its order in writing setting forth the terms of approval or reasons for denial of each application filed for deviation. On January 1, 1974 and thereafter if the Board has not issued its order within 30 days after the filing of an application, the application shall be "deemed approved" by the Board. Provided, however, that the Board may thereafter require the applicant insurer to furnish proof to the Board that the matters set out in the application are true and correct and that such application meets the requirements of this Article. If after notice and hearing the Board determines that any application "deemed to have been approved" by the Board contains false or erroneous information or the Board determines that the application does not meet the requirements of this Article the Board may suspend or revoke the approval "deemed to have been granted."

An insurer that has received approval, or is "deemed to have received approval" for the use of a deviation may apply for an amendment to such deviation or by notice to the Board withdraw the deviation.

(c) From and after the effective date of an application approved by the Board, or "deemed to have been approved" by the Board, such insurer may write insurance in accordance with such approval. Provided, however, that the right to write insurance at a lesser or greater rate as approved may be suspended or revoked by the Board, after notice and hearing, if upon examination or at any time it appears to or is the opinion of the Board that such insurer:

- (1) has had a change in its financial condition since the granting of the application; or
- (2) the actual paid and incurred losses of the insurer have materially changed since the granting of the application; or
- (3) there has been a material increase in expenses of such insurer since the granting of the application; or
- (4) there has been a material reduction in earnings from

investments by the insurer since the granting of the application; or

(5) the insurer has failed or refused to furnish information required by the Board; or

(6) the insurer has failed to abide by or follow its rate deviation previously approved by the Board. The Board may suspend the right of an insurer to write insurance at the rates approved under such application, pending hearing, provided that the Board in or accompanying the order suspending such right, sets such hearing within not less than 10 nor more than 30 days following the issuance of its order. The Board shall conduct the hearing within not less than 10 nor more than 30 days following the issuance of its order suspending such right, unless the insurer subject to the order requests the Board to delay the hearing beyond 30 days. The right to write insurance at the lesser or greater rate previously approved by the Board shall automatically terminate, except as herein provided, upon the promulgation by the Board of new or different rates as provided for in the first sentence of "Section (a)" of this Article, and as further provided in paragraphs one and two of Article 5.01, Insurance Code, as amended. After the effective date of the Board's promulgation or authorization of new or different rates, the insurer may not thereafter write insurance at a lesser or greater rate, except that an insurer may continue to write insurance at a deviated rate by applying the percentage of the previously approved deviation applicable to the prior rates as the percentage of deviation applicable to the new or different rates promulgated by the Board, limited, however, to a period of 60 days after the effective date of the new or different rates, and not thereafter, and only if such insurer within 30 days following promulgation by the Board of new or different rates, shall make a written application to the Board for permission to deviate from the new or different rates promulgated by the Board. The Board by order may extend the use of prior approved deviations beyond the 60 day period hereinabove set out.

(d) It is expressly provided, however, that notwithstanding any other provision of this chapter to the contrary, a rate or premium for such insurance greater than the standard rate or premium that has been promulgated by the Board may be used on any specific risk if:

(1) a written application is made to the Board naming the insurer and stating the coverage and rate proposed;

(2) the person to be insured or person authorized to act in relation to the risk to be insured consents to such rate;

(3) the reasons for requiring such greater rate or premium are stated in or attached to the application;

(4) the person to be insured or person authorized to act for such person signs the application; and

(5) the Board approves the application by order or by stamping.

(e) In the administration of this Act the Board shall resolve by rules and regulations, to the extent permitted by law, any conflicts or ambiguities as may be necessary to accomplish the purposes of this Act.

(f) This Article, as amended, is effective September 1, 1973.

(g) Notwithstanding Sections (a) through (e) of this article, on and after the effective date of S.B. No. 14, Acts of the 78th Legislature, Regular Session, 2003, rates for personal automobile insurance in this state are determined as provided by Article 5.101 of this code, and rates for commercial motor vehicle insurance in this state are determined as provided by Article 5.13-2 of this code. On and after December 1, 2004, rates for personal automobile insurance and commercial automobile insurance in this state are determined as provided by Article 5.13-2 of this code.

Acts 1951, 52nd Leg., ch. 491. Amended by Acts 1971, 62nd Leg., p. 864, ch. 104, Sec. 1, eff. April 30, 1971; Acts 1973, 63rd Leg., p. 1118, ch. 425, Sec. 1, eff. Sept. 1, 1973; Acts 1977, 65th Leg., p. 1981, ch. 792, Sec. 1, eff. Aug. 29, 1977.

Subsec. (g) added by Acts 1991, 72nd Leg., ch. 242, Sec. 2.04, eff. Sept. 1, 1991; Subsec. (g) amended by Acts 1991, 72nd Leg., 2nd C.S., ch. 12, Sec. 8.05, eff. Jan. 1, 1992; amended by Acts 1995, 74th Leg., ch. 984, Sec. 4, eff. Sept. 1, 1995; Subsec. (g) amended by Acts 2003, 78th Leg., ch. 206, Sec. 21.05, eff. June 11, 2003.

Art. 5.04. EXPERIENCE AS FACTOR. (a) To insure the adequacy and reasonableness of rates the Board may take into consideration past and prospective experience, within and outside the State, and all other relevant factors, within and outside the State, gathered from a territory sufficiently broad to include the varying conditions of the risks involved and the hazards and liabilities assumed, and over a period sufficiently long to insure that the rates determined therefrom shall be just, reasonable and adequate, and to that end the Board may consult any rate making organization or association that

may now or hereafter exist.

(b) As a basis for motor vehicle rates under this subchapter, the State Board of Insurance shall use data from within this State to the extent that the data is credible and available.

(c) Notwithstanding Subsections (a) and (b) of this article, on and after the effective date of S.B. No. 14, Acts of the 78th Legislature, Regular Session, 2003, rates for personal automobile insurance in this state are determined as provided by Article 5.101 of this code, and rates for commercial motor vehicle insurance in this state are determined as provided by Article 5.13-2 of this code. On and after December 1, 2004, rates for personal automobile insurance and commercial automobile insurance in this state are determined as provided by Article 5.13-2 of this code.

Acts 1951, 52nd Leg., ch. 491. Amended by Acts 1953, 53rd Leg., p. 64, ch. 50, Sec. 3.

Amended by Acts 1987, 70th Leg., 1st C.S., ch. 1, Sec. 2.01, eff. Sept. 2, 1987; Subsec. (c) added by Acts 1991, 72nd Leg., ch. 242, Sec. 2.05, eff. Sept. 1, 1991; Subsec. (c) amended by Acts 1991, 72nd Leg., 2nd C.S., ch. 12, Sec. 8.06, eff. Jan. 1, 1992; amended by Acts 1995, 74th Leg., ch. 984, Sec. 5, eff. Sept. 1, 1995; Subsec. (c) amended by Acts 2003, 78th Leg., ch. 206, Sec. 21.06, eff. June 11, 2003.

Art. 5.04-1. REPORT OF BASIC LIMITS LOSSES. (a) A report filed under Article 5.01(a) of this code must include the information necessary to compute a Texas automobile experience modifier as provided by this code or a rule adopted by the State Board of Insurance. In reporting losses under Article 5.01(a) of this code, an insurer may include only the following as basic limits losses:

- (1) indemnity losses, up to the basic limits for the losses;
- (2) losses based on payments for immediate medical or surgical treatment;
- (3) fees paid to an attorney who is not an employee of the insurer, if the fees were for services rendered in the trial of an action arising under a covered claim;
- (4) specific expenses incurred as a direct result of defending an action in connection with which the expense is claimed;
- (5) specific expenses, other than claims adjustment expenses,

incurred in connection with the settlement of a claim with respect to which the expense is claimed;

- (6) all medical payments coverage; and
- (7) personal injury protection coverage losses.

(b) In reporting its basic limits losses to the State Board of Insurance, each insurer shall disclose the specific nature of each loss expense claimed and shall show to the Board's satisfaction that each specific expense claimed was necessary with respect to the specific risk involved.

Added by Acts 1991, 72nd Leg., ch. 750, Sec. 2, eff. Sept. 1, 1991.

Art. 5.06. POLICY FORMS AND ENDORSEMENTS.

(1) The Board shall adopt a policy form and endorsements for each type of motor vehicle insurance subject to this subchapter. The coverage provided by a policy form adopted under this subsection is the minimum coverage that may be provided under an insurance policy for that type of insurance in this State. Each policy form must provide the coverages mandated under Articles 5.06-1 and 5.06-3 of this code, except that the coverages may be rejected by the named insured as provided by those articles.

(2) Except as provided by Subsections (3) and (4) of this article, an insurer may only use a form adopted by the Board under this section in writing motor vehicle insurance delivered, issued for delivery, or renewed in this State. A contract or agreement not written into the application and policy is void and of no effect and in violation of the provisions of this subchapter, and is sufficient cause for revocation of license of such insurer to write automobile insurance within this State.

(3) The Board may approve the use of a policy form adopted by a national organization of insurance companies, or similar organization, if the form, with any endorsement to the form required and approved by the Board, provides coverage equivalent to the coverage provided by the form adopted by the Board under Subsection (1) of this section.

(4) An insurer may use an endorsement to the policy form adopted or approved by the Board under this article if the endorsement is approved by the Board.

- (5) Repealed by Acts 2005, 79th Leg., Ch. 727, Sec. 18, eff.

April 1, 2007.

(6) Repealed by Acts 2005, 79th Leg., Ch. 727, Sec. 18, eff.

April 1, 2007.

(7) The Board may not adopt or approve a policy form for private passenger automobile insurance or any endorsement to the policy if the policy or endorsement is not in plain language. For the purposes of this subsection, a policy or endorsement is written in plain language if it achieves the minimum score established by the commissioner on the Flesch reading ease test or an equivalent test selected by the commissioner, or, at the option of the commissioner, if it conforms to the language requirements in a National Association of Insurance Commissioners model act relating to plain language. This subsection does not apply to policy language that is mandated by state or federal law.

(8) The Board may withdraw its approval of a policy or endorsement form at any time, after notice and hearing.

(9) Repealed by Acts 2005, 79th Leg., Ch. 727, Sec. 18, eff.

April 1, 2007.

(10) Repealed by Acts 2005, 79th Leg., Ch. 727, Sec. 18, eff.

April 1, 2007.

(11) Repealed by Acts 2005, 79th Leg., Ch. 727, Sec. 18, eff.

April 1, 2007.

(12)(a) Notwithstanding Subsections (1)-(10) of this article, policy forms and endorsements for automobile insurance in this state are regulated under Article 5.13-2 of this code.

(b) Repealed by Acts 2005, 79th Leg., Ch. 727, Sec. 18, eff. April 1, 2007.

Acts 1951, 52nd Leg., ch. 491. Amended by Acts 1981, 67th Leg., p. 2700, ch. 736, Sec. 1, eff. Jan. 1, 1982.

Amended by Acts 1991, 72nd Leg., ch. 242, Sec. 2.07, eff. Sept. 1, 1991; Subsecs. (9), (10) added by Acts 1993, 73rd Leg., ch. 685, Sec. 14.04, eff. Sept. 1, 1993; Subsecs. (9), (10) amended by and (11) added by Acts 2001, 77th Leg., ch. 971, Sec. 2, eff. Sept. 1, 2001; Subsec. (12) added by Acts 2003, 78th Leg., ch. 206, Sec. 21.07, eff. June 11, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 727 (H.B. [2017](#)), Sec. 18, eff. April 1, 2007.

Art. 5.10. RULES AND REGULATIONS. The Board is hereby empowered to make and enforce all such reasonable rules and regulations not inconsistent with the provisions of this subchapter as are necessary to carry out its provisions.

Acts 1951, 52nd Leg., ch. 491.

Amended by Acts 1991, 72nd Leg., ch. 242, Sec. 2.13, eff. Sept. 1, 1991.

Art. 5.11. HEARING ON GRIEVANCES. (a) Any policyholder or insurer shall have the right to a hearing before the Board on any grievance occasioned by the approval or disapproval by the Board of any classification, rate, rating plan, endorsement or policy form, or any rule or regulation established under the terms hereof, such hearing to be held in conformity with rules prescribed by the Board. Upon receipt of request that such hearing is desired, the Board shall forthwith set a date for the hearing, at the same time notifying all interested parties in writing of the place and date thereof, which date, unless otherwise agreed to by the parties at interest, shall not be less than ten (10) nor more than thirty (30) days after the date of said notice. Any party aggrieved shall have the right to apply to any court of competent jurisdiction to obtain redress.

(b) No hearing shall suspend the operation of any classification, rate, rating plan or policy form unless the Board shall so order.

(c) Notwithstanding Subsections (a) and (b) of this article, on and after the effective date of S.B. No. 14, Acts of the 78th Legislature, Regular Session, 2003, rates for personal automobile insurance in this state are determined as provided by Article 5.101 of this code, and rates for commercial motor vehicle insurance in this state are determined as provided by Article 5.13-2 of this code. On and after December 1, 2004, rates for personal automobile insurance and commercial automobile insurance in this state are determined as provided by Article 5.13-2 of this code.

Acts 1951, 52nd Leg., ch. 491. Amended by Acts 1953, 53rd Leg., p. 64, ch. 50, Sec. 6.

Amended by Acts 1991, 72nd Leg., ch. 242, Sec. 2.14, eff. Sept. 1, 1991; Subsec. (c) amended by Acts 1991, 72nd Leg., 2nd C.S., ch. 12, Sec. 8.08, eff. Jan. 1, 1992; amended by Acts 1995, 74th Leg., ch.

984, Sec. 7, eff. Sept. 1, 1995; Subsec. (c) amended by Acts 2003, 78th Leg., ch. 206, Sec. 21.11, eff. June 11, 2003.

SUBCHAPTER B. CASUALTY INSURANCE AND FIDELITY, GUARANTY AND SURETY BONDS

Art. 5.13. SCOPE OF SUBCHAPTER. (a) This subchapter applies to every insurance company, corporation, interinsurance exchange, mutual, reciprocal, association, Lloyd's plan, or other organization or insurer writing any of the characters of insurance business herein set forth, hereinafter called "Insurer"; provided that nothing in this entire subchapter shall be construed to apply to any county or farm mutual insurance company or association, as regulated under Chapters 911 and 912 of this code, except that:

(1) Article 5.13-2 of this code shall apply to a county mutual insurance company with respect to personal automobile and commercial automobile insurance, residential and commercial property insurance, and inland marine insurance;

(2) Article 5.20 of this code shall apply to a county mutual insurance company with respect to each line of insurance that a county mutual insurance company is authorized to write under Section 912.151; and

(3) Article 5.20 of this code shall apply to a farm mutual insurance company with respect to each line of insurance that a farm mutual insurance company is authorized to write under Section 911.151.

(b) This subchapter applies to the writing of casualty insurance and the writing of fidelity, surety, and guaranty bonds, on risks or operations in this State except as herein stated.

(c) Except as otherwise provided by this subchapter, this subchapter does not apply to the writing of motor vehicle, life, health, accident, professional liability, reinsurance, aircraft, fraternal benefit, fire, lightning, tornado, windstorm, hail, smoke or smudge, cyclone, earthquake, volcanic eruption, rain, frost and freeze, weather or climatic conditions, excess or deficiency of moisture, flood, the rising of the waters of the ocean or its tributaries, bombardment, invasion, insurrection, riot, civil war or commotion, military or usurped power, any order of a civil authority made to prevent the spread of a conflagration, epidemic or catastrophe, vandalism or malicious mischief, strike or lockout,

water or other fluid or substance, resulting from the breakage or leakage of sprinklers, pumps, or other apparatus erected for extinguishing fires, water pipes or other conduits or containers, or resulting from casual water entering through leaks or opening in buildings or by seepage through building walls, including insurance against accidental injury of such sprinklers, pumps, fire apparatus, conduits or container, workers' compensation, noncommercial inland marine, ocean marine, marine, or title insurance; nor does this subchapter apply to the writing of explosion insurance, except insurance against loss from injury to person or property which results accidentally from steam boilers, heaters or pressure vessels, electrical devices, engines and all machinery and appliances used in connection therewith or operation thereby.

(d) This subchapter shall not be construed as limiting in any manner the types or classes of insurance which may be written by the several types of insurers under appropriate statutes or their charters or permits.

(e) The regulatory power herein conferred is vested in the commissioner.

Acts 1951, 52nd Leg., ch. 491. Amended by Acts 1955, 54th Leg., p. 359, ch. 76, Sec. 1; Acts 2003, 78th Leg., ch. 206, Sec. 5.01, eff. June 11, 2003; Acts 2003, 78th Leg., ch. 206, Sec. 6.01, eff. Dec. 1, 2004.

Amended by:

Acts 2005, 79th Leg., Ch. 631 (H.B. [2565](#)), Sec. 1, eff. September 1, 2005.

Art. 5.13-1. LEGAL SERVICE CONTRACTS. (a) Every insurer governed by Subchapter B of Chapter 5 of the Insurance Code, as amended, and every life, health, and accident insurer governed by Chapter 3 of the Insurance Code, as amended, is authorized to issue prepaid legal services contracts. Every such insurer or rating organization authorized under Article 5.16 of the Insurance Code shall file with the State Board of Insurance all rules and forms applicable to prepaid legal service contracts in a manner to be established by the State Board of Insurance. Certification, by a qualified actuary, to the appropriateness of the charges, rates, or rating plans, based upon reasonable assumptions, shall accompany the

filing along with adequate supporting information.

(b) The State Board of Insurance shall, within a reasonable period, approve any form if the requirements of this section are met. It shall be unlawful to issue such forms until approved or to use such schedules of charges, rates, or rating plans until filed. If the State Board of Insurance has good cause to believe such rates and rating plans do not comply with the standards of this article, it shall give notice in writing to every insurer or rating organization which filed such rates or rating plans, stating therein in what manner and to what extent such noncompliance is alleged to exist and specifying therein a reasonable time, not less than 30 days thereafter, in which such noncompliance may be corrected. If the board has not acted on any form, rate, rating plan, or charges within 30 days after the filing of same, they shall be deemed approved. The board may require the submission of whatever relevant information is deemed necessary in determining whether to approve or disapprove a filing made pursuant to this section.

(c) The right of such insurers to issue prepaid legal services contracts on individual, group, or franchise bases is hereby recognized, and qualified agents of such insurers who are licensed under Article 21.07-1 or 21.14 of this code shall be authorized to write such coverages under such rules as the commissioner may prescribe.

(d) The State Board of Insurance is hereby vested with power and authority under this article to promulgate, after notice of hearing, and to enforce, rules and regulations concerning the application to the designated insurers of this article and for such clarification, amplification, and augmentation as in the discretion of the State Board of Insurance are deemed necessary to accomplish the purposes of this article.

(e) This article shall be construed as a specific exception to Article 3.54 of the Texas Insurance Code.

(f) All legal services contracts and related promotional material issued pursuant to Chapter 23 and the issuance of legal services contracts pursuant to Article 5.13-1 shall be truthful and accurate and shall properly describe the coverage offered. Such description should include, but not be limited to, a description of coverage offered as either an indemnity coverage or a contract that provides only consultation and advice on simple legal matters, either alone or in combination with a referral service, and that provides

fee discounts for other matters. To provide for the actuarial soundness of a prepaid legal services contract issued under this article, the State Board of Insurance may require that prepaid legal services contracts have rates that are adequate to reasonably provide the benefits under the prepaid legal services contracts. This subsection does not apply to a prepaid legal services contract that provides only consultation and advice on simple legal matters, either alone or in combination with a referral service, and that provides fee discounts for other matters.

(g) The State Board of Insurance may not determine, fix, prescribe, set, or promulgate maximum rates or maximum amounts of premium to be charged for a prepaid legal services contract issued under this chapter. Nothing in this Act shall be construed as compelling the State Board of Insurance to establish standard or absolute rates and the board is specifically authorized, in its discretion, to approve different rates for different insurers for the same risk or risks on the types of insurance covered by this article. The board shall approve such rates as filed by any insurer unless it finds that such filing does not meet the requirements of this article.

(h) An insurer may not issue or renew a prepaid legal service contract under this article after March 1, 2004.

Added by Acts 1975, 64th Leg., p. 134, ch. 60, Sec. 2, eff. Sept. 1, 1975.

Subsecs. (a), (b), (f), (g) amended by Acts 1995, 74th Leg., ch. 873, Sec. 1, eff. Sept. 1, 1995; Subsec. (c) amended by Acts 2001, 77th Leg., ch. 703, Sec. 7.03, eff. Sept. 1, 2001. Subsec. (h) added by Acts 2003, 78th Leg., ch. 1181, Sec. 2, eff. Sept. 1, 2003.

Art. 5.13-2. RATES AND FORMS FOR CERTAIN PROPERTY AND CASUALTY INSURANCE.

Sec. 1. PURPOSE. This article governs the regulation of insurance described by Section 2 of this article. The purposes of this article are to:

- (1) promote the public welfare by regulating insurance rates to prohibit excessive, inadequate, or unfairly discriminatory rates;
- (2) promote availability of insurance;

(3) promote price competition among insurers to provide rates and premiums that are responsive to competitive market conditions;

(4) prohibit price-fixing agreements and other anticompetitive behavior by insurers;

(5) regulate the insurance forms used for lines of insurance subject to this article to ensure that they are not unjust, unfair, inequitable, misleading, or deceptive; and

(6) provide regulatory procedures for the maintenance of appropriate information reporting systems.

Sec. 2. Repealed by Acts 2007, 80th Leg., R.S., Ch. 730, Sec. 3B.071(c), eff. September 1, 2007.

Sec. 3. Repealed by Acts 2005, 79th Leg., Ch. 727, Sec. 18, eff. April 1, 2007.

Sec. 4. Repealed by Acts 2005, 79th Leg., Ch. 727, Sec. 18, eff. April 1, 2007.

Sec. 5. Repealed by Acts 2005, 79th Leg., Ch. 727, Sec. 18, eff. April 1, 2007.

Sec. 5A. Repealed by Acts 2005, 79th Leg., Ch. 727, Sec. 18, eff. April 1, 2007.

Sec. 6. Repealed by Acts 2005, 79th Leg., Ch. 727, Sec. 18, eff. April 1, 2007.

Sec. 7. Repealed by Acts 2005, 79th Leg., Ch. 727, Sec. 18, eff. April 1, 2007.

Sec. 8. Repealed by Acts 2005, 79th Leg., Ch. 727, Sec. 18, eff. April 1, 2007.

Sec. 9. COMMISSIONER AUTHORITY. If the commissioner determines at any time that the implementation of this article or any part thereof is contrary to the public interest and has resulted in or may result in imminent peril to the insurance consumers of this state, the commissioner may issue an order stating the harm to the public and shall thereafter rely upon Subchapters A-L of this chapter, or parts thereof, in the regulation of property and casualty insurance.

Sec. 10. Repealed by Acts 2005, 79th Leg., Ch. 727, Sec. 18, eff. April 1, 2007.

Sec. 13. Repealed by Acts 2007, 80th Leg., R.S., Ch. 730, Sec. 3B.072(b), eff. September 1, 2007.

Sec. 14. Repealed by Acts 2005, 79th Leg., Ch. 727, Sec. 18, eff. April 1, 2007.

Sec. 15. Repealed by Acts 2005, 79th Leg., Ch. 727, Sec. 18, eff. April 1, 2007.

Sec. 16. Repealed by Acts 2005, 79th Leg., Ch. 727, Sec. 18, eff. April 1, 2007.

Added by Acts 1991, 72nd Leg., ch. 242, Sec. 2.15, eff. Sept. 1, 1991. Sec. 8(e) amended by Acts 1991, 72nd Leg., 2nd C.S., ch. 12, Sec. 8.01, eff. Jan. 1, 1992; Secs. 1 and 2 amended by Acts 1993, 73rd Leg., ch. 685, Sec. 6.07, eff. Sept. 1, 1993; Sec. 3(5), (6) amended by Acts 1993, 73rd Leg., ch. 685, Sec. 6.08, eff. Sept. 1, 1993; Secs. 5, 7 to 9 amended by Acts 1993, 73rd Leg., ch. 685, Sec. 6.09, eff. Sept. 1, 1993; Sec. 1 amended by Acts 1995, 74th Leg., ch. 984, Sec. 8, eff. Sept. 1, 1995; Sec. 3(2) amended by Acts 1995, 74th Leg., ch. 984, Sec. 9, eff. Sept. 1, 1995; Sec. 10 amended by Acts 1995, 74th Leg., ch. 984, Sec. 10, eff. Sept. 1, 1995; Sec. 1 amended by Acts 1997, 75th Leg., ch. 1330, Sec. 1, eff. Sept. 1, 1997; Sec. 3(2) amended by Acts 1997, 75th Leg., ch. 438, Sec. 1, eff. Sept. 1, 1997; Sec. 8(e) amended by Acts 1997, 75th Leg., ch. 1330, Sec. 2, eff. Sept. 1, 1997; Sec. 8(f) amended by Acts 1997, 75th Leg., ch. 1426, Sec. 1, eff. Sept. 1, 1997; Section heading amended by Acts 2003, 78th Leg., ch. 206, Sec. 5.02, 6.02, eff. June 11, 2003; Sec. 1 amended by Acts 2003, 78th Leg., ch. 206, Sec. 5.03, 6.03, eff. June 11, 2003; Sec. 2 amended by Acts 2003, 78th Leg., ch. 206, Sec. 5.03, 6.03, eff. June 11, 2003; Sec. 3 amended by Acts 2003, 78th Leg., ch. 206, Sec. 6.04, eff. Dec. 1, 2004; Sec. 3(2) amended by Acts 2003, 78th Leg., ch. 206, Sec. 5.04, eff. June 11, 2003; Sec. 4(b) amended by Acts 2003, 78th Leg., ch. 206, Sec. 6.05, eff. Dec. 1, 2004; Sec. 4(d) amended by Acts 2003, 78th Leg., ch. 206, Sec. 6.05, eff. Dec. 1, 2004; Sec. 4(f) added by Acts 2003, 78th Leg., ch. 206, Sec. 6.05, eff. Dec. 1, 2004; Sec. 5(a) amended by Acts 2003, 78th Leg., ch. 206, Sec. 6.06, eff. Dec. 1, 2004; Sec. 5(a-1) added by Acts 2003, 78th Leg., ch. 206, Sec. 6.06, eff. Dec. 1, 2004; Sec. 5(a-2) added by Acts 2003, 78th Leg., ch. 206, Sec. 6.06, eff. Dec. 1, 2004; Sec. 5(b) amended by Acts 2003, 78th Leg., ch. 206, Sec. 21.47(3), eff. June 11, 2003; Sec. 5A added by Acts 2003, 78th Leg., ch. 206, Sec. 6.07, eff. Dec. 1, 2004; Sec. 13 added by Acts 2003, 78th Leg., ch. 206, Sec. 6.08, eff. Dec. 1, 2004; Sec. 14 added by Acts 2003, 78th Leg., ch. 206, Sec. 6.09, eff. June 11, 2003; Sec. 15 added by Acts 2003, 78th Leg., ch. 206, Sec. 6.10, eff. June 11, 2003; Sec. 16 added by Acts 2003, 78th Leg., ch. 206, Sec. 6.11, eff. Dec. 1, 2004.

Amended by:

Acts 2005, 79th Leg., Ch. 70 (H.B. 2870), Sec. 1, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 71 (H.B. 2872), Sec. 1, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 102 (S.B. 99), Sec. 4, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 18, eff. April 1, 2007.

Acts 2005, 79th Leg., Ch. 1118 (H.B. 2437), Sec. 1, eff. June 18, 2005.

Acts 2007, 80th Leg., R.S., Ch. 730 (H.B. 2636), Sec. 3B.071(c), eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 730 (H.B. 2636), Sec. 3B.072(b), eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 9.071(c), eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 9.072(b), eff. September 1, 2007.

Art. 5.15-1. PROFESSIONAL LIABILITY INSURANCE FOR PHYSICIANS AND HEALTH CARE PROVIDERS.

Sec. 1. Repealed by Acts 2005, 79th Leg., Ch. 727, Sec. 18, eff. April 1, 2007.

Sec. 2. Repealed by Acts 2005, 79th Leg., Ch. 727, Sec. 18, eff. April 1, 2007.

Sec. 4. Repealed by Acts 2005, 79th Leg., Ch. 727, Sec. 18, eff. April 1, 2007.

Sec. 4A. Repealed by Acts 1993, 73rd Leg., ch. 685, Sec. 6.12, eff. Sept. 1, 1993.

Sec. 4B. Repealed by Acts 2005, 79th Leg., Ch. 727, Sec. 18, eff. April 1, 2007.

Sec. 5. Repealed by Acts 2005, 79th Leg., Ch. 727, Sec. 18, eff. April 1, 2007.

Sec. 6. Repealed by Acts 2005, 79th Leg., Ch. 727, Sec. 18, eff. April 1, 2007.

Sec. 7. Repealed by Acts 2005, 79th Leg., Ch. 727, Sec. 18, eff. April 1, 2007.

Sec. 8. Repealed by Acts 2005, 79th Leg., Ch. 727, Sec. 18,

eff. April 1, 2007.

Sec. 9. Repealed by Acts 2005, 79th Leg., Ch. 727, Sec. 18, eff. April 1, 2007.

Sec. 10. PREMIUM DISCOUNT RECOUPMENT. (a) Eligibility. Effective January 1, 1999, each insurer that has filed and issued premium discounts to health care professionals pursuant to Article 5.15-4 of this code shall be eligible to elect to receive a premium tax credit in lieu of indemnification for claims filed with the Attorney General under Chapter 110, Civil Practice and Remedies Code.

(b) Amount of Tax Credit. An eligible company may elect to recoup premium discounts issued to eligible health care professionals in lieu of indemnification from the State of Texas for claims filed under Chapter 110, Civil Practice and Remedies Code. Such election shall be made as a credit that is part of the annual premium tax return filed on or before March 1, 1999. An insurer may credit the total amount of any discounts issued less any reimbursements received prior to January 1, 1999, by the insurer for claims filed under Chapter 110, Civil Practice and Remedies Code, against its premium tax under Article 4.10 of this code. The tax credit herein authorized shall be allowed at a rate not to exceed 20 percent of the credit per year for five or more successive years following the initial election made in March 1999. The balance of payments due the insurer and not claimed as a tax credit may be reflected in the books and records of the insurer as an admitted asset for all purposes, including exhibition in annual statements pursuant to Article 6.12 of this code. The tax credit allowed in any one year may not exceed the premium tax due in that year.

(c) An eligible insurer that elects to receive tax credits shall not be eligible to file claims for indemnity under Chapter 110, Civil Practice and Remedies Code after January 1, 1999. Any claims of an eligible insurer filed with the Attorney General prior to January 1, 1999, that have not been reimbursed shall also be deemed to have been waived by the insurer by making its election. An insurer that elects not to recoup its discount through tax credit will continue to remain eligible for indemnification of eligible claims under Chapter 110, Civil Practice and Remedies Code.

(d) The elections provided herein shall not affect the right of a self-insurance trust created under Article 21.49-4 of this code from seeking indemnification for eligible claims.

(e) The provisions of Article 21.46 of this code shall not apply

to the credits authorized herein.

Sec. 11. Repealed by Acts 2005, 79th Leg., Ch. 727, Sec. 18, eff. April 1, 2007.

Sec. 12. Repealed by Acts 2007, 80th Leg., R.S., Ch. 730, Sec. 3B.035(c), eff. September 1, 2007.

Sec. 12. Repealed by Acts 2007, 80th Leg., R.S., Ch. 730, Sec. 3B.036(b), eff. September 1, 2007.

Sec. 13. Repealed by Acts 2007, 80th Leg., R.S., Ch. 730, Sec. 3B.035(c), eff. September 1, 2007.

Added by Acts 1977, 65th Leg., p. 2054, ch. 817, Sec. 31.01, eff. Aug. 29, 1977.

Sec. 2(2) amended by Acts 1987, 70th Leg., ch. 718, Sec. 1, eff. Sept. 1, 1987; Sec. 4A added by Acts 1987, 70th Leg., 1st C.S., ch. 1, Sec. 2.05, eff. Sept. 2, 1987; Sec. 8 amended by Acts 1987, 70th Leg., 1st C.S., ch. 1, Sec. 7.01, eff. Sept. 2, 1987; Sec. 3 amended by Acts 1989, 71st Leg., ch. 1027, Sec. 15, eff. Sept. 1, 1989; Sec. 4B added by Acts 1989, 71st Leg., ch. 1027, Sec. 16, eff. Sept. 1, 1989; Sec. 2(3) amended by Acts 1991, 72nd Leg., ch. 14, Sec. 284(15), eff. Sept. 1, 1991; Sec. 3 amended by Acts 1991, 72nd Leg., ch. 606, Sec. 1, eff. Sept. 1, 1991; Sec. 4A amended by Acts 1991, 72nd Leg., ch. 242, Sec. 2.17D, eff. Sept. 1, 1991; Sec. 4B(b) amended by Acts 1991, 72nd Leg., ch. 606, Sec. 2, eff. Sept. 1, 1991; Sec. 4(a) amended by Acts 1993, 73rd Leg., ch. 685, Sec. 6.11, eff. Sept. 1, 1993; Sec. 4A repealed by Acts 1993, 73rd Leg., ch. 685, Sec. 6.12, eff. Sept. 1, 1993; Sec. 8 amended by Acts 1997, 75th., ch. 746, Sec. 1, eff. Sept. 1, 1997; Sec. 10 added by Acts 1997, 75th Leg., ch. 991, Sec. 1, eff. Sept. 1, 1997; Sec. 2(2) amended by Acts 2001, 77th Leg., ch. 1284, Sec. 5.01, eff. June 15, 2001; Sec. 8 amended by Acts 2001, 77th Leg., ch. 1284, Sec. 5.02, eff. June 15, 2001; Sec. 2(2) amended by Acts 2003, 78th Leg., ch. 141, Sec. 1, eff. Sept. 1, 2003; Sec. 8 amended by Acts 2003, 78th Leg., ch. 141, Sec. 2, eff. Sept. 1, 2003; Sec. 11 added by Acts 2003, 78th Leg., ch. 204, Sec. 10.08, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 184 (H.B. [654](#)), Sec. 1, eff. May 27, 2005.

Acts 2005, 79th Leg., Ch. 727 (H.B. [2017](#)), Sec. 18, eff. April 1, 2007.

Acts 2005, 79th Leg., Ch. 1135 (H.B. [2678](#)), Sec. 1, eff.

September 1, 2005.

Acts 2005, 79th Leg., Ch. 1135 (H.B. 2678), Sec. 2, eff.

September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 730 (H.B. 2636), Sec. 3B.034(c), eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 730 (H.B. 2636), Sec. 3B.035(c), eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 730 (H.B. 2636), Sec. 3B.036(b), eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 9.034(c), eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 9.035(c), eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 9.036(b), eff. September 1, 2007.

Art. 5.22. PENALTIES. (a) The Board may suspend the license of any advisory organization licensed under Article 5.73 of this code, insurer or agent which fails to comply with an order of the Board within the time limited by such order, or any extension thereof which the Board may grant. The Board shall not suspend the license of any advisory organization, agent or insurer for failure to comply with an order until the time prescribed for an appeal therefrom has expired or, if an appeal has been taken, until such order has been affirmed. The Board may determine when a suspension of license shall become effective and it shall remain in effect for the period fixed by it, unless it modifies or rescinds such suspension or until the order upon which such suspension is based is modified, rescinded or reversed.

(b) No license shall be suspended except upon a written order of the Board, stating its findings, made after a hearing held upon not less than ten (10) days' notice to such person or organization specifying the alleged violation.

Acts 1951, 52nd Leg., ch. 491.

Amended by Acts 1991, 72nd Leg., ch. 242, Sec. 2.22, eff. Sept. 1, 1991.

Art. 5.23. JUDICIAL REVIEW. Any order or decision of the Board shall be subject to review, which shall be on the basis of the record of the proceedings before the Board and shall not be limited to questions of law, by direct action in the District Court of Travis County, instituted by any party aggrieved by any action taken under this subchapter.

Pending final disposition of any proceedings which attack the correctness of a rate, any insurer affected by such order may continue to charge the rate which obtained prior to such order of decrease or may charge the rate resulting from such order of increase, on condition that the difference in the premiums be deposited in a special account by said insurer, to be held in trust by said insurer, and to be retained by said insurer or paid to the holders of policies issued after the order of the Board, as the court may determine.

In all other cases, the court shall determine whether the filing of the appeal shall operate as a stay. The court may, in disposing of the issue before it, modify, affirm or reverse the order or decision of the Board in whole or in part.

Acts 1951, 52nd Leg., ch. 491.

SUBCHAPTER C. FIRE INSURANCE AND ALLIED LINES

Art. 5.25. BOARD SHALL FIX RATES. (a) The State Board of Insurance shall have the sole and exclusive power and authority and it shall be its duty to prescribe, fix, determine and promulgate the rates of premiums to be charged and collected by fire insurance companies transacting business in this State. Said Board shall also have authority to alter or amend any and all such rates of premiums so fixed and determined and adopted by it, and to raise or lower the same, or any part thereof, as herein provided.

(b) Notwithstanding Subsection (a) of this article, on and after the effective date of S.B. No. 14, Acts of the 78th Legislature, Regular Session, 2003, rates for homeowners and residential fire and residential allied lines insurance coverage under this subchapter are determined as provided by Subchapter Q of this chapter, and rates for other lines of insurance subject to this subchapter are determined as provided by Article 5.13-2 of this code, except that on and after December 1, 2004, rates for all lines of

insurance subject to this subchapter are determined as provided by Article 5.13-2 of this code.

Acts 1951, 52nd Leg., ch. 491.

Amended by Acts 1985, 69th Leg., ch. 861, Sec. 1, eff. June 15, 1985; Acts 1991, 72nd Leg., ch. 242, Sec. 2.23, eff. Sept. 1, 1991; Acts 1991, 72nd Leg., ch. 628, Sec. 10, eff. Sept. 1, 1991; Subsec. (b) amended by Acts 1991, 72nd Leg., 2nd C.S., ch. 12, Sec. 8.10, eff. Jan. 1, 1992; amended by Acts 1995, 74th Leg., ch. 984, Sec. 13, eff. Sept. 1, 1995; Subsec. (b) amended by Acts 1997, 75th Leg., ch. 1330, Sec. 3, eff. Sept. 1, 1997; Subsec. (b) amended by Acts 2003, 78th Leg., ch. 206, Sec. 21.12, eff. June 11, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 727 (H.B. [2017](#)), Sec. 5, eff. April 1, 2007.

Art. 5.25A. RATES APPLICABLE TO CERTAIN LOCATIONS. (a) The State Board of Insurance in adopting fire insurance and homeowners insurance rates under this subchapter shall authorize a fringe area rating as defined under its general basis rating schedule for any dwelling located within five miles of the outer boundary of a platted subdivision classified by the board under board criteria as a first key town.

(b) Notwithstanding Subsection (a) of this article, on and after the effective date of S.B. No. 14, Acts of the 78th Legislature, Regular Session, 2003, rates for homeowners and residential fire and residential allied lines insurance coverage under this subchapter are determined as provided by Subchapter Q of this chapter, and rates for other lines of insurance subject to this subchapter are determined as provided by Article 5.13-2 of this code, except that on and after December 1, 2004, rates for all lines of insurance subject to this subchapter are determined as provided by Article 5.13-2 of this code.

Added by Acts 1989, 71st Leg., ch. 481, Sec. 1, eff. Sept. 1, 1989.

Amended by Acts 1991, 72nd Leg., ch. 242, Sec. 2.24, eff. Sept. 1, 1991; Subsec. (b) amended by Acts 1991, 72nd Leg., 2nd C.S., ch. 12, Sec. 8.11, eff. Jan. 1, 1992; amended by Acts 1995, 74th Leg., ch. 984, Sec. 14, eff. Sept. 1, 1995; Subsec. (b) amended by Acts 1997, 75th Leg., ch. 1330, Sec. 4, eff. Sept. 1, 1997; Subsec. (b) amended by Acts 2003, 78th Leg., ch. 206, Sec. 21.13, eff. June 11, 2003.

Art. 5.25-3. FIRE INSURANCE RATES AND FIRE SUPPRESSION RATINGS FOR BORDER MUNICIPALITY. The commissioner, in adopting fire insurance rates for a municipality at or near the border between this state and another state or the United Mexican States, shall take into account the existence and capabilities of a fire department or volunteer fire department that serves an adjoining or nearby municipality in the other state or the United Mexican States and that by agreement or by long-standing practice provides fire suppression services to the Texas municipality.

Added by Acts 1997, 75th Leg., ch. 1413, Sec. 1, eff. Sept. 1, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 6, eff. April 1, 2007.

Art. 5.26. MAXIMUM RATE FIXED, AND DEVIATIONS THEREFROM. (a) A maximum rate of premiums to be charged or collected by all companies transacting in this state the business of fire insurance, as herein defined, shall be exclusively fixed and determined and promulgated by the Board, and no such fire insurance company shall charge or collect any premium or other compensation for or on account of any policy or contract of fire insurance as herein defined in excess of the maximum rate as herein provided for; provided, however, upon the written application of the insured stating his reasons therefor, filed with and approved by the Board, a rate in excess of the maximum rate promulgated by the Board may be used on any specific risk.

(b) Any insurer desiring to write insurance at a less rate than the maximum rate provided for in paragraph (a) above shall make a written application to the Board for permission to file a uniform percentage deviation for a lesser rate than the maximum rate, on a state-wide basis or by reasonable territories as approved by the Board, from the class rates or schedules or rating plans respecting fire insurance and its allied lines of insurance or class of risk within such kind of insurance or a combination thereof promulgated by the Board. Such application shall specify the basis of the deviation, and shall be accompanied by the data upon which the applicant relies; provided, however, such application, data and all

other information filed in connection with such deviation shall be public records open to inspection at any reasonable time. The provisions of this paragraph shall not be construed to prohibit the application of a uniform scale of percentage deviations from the maximum rate provided the general standards fixed in paragraph (d) hereof are met.

(c) Provided further, that any insurer desiring to write insurance at a lesser net rate than the maximum rate provided for in paragraph (a) above, either individually or as a member of a group or association, said lesser net rate being obtained by the application of a rating plan or procedure in use by it or by a group or association of which it is a member, which said rating plan or procedure shall apply only to special types or classes of risk in connection with which an inspection or engineering service and set of standards all acceptable to the Board are used, and which inspection or engineering services and set of standards have been and will continue to be maintained, shall make a written application to the Board for permission to file its said rating plan or procedure, the application of which would produce such lesser net rate. Said application shall specify the basis of the modification and shall be accompanied by the data on which applicant relies. Every insurer or group or association which avails itself of the provisions of this paragraph shall thereafter follow in the conduct of its business as to such classes or types of risks, only such rating plan or procedure ordered as permitted by the Board for its use as to said special types or classes of risks. If the Board shall issue an order permitting such deviation, such insurer or such group or association for it shall file with the Board all rates of premium or deposit for individual risks underwritten by it, which rates shall be considered as deviations from the rates that would have been promulgated by the Board on such risks.

(d) In considering any application provided for in (b) or (c) above, the Board shall give consideration to the factors applied by insurers in determining the bases for rates; the financial condition of the insurer; the method of operation and expenses of such insurer; the loss experience of the insurer, past and prospective, including where pertinent the conflagration and catastrophe hazards, if any, both within and without this state; to all factors reasonably related to the kind of insurance involved; to a reasonable margin for an underwriting profit for the insurer, and, in

the case of participating insurers, to policyholders' dividends. The Board shall issue an order permitting the deviation for such insurer to be filed if it is found to be justified upon the applicant's showing that the resulting premiums would be adequate and not unfairly discriminatory. The Board shall issue an order denying such application if it finds that the resulting premiums would be inadequate or unfairly discriminatory. As soon as reasonably possible after such application has been made the Board shall in writing permit or deny the same; provided, that any such application shall be deemed permitted unless denied within thirty (30) days; provided, that the Board may by official order postpone action for one additional period not exceeding thirty (30) days if deemed necessary for proper consideration; except that deviations in effect at the time this Act becomes effective shall be controlled by subdivision (f) hereof. Each deviation permitted to be filed shall be effective for a period of one (1) year from the date of final granting of such permission whether by the Board in the first instance or upon direction of the court. However, a deviation may be withdrawn at any time with the approval of the Board or terminated by order of the Board, which order must specify the reasons for such termination. All deviations from maximum rates shall be governed by this Article.

(e) No policy of insurance in force prior to the taking effect of any changes in rate that result from the provisions of this Act shall be affected thereby, unless there shall be a change in the hazard of the risk necessitating a change in the rate applicable to such risk, in which event such policy shall be subject to new rates developed under the provisions hereof.

(f) Any deviations from maximum rates on file with the Board and in effect until the effective time of this Act shall remain in effect for a period of thirty (30) days after such effective time, and if during such thirty (30) day period a written application to the Board is made for permission to file such deviations under this Act, same shall remain in effect until the Board has entered its order either permitting or denying the application and during the full course of any hearings on and appeal from any such order.

(g) The Board may call a public hearing on any application for permission to file a deviation or a hearing on a permitted deviation and shall call a hearing upon the request of any aggrieved policyholder of the company filing the deviation made within thirty

(30) days after the granting or denying of any deviation. The Board shall give reasonable notice of such hearings and shall hear witnesses respecting such matters. Any applicant dissatisfied with any order of the Board made without a hearing under this Article may within thirty (30) days after entry of such order make written request of the Board for a hearing thereon. The Board shall hear such applicant within twenty (20) days after receiving such request and shall give not less than ten (10) days written notice of the time and place of the hearing. Within fifteen (15) days after such hearing the Board shall affirm, reverse or modify by order its previous action, specifying in such order its reasons therefor. Any applicant who may be dissatisfied with any order of the Board respecting its application may appeal in accordance with Article 1.04 of this code. The judgment of the District Court shall be appealable as in any other civil case. Such action shall have precedence over other civil cases on the dockets of the appellate courts. Should the Board terminate or refuse to renew a permitted deviation or refuse permission for filing of a deviation under subdivision (f) hereof, then such deviation shall remain in effect during the course of any hearing thereon and thirty (30) days thereafter, and during the course of any appeal taken from such order and until final judgment of the courts.

(h) Repealed by Acts 2003, 78th Leg., ch. 206, Sec. 21.47(2).

(i) Notwithstanding Subsections (a)-(h) of this article, on and after the effective date of S.B. No. 14, Acts of the 78th Legislature, Regular Session, 2003, rates for homeowners and residential fire and residential allied lines insurance coverage under this subchapter are determined as provided by Subchapter Q of this chapter, and rates for other lines of insurance subject to this subchapter are determined as provided by Article 5.13-2 of this code, except that on and after December 1, 2004, rates for all lines of insurance subject to this subchapter are determined as provided by Article 5.13-2 of this code.

Acts 1951, 52nd Leg., ch. 491. Amended by Acts 1957, 55th Leg., p. 1443, ch. 497, Sec. 1; Acts 1981, 67th Leg., p. 2637, ch. 707, Sec. 4(23), eff. Aug. 31, 1981.

Subsec. (d) amended by and Subsec. (i) added by Acts 1991, 72nd Leg., ch. 242, Sec. 2.26, eff. Sept. 1, 1991; Subsec. (i) amended by Acts 1991, 72nd Leg., 2nd C.S., ch. 12, Sec. 8.12, eff. Jan. 1, 1992;

Subsec. (g) amended by Acts 1993, 73rd Leg., ch. 685, Sec. 4.03, eff. Sept. 1, 1993; Subsec. (i) amended by Acts 1995, 74th Leg., ch. 984, Sec. 15, eff. Sept. 1, 1995; Subsec. (i) amended by Acts 1997, 75th Leg., ch. 1330, Sec. 5, eff. Sept. 1, 1997; Subsec. (h) repealed by Acts 2003, 78th Leg., ch. 206, Sec. 21.47(2), eff. June 11, 2003; Subsec. (i) amended by Acts 2003, 78th Leg., ch. 206, Sec. 21.15, eff. June 11, 2003.

Art. 5.27. NO COMPANY EXEMPT. Every fire insurance company, every marine insurance company, every fire and marine insurance company, every fire and tornado insurance company, and each and every insurance company of every kind and name issuing a contract or policy of insurance, or contracts or policies of insurance against loss by fire on property within this State, whether such property be fixed or movable, stationary or in transit, or whether such property is consigned or billed for shipment within or beyond the boundary of this State or to some foreign county, whether such company is organized under the laws of this State or under the laws of any other state, territory or possession of the United States, or foreign country, or by authority of the Federal Government, now holding certificate of authority to transact business in this State, shall be deemed to have accepted such certificate and to transact business thereunder, upon condition that it consents to the terms and provisions of this subchapter and that it agrees to transact business in this State, subject thereto; it being intended that every contract or policy of insurance against the hazard of fire shall be issued in accordance with the terms and provisions of this subchapter, and the company issuing the same governed thereby, regardless of the kind and character of such property and whether the same is fixed or movable, stationary or in transit, including the shore end of all marine risks insured against loss by fire.

Acts 1951, 52nd Leg., ch. 491.

Art. 5.28. STATEMENTS AND BOOKS. (a) Said Board is authorized and empowered to require sworn statements for any period of time from any insurance company affected by this law and from any of its directors, officers, representatives, general agents, state agents,

special agents, and local agents of the rates and premiums collected for fire insurance on each class of risks, on all property in this State and of the causes of fire, if such be known, if they are in possession of such data, and information, or can obtain it at a reasonable expense; and said Board is empowered to require such statements showing all necessary facts and information to enable said Board to make, amend and maintain the general basis schedules provided for in this law and the rules and regulations for applying same and to determine reasonable and proper maximum specific rates.

(b) Repealed by Acts 2005, 79th Leg., Ch. 727, Sec. 18, eff. April 1, 2007.

(c) Repealed by Acts 2005, 79th Leg., Ch. 727, Sec. 18, eff. April 1, 2007.

(d) Notwithstanding Subsection (a) of this article, on and after the effective date of S.B. No. 14, Acts of the 78th Legislature, Regular Session, 2003, rates for homeowners and residential fire and residential allied lines insurance coverage under this subchapter are determined as provided by Subchapter Q of this chapter, and rates for other lines of insurance subject to this subchapter are determined as provided by Article 5.13-2 of this code, except that on and after December 1, 2004, rates for all lines of insurance subject to this subchapter are determined as provided by Article 5.13-2 of this code.

Acts 1951, 52nd Leg., ch. 491.

Amended by Acts 1991, 72nd Leg., ch. 242, Sec. 2.27, eff. Sept. 1, 1991; Subsec. (d) amended by Acts 1991, 72nd Leg., 2nd C.S., ch. 12, Sec. 8.13, eff. Jan. 1, 1992; amended by Acts 1995, 74th Leg., ch. 984, Sec. 16, eff. Sept. 1, 1995; Subsec. (d) amended by Acts 1997, 75th Leg., ch. 1330, Sec. 6, eff. Sept. 1, 1997; Subsec. (d) amended by Acts 2003, 78th Leg., ch. 206, Sec. 21.16, eff. June 11, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 727 (H.B. [2017](#)), Sec. 7, eff. April 1, 2007.

Acts 2005, 79th Leg., Ch. 727 (H.B. [2017](#)), Sec. 18, eff. April 1, 2007.

Art. 5.29. SCHEDULE AND REPORT. (a) The rates of premium fixed by said Board in pursuance of the provision of this subchapter shall be at all times reasonable and the schedules thereof made and

promulgated by said Board shall be in such forms as will in the judgment of the Board most clearly and in detail disclose the rate so fixed and determined by said Board to be charged and collected for policies of fire insurance. Said Board may employ and use any facts obtainable from and concerning fire insurance companies transacting business in this State, showing their expense and charges for fire insurance premiums for any period or periods said Board may deem advisable, which in their opinion will enable them to devise and fix and determine reasonable rates of premiums for fire insurance. The said Board in making and publishing schedules of the rates fixed and determined by it shall show all charges, credits, terms, privileges and conditions which in anywise affect such rates, and copies of all such schedules shall be furnished by said Board to any and all companies affected by this subchapter applying therefor, and the same shall be furnished to any citizens of this State applying therefor, upon the payment of the actual cost thereof. No rate or rates fixed or determined by the Board shall take effect until it shall have entered an order or orders fixing and determining same, and shall give notice thereof to all fire insurance companies affected by this subchapter, authorized to transact business in the State. The Board, and any inspector or other agent or employee thereof, who shall inspect any risk for the purpose of enabling the Board to fix and determine the reasonable rate to be charged thereon, shall furnish to the owner of such risk at the date of such inspection a copy of the inspection report, showing all defects that may operate as charges to increase the insurance rate.

(b) Notwithstanding Subsection (a) of this article, on and after the effective date of S.B. No. 14, Acts of the 78th Legislature, Regular Session, 2003, rates for homeowners and residential fire and residential allied lines insurance coverage under this subchapter are determined as provided by Subchapter Q of this chapter, and rates for other lines of insurance subject to this subchapter are determined as provided by Article 5.13-2 of this code, except that on and after December 1, 2004, rates for all lines of insurance subject to this subchapter are determined as provided by Article 5.13-2 of this code.

Acts 1951, 52nd Leg., ch. 491.

Amended by Acts 1991, 72nd Leg., ch. 242, Sec. 2.28, eff. Sept. 1, 1991; Subsec. (b) amended by Acts 1991, 72nd Leg., 2nd C.S., ch. 12, Sec. 8.14, eff. Jan. 1, 1992; amended by Acts 1995, 74th Leg., ch.

984, Sec. 17, eff. Sept. 1, 1995; Subsec. (b) amended by Acts 1997, 75th Leg., ch. 1330, Sec. 7, eff. Sept. 1, 1997; Subsec. (b) amended by Acts 2003, 78th Leg., ch. 206, Sec. 21.17, eff. June 11, 2003.

Art. 5.30. ANALYSIS OF RATE. (a) All schedules of rates promulgated by said Board shall be open to the public, and every local agent of any company engaging in the business of fire insurance in this state shall have and exhibit to the public copies of such schedules covering all risks upon which he is authorized to write insurance.

(b) Notwithstanding Subsection (a) of this article, on and after the effective date of S.B. No. 14, Acts of the 78th Legislature, Regular Session, 2003, rates for homeowners and residential fire and residential allied lines insurance coverage under this subchapter are determined as provided by Subchapter Q of this chapter, and rates for other lines of insurance subject to this subchapter are determined as provided by Article 5.13-2 of this code, except that on and after December 1, 2004, rates for all lines of insurance subject to this subchapter are determined as provided by Article 5.13-2 of this code.

Acts 1951, 52nd Leg., ch. 491.

Amended by Acts 1991, 72nd Leg., ch. 242, Sec. 2.29, eff. Sept. 1, 1991; Subsec. (b) amended by Acts 1991, 72nd Leg., 2nd C.S., ch. 12, Sec. 8.15, eff. Jan. 1, 1992; amended by Acts 1995, 74th Leg., ch. 984, Sec. 18, eff. Sept. 1, 1995; Subsec. (b) amended by Acts 1997, 75th Leg., ch. 1330, Sec. 8, eff. Sept. 1, 1997; Subsec. (b) amended by Acts 2003, 78th Leg., ch. 206, Sec. 21.18, eff. June 11, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 727 (H.B. [2017](#)), Sec. 8, eff. April 1, 2007.

Art. 5.31. CHANGE OR LIMIT OF RATE. (a) Said Board shall have full power and authority to alter, amend, modify or change any rate fixed and determined by it on thirty (30) days' notice, or to prescribe that any such rate or rates shall be in effect for a limited time, and said Board shall also have full power and authority to prescribe reasonable rules whereby in cases where no rate of premium shall have been fixed and determined by the Board, for

certain risks or classes of risks, policies may be written thereon at rates to be determined by the company. Such company or companies shall immediately report to said Board such risk so written, and the rates collected therefor, and such rates shall always be subject to review by the Board.

(b) Notwithstanding Subsection (a) of this article, on and after the effective date of S.B. 14, Acts of the 78th Legislature, Regular Session, 2003, rates for homeowners and residential fire and residential allied lines insurance coverage under this subchapter are determined as provided by Subchapter Q of this chapter, and rates for other lines of insurance subject to this subchapter are determined as provided by Article 5.13-2 of this code, except that on and after December 1, 2004, rates for all lines of insurance subject to this subchapter are determined as provided by Article 5.13-2 of this code.

Acts 1951, 52nd Leg., ch. 491.

Amended by Acts 1991, 72nd Leg., ch. 242, Sec. 2.30, eff. Sept. 1, 1991; Subsec. (b) amended by Acts 1991, 72nd Leg., 2nd C.S., ch. 12, Sec. 8.16, eff. Jan. 1, 1992; amended by Acts 1995, 74th Leg., ch. 984, Sec. 19, eff. Sept. 1, 1995; Subsec. (b) amended by Acts 1997, 75th Leg., ch. 1330, Sec. 9, eff. Sept. 1, 1997; Subsec. (b) amended by Acts 2003, 78th Leg., ch. 206, Sec. 21.19, eff. June 11, 2003.

Art. 5.32. PETITION FOR CHANGE. (a) Any such fire insurance company shall have the right at any time to petition the Board for an order changing or modifying any rate or rates fixed and determined by the Board, and the Board shall consider such petition in the manner provided in this subchapter and enter such order thereon as it may deem just and equitable.

(b) Notwithstanding Subsection (a) of this article, on and after the effective date of S.B. No. 14, Acts of the 78th Legislature, Regular Session, 2003, rates for homeowners and residential fire and residential allied lines insurance coverage under this subchapter are determined as provided by Subchapter Q of this chapter, and rates for other lines of insurance subject to this subchapter are determined as provided by Article 5.13-2 of this code, except that on and after December 1, 2004, rates for all lines of insurance subject to this subchapter are determined as provided by Article 5.13-2 of this code.

Acts 1951, 52nd Leg., ch. 491.

Amended by Acts 1991, 72nd Leg., ch. 242, Sec. 2.31, eff. Sept. 1, 1991; Subsec. (b) amended by Acts 1991, 72nd Leg., 2nd C.S., ch. 12, Sec. 8.17, eff. Jan. 1, 1992; amended by Acts 1995, 74th Leg., ch. 984, Sec. 20, eff. Sept. 1, 1995; Subsec. (b) amended by Acts 1997, 75th Leg., ch. 1330, Sec. 10, eff. Sept. 1, 1997; Subsec. (b) amended by Acts 2003, 78th Leg., ch. 206, Sec. 21.20, eff. June 11, 2003.

Art. 5.34. REVISING RATES. (a) The Board shall have authority after having given reasonable notice, not exceeding thirty (30) days, of its intention to do so, to alter, amend or revise any rates of premium fixed and determined by it in any schedules of such rates promulgated by it, and to give reasonable notice of such alteration, amendment or revision to the public, or to any company or companies affected thereby. Such altered, amended or revised rates shall be the rates thereafter to be charged and collected by all fire insurance companies affected by this subchapter. No policy in force prior to the taking effect of such changes or amendments shall be affected thereby, unless there shall be a change in the hazard of the risk, necessitating a change in the rate applicable to such risk, in which event such policy shall be subject to the new rates.

(b) Notwithstanding Subsection (a) of this article, on and after the effective date of S.B. No. 14, Acts of the 78th Legislature, Regular Session, 2003, rates for homeowners and residential fire and residential allied lines insurance coverage under this subchapter are determined as provided by Subchapter Q of this chapter, and rates for other lines of insurance subject to this subchapter are determined as provided by Article 5.13-2 of this code, except that on and after December 1, 2004, rates for all lines of insurance subject to this subchapter are determined as provided by Article 5.13-2 of this code.

Acts 1951, 52nd Leg., ch. 491.

Amended by Acts 1991, 72nd Leg., ch. 242, Sec. 2.32, eff. Sept. 1, 1991; Subsec. (b) amended by Acts 1991, 72nd Leg., 2nd C.S., ch. 12, Sec. 8.18, eff. Jan. 1, 1992; amended by Acts 1995, 74th Leg., ch. 984, Sec. 21, eff. Sept. 1, 1995; Subsec. (b) amended by Acts 1997, 75th Leg., ch. 1330, Sec. 12, eff. Sept. 1, 1997; Subsec. (b) amended by Acts 2003, 78th Leg., ch. 206, Sec. 21.21, eff. June 11, 2003.

Art. 5.35. POLICY FORMS. (a) The commissioner shall adopt policy forms and endorsements for each kind of insurance subject to this subchapter other than a line regulated under Article 5.13-2 of this code that may be used by an insurer without filing for approval to use such forms.

(b) The commissioner may also adopt policy forms and endorsements of national insurers or policy forms and endorsements adopted by a national organization of insurance companies or similar organization on policy forms and endorsements. Policy forms and endorsements may be adopted under this subsection for each kind of insurance subject to this subchapter other than a line regulated under Article 5.13-2 of this code on the request of an insurer. For purposes of this subsection, "national insurer" means an insurer subject to this article that, either directly or together with its affiliates as part of an insurance holding company system as those terms are defined by Article 21.49-1 of this code, is licensed to do business and write the kinds of insurance that are subject to this subchapter in 26 or more states and maintains minimum annual direct written premiums for residential property insurance of \$750 million in the aggregate for all states.

(c) The commissioner may approve the use of policy forms and endorsements adopted by a national organization of insurance companies or a similar organization, if such forms or endorsements are filed with and are approved by the commissioner in accordance with this article.

(d) An insurer may use an endorsement to the policy forms adopted or approved by the commissioner under this article if the endorsement is approved by the commissioner pursuant to this article.

(e) Unless adopted or approved by the commissioner pursuant to Subsection (a), (b), or (c) of this article or, in the case of an endorsement, under Subsection (d) of this article, an insurance policy or endorsement for use in writing the types of insurance subject to this article may not be delivered or issued for delivery in this state.

(f) Each filing pursuant to Subsection (c) or (d) of this article shall be made not later than the 60th day before the date of any use or delivery for use. At the expiration of the 60-day period, a filed form or endorsement is approved unless before the expiration

of the 60 days the commissioner either disapproves the form or endorsement by order or approves the form or endorsement. Approval of a form or endorsement by the commissioner constitutes a waiver of any unexpired portion of the 60-day period. The commissioner may extend, by not more than an additional 30 days, the period during which the commissioner may approve or disapprove a form or endorsement by giving notice to the filer of the extension before the expiration of the initial period. At the expiration of any extension and in the absence of any earlier approval or disapproval, the form or endorsement shall be considered approved. For good cause shown, the commissioner may withdraw the commissioner's approval at any time after notice and hearing.

(g)(1) The commissioner may disapprove a policy form or endorsement filed under this article, or withdraw any previous approval thereof, if the policy form or endorsement:

(A) violates or does not comply with this code, or any valid rule relating thereto duly adopted by the commissioner, or is otherwise contrary to law; or

(B) contains provisions or has any titles or headings which are unjust, encourage misrepresentation, are deceptive, or violate public policy.

(2) The commissioner's order disapproving any form or endorsement or any notice of the commissioner's intention to withdraw a previous approval must state the grounds for the disapproval in enough detail to reasonably inform the filer of the grounds. An order of withdrawal of a previously filed form or endorsement takes effect on the expiration of the prescribed period but not sooner than the 60th day after the effective date of the withdrawal order, as prescribed by the commissioner.

(h) The commissioner may not adopt or approve policy forms for personal fire or homeowner's insurance or any endorsement to the policy if the policy or endorsement is not in plain language. For the purposes of this subsection, a policy or endorsement is written in plain language if it achieves the minimum score established by the commissioner on the Flesch reading ease test or an equivalent test selected by the commissioner or, at the option of the commissioner, if it conforms to the language requirements in a National Association of Insurance Commissioners model act relating to plain language. This subsection does not apply to policy language that is mandated by state or federal law.

(i) An insurer may not use in this state any form or endorsement after disapproval of the form or endorsement or withdrawal of approval by the commissioner.

(j) Notwithstanding Article 1.35A of this code, the office of public insurance counsel may submit written comments to the commissioner and otherwise participate regarding individual company filings made pursuant to this article.

(k)(1) For any policy form and endorsements approved by the commissioner under Subsections (a), (b), or (c) of this article, the commissioner shall promulgate a comparison form for that policy.

(2) The comparison form shall be developed with the assistance of the office of public insurance counsel and with input from the public and shall be designed to explain the features and limitations of the policy compared to other approved policies. An insurer using a policy form may be required to develop the comparison form and submit it for approval by the commissioner. The comparison form shall be made available by an insurer to anyone inquiring about the policy and shall be made available by the department via the Internet and other means as prescribed by the commissioner.

(3) The comparison form shall be designed to be easily read and understood in order to facilitate comparison and understanding of the policy and must meet the requirements of Subsection (h) of this article. At a minimum, the comparison form shall show the features of the policy compared to the HO-B, HO-A, and at least one other policy form widely in use in this state.

(4) The commissioner may adopt rules to carry out the purposes of this subsection.

Acts 1951, 52nd Leg., ch. 491.

Amended by Acts 1991, 72nd Leg., ch. 242, Sec. 2.33, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 1330, Sec. 13, eff. Sept. 1, 1997; Subsec. (k) added by Acts 2003, 78th Leg., ch. 206, Sec. 21.22, eff. June 11, 2003; Subsec. (k) added by Acts 2003, 78th Leg., ch. 797, Sec. 2, eff. June 20, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 727 (H.B. [2017](#)), Sec. 18, eff. April 1, 2007.

Art. 5.39. COMPLAINT OF RATES OR ORDERS. (a) Any citizen or

number of citizens of this State or any policyholder or policyholders, or any insurance company affected by this subchapter, or any board of trade, chamber of commerce, or other civic organization, or the civil authorities of any town, city, or village, shall have the right to file a petition with the Board, setting forth any cause of complaint that they may have as to any order made by this Board, or any rate fixed and determined by the Board, and they shall have the right to offer evidence in support of the allegations of such petition by witnesses, or by depositions, or by affidavits; upon the filing of such petition, the party complained of, if other than the Board, shall be notified by the Board of the filing of such petition and a copy thereof furnished the party or parties, company or companies, of whom complaint is made, and the said petition shall be set down for a hearing at a time not exceeding thirty (30) days after the filing of such petition and the Board shall hear and determine said petition; but it shall not be necessary for the petitioners or any one of them to be present to present the cause to the Board, but they shall consider the testimony of all witnesses, whether such witnesses testify in person or by depositions, or by affidavits, and if it be found that the complaint made in such petition is a just one, then the matter complained of shall be corrected or required to be corrected by said Board.

(b) Notwithstanding Subsection (a) of this article, on and after the effective date of S.B. No. 14, Acts of the 78th Legislature, Regular Session, 2003, rates for homeowners and residential fire and residential allied lines insurance coverage under this subchapter are determined, and hearings related to those rates are conducted, as provided by Subchapter Q of this chapter, and rates for other lines of insurance subject to this subchapter are determined as provided by Article 5.13-2 of this code, except that on and after December 1, 2004, rates for all lines of insurance subject to this subchapter are determined as provided by Article 5.13-2 of this code.

Acts 1951, 52nd Leg., p. 868, ch. 491.

Amended by Acts 1991, 72nd Leg., ch. 242, Sec. 2.34, eff. Sept. 1, 1991; Subsec. (b) amended by Acts 1991, 72nd Leg., 2nd C.S., ch. 12, Sec. 8.19, eff. Jan. 1, 1992; amended by Acts 1995, 74th Leg., ch. 984, Sec. 22, eff. Sept. 1, 1995; Subsec. (b) amended by Acts 1997, 75th Leg., ch. 1330, Sec. 14, eff. Sept. 1, 1997; Subsec. (b) amended by Acts 2003, 78th Leg., ch. 206, Sec. 21.25, eff. June 11,

2003.

Art. 5.40. HEARING OF PROTESTS. (a) The Board shall give the public and all insurance companies to be affected by its orders or decisions, reasonable notice thereof, not exceeding thirty (30) days, and an opportunity to appear and be heard with respect to the same; which notice to the public shall be published in one or more daily papers of the State, and such notice to any insurance company to be affected thereby shall be mailed addressed to the State or general agent of such company, if such address be known to the Board, or if not known, then such letter shall be addressed to some local agent of such company, or if the address of a local agent be unknown to the Board, then by publication in one or more of the daily papers of the State, and the Board shall hear all protests or complaints from any insurance company or any citizen or any city, or town, or village or any commercial or civic organization as to the inadequacy or unreasonableness of any rates fixed by it or approved by it, or as to the inadequacy or unreasonableness of any general basis schedules promulgated by it or the injustice of any order or decision by it, and if any insurance company, or other person, or commercial or civic organization, or any city, town or village, which shall be interested in any such order or decision shall be dissatisfied with any regulation, schedule or rate adopted by such Board, such company or person, commercial or civic organization, city, town or village shall have the right, within thirty (30) days after the making of such regulation or order, or rate, or schedule or within thirty (30) days after hearing above provided for, to bring an action against said Board in the District Court of Travis County to have such regulation or order or schedule or rate vacated or modified; and shall set forth in a petition therefor the principal grounds of objection to any or all of such regulations, schedules, rates or orders. In any such suit the issue shall be formed and the controversy tried and determined as in other civil cases. The court may set aside and vacate or annul any or all or any part of any regulation, schedule, order or rate promulgated or adopted by said Board, which shall be found by the court to be unreasonable, unjust, excessive or inadequate, without disturbing others. No injunction, interlocutory order or decree suspending or restraining, directly or indirectly, the enforcement of any schedule, rate, order or regulation of said

Board shall be granted. In such suit, the court, by interlocutory order, may authorize the writing and acceptance of fire insurance policies at any rate which in the judgment of court is fair and reasonable, during the pending of such suit, upon condition that the party to such suit in whose favor the said interlocutory order of said court may be, shall execute and file with the Board a good and sufficient bond to be first approved by said court, conditioned that the party giving said bond will abide the final judgment of said court and will pay to the Board whatever difference in the rate of insurance, it may be finally determined to exist between the rates as fixed by the Board complained of in such suit, and the rate finally determined to be fair and reasonable by the court in said suit, and the said Board, when it receives such difference in money, shall transmit the same to the parties entitled thereto.

(b) Whenever any action shall be brought by any company under any provision of this article within said period of thirty (30) days, no penalties nor forfeitures shall attach or accrue on account of the failure of the plaintiff to comply with the orders, schedules, rates or regulations sought to be vacated in such action until the final determination of the same.

(c) Either party to any such action, if dissatisfied with the judgment or decree of said court, may appeal therefrom as in other civil cases. No action shall be brought in any court of the United States to set aside any orders, rates, schedules or regulations made by said Board under the provisions of this law until all of the remedies provided herein shall have been exhausted by the party complaining.

(d) Notwithstanding Subsections (a)-(c) of this article, on and after the effective date of S.B. No. 14, Acts of the 78th Legislature, Regular Session, 2003, rates for homeowners and residential fire and residential allied lines insurance coverage under this subchapter are determined, and hearings related to those rates are conducted, as provided by Subchapter Q of this chapter, and rates for other lines of insurance subject to this subchapter are determined as provided by Article 5.13-2 of this code, except that on and after December 1, 2004, rates for all lines of insurance subject to this subchapter are determined as provided by Article 5.13-2 of this code.

Acts 1951, 52nd Leg., p. 868, ch. 491.

Amended by Acts 1991, 72nd Leg., ch. 242, Sec. 2.35, eff. Sept. 1, 1991; Subsec. (d) amended by Acts 1991, 72nd Leg., 2nd C.S., ch. 12, Sec. 8.20, eff. Jan. 1, 1992; amended by Acts 1995, 74th Leg., ch. 984, Sec. 23, eff. Sept. 1, 1995; Subsec. (d) amended by Acts 1997, 75th Leg., ch. 1330, Sec. 15, eff. Sept. 1, 1997; Subsec. (d) amended by Acts 2003, 78th Leg., ch. 206, Sec. 21.26, eff. June 11, 2003.

Art. 5.41. REBATING OR DISCRIMINATION. (a) A company engaging or participating in the insuring or reinsuring of any property in this state against loss or damage by fire may not knowingly write insurance at any lesser rate than the rates herein provided for, and it shall be unlawful for any company so to do, unless it shall thereafter file an analysis of same with the Board.

(b) Notwithstanding Subsection (a) of this article, on and after the effective date of S.B. No. 14, Acts of the 78th Legislature, Regular Session, 2003, rates for homeowners and residential fire and residential allied lines insurance coverage under this subchapter are determined as provided by Subchapter Q of this chapter, and rates for other lines of insurance subject to this subchapter are determined as provided by Article 5.13-2 of this code, except that on and after December 1, 2004, rates for all lines of insurance subject to this subchapter are determined as provided by Article 5.13-2 of this code.

Acts 1951, 52nd Leg., p. 868, ch. 491.

Amended by Acts 1991, 72nd Leg., ch. 242, Sec. 2.36, eff. Sept. 1, 1991; Subsec. (b) amended by Acts 1991, 72nd Leg., 2nd C.S., ch. 12, Sec. 8.21, eff. Jan. 1, 1992; amended by Acts 1995, 74th Leg., ch. 984, Sec. 24, eff. Sept. 1, 1995; Subsec. (b) amended by Acts 1997, 75th Leg., ch. 1330, Sec. 16, eff. Sept. 1, 1997; Subsec. (b) amended by Acts 2003, 78th Leg., ch. 206, Sec. 21.27, eff. June 11, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 727 (H.B. [2017](#)), Sec. 9, eff. April 1, 2007.

SUBCHAPTER D. WORKERS' COMPENSATION INSURANCE
SUBCHAPTER H. PREMIUM RATING PLANS

Art. 5.77. PREMIUM RATING PLANS; POWERS OF BOARD. The Board of Insurance Commissioners is hereby authorized and empowered to make or approve and promulgate premium rating plans designed to encourage the prevention of accidents, to recognize the peculiar hazards of individual risks and to give due consideration to interstate as well as intrastate experience of such risks for Workmen's Compensation, Motor Vehicle and other lines of Casualty Insurance to be applicable separately for each class of insurance, or in combination of two or more of such classes. Such plans may be approved on an optional basis to apply prospectively, or retrospectively and may include premium discount plans, retrospective rating plans or other systems, plans or formulas, however named, if the rates thereby provided are not excessive, inadequate or unfairly discriminatory. The Board shall also have authority to make or approve and promulgate such reasonable rules and regulations as may be necessary, not in conflict with provisions of this Act.

Acts 1953, 53rd Leg., p. 64, ch. 50, Sec. 1.

Art. 5.78. CONSIDERATION OF ALL RELEVANT FACTORS. Before the Board of Insurance Commissioners approves class rates or rating plans, due consideration shall be given to all relevant factors to the end that no unfair discrimination shall exist in class rates or rating plans as they may affect risks of various size.

Acts 1953, 53rd Leg., p. 64, ch. 50, Sec. 1a.

Art. 5.79. OPTIONAL SELECTION AND APPLICATION. If for any form of casualty insurance affected by this Act more than one rating plan is approved for optional selection and application, the selection of the plan shall rest with the applicant.

Acts 1953, 53rd Leg., p. 64, ch. 50, Sec. 1b.

SUBCHAPTER L. ADMINISTRATIVE PROCEDURE FOR CHANGES IN MANUAL RULES, CLASSIFICATION PLANS, STATISTICAL PLANS, AND POLICY AND ENDORSEMENT FORMS AND FOR CERTAIN RATES AND RATING PLANS

Art. 5.96. PROMULGATED LINES. (a) The State Board of Insurance

may prescribe, promulgate, adopt, approve, amend, or repeal standard and uniform manual rules, rating plans, classification plans, statistical plans, and policy and endorsement forms for motor vehicle insurance, fire and allied lines insurance, workers' compensation insurance, and multiperil insurance under the procedure specified in this article.

(a-1) This article does not apply to the setting of rates for personal automobile insurance under Article 5.101 of this code, rates for fire and allied lines insurance under Subchapter Q of this chapter or, on and after December 1, 2004, rates for personal automobile insurance and fire and allied lines insurance under Article 5.13-2 of this code.

(b) Any interested person may initiate proceedings before the board with respect to any matter specified in Section (a) of this article by filing a written petition with the chief clerk of the board that includes the following:

(1) specific identification of the matter that is proposed to be prescribed, promulgated, adopted, approved, amended, or repealed;

(2) the wording of the matter proposed to be prescribed, promulgated, adopted, approved, amended, or repealed; and

(3) justification for the proposed action in sufficient particularity to inform the board and any interested person of the petitioner's reasons and arguments.

(c) A copy of each petition initiating a proceeding shall be marked with the date it was received by the chief clerk of the board and shall be made available for public inspection at the office of the chief clerk of the board during the period the petition is pending. Except for emergency matters acted on under Section (i) of this article, the board may not act on a petition until it has been available for public inspection for at least 15 days after the date of filing and notice has been given in accordance with this section. Not later than the 30th day before the date the board takes action on any rule, rating plan, classification plan, statistical plan, or policy or endorsement form under this article, the board shall publish in the Texas Register a notice of the meeting or hearing at which the action will be taken. The notice must include a brief summary of the substance of the proposed rule, rating plan, classification plan, statistical plan, or policy or endorsement form, and a statement that the full text of the rule, rating plan, classification plan, statistical plan, or policy or endorsement form

is available for review in the office of the chief clerk of the State Board of Insurance.

(d) Any interested person may request the board to hold a hearing before it acts on a pending petition. Except as provided by Article 5.96A of this code, the board has discretion whether or not to hold such a hearing.

(e) Within 60 days after the receipt of a petition, the board shall hold a hearing to consider the proposal or shall enter an order implementing or denying the proposal. If the board denies the proposal, it shall specify the reasons for the denial in its order.

(f) On its own motion, the board may initiate a proceeding with respect to any matter specified in Section (a) of this article.

(g) If a hearing is scheduled to consider a proposal, the board shall publish notice in the Texas Register not less than 10 days before the hearing and shall state the time, place, legal authority for the hearing, and the matters to be considered.

(h) After entering an order with respect to any matter specified in Section (a) of this article, the board shall file a notice of its action for publication in the adopted rule section of the Texas Register. In addition, before the effective date of the action, the board shall cause notice of the order to be mailed to the applicant, to all insurers writing the affected line of insurance in this state, and to all other persons who have made timely written request for notification. Failure to mail this notice does not invalidate any action taken.

(i) The board's action takes effect 15 days after notice of that action appears in the Texas Register or on a later specified date. If the board finds that an imminent peril to the public health, safety, or welfare, or a requirement of state or federal law requires its action to be effective before the end of the 15-day period, it may take emergency action to be effective at an earlier time. The board's action on an emergency matter may be effective for 120 days, and renewable one time for a period not exceeding 60 days immediately following the 120-day period. The permanent adoption of an identical change is not precluded.

(j) Any person aggrieved by an order of the board is entitled to redress as provided by Article 5.11, Article 5.39, or Article 5.65 of this code, whichever is applicable to the line of insurance covered by the order.

(k) The Administrative Procedure and Texas Register Act (Article

6252-13a, Vernon's Texas Civil Statutes), does not apply to board action taken under this article.

(1) The board or the office of public insurance counsel may require that a person who has filed a petition under Subsection (b) of this article or who has otherwise presented materials to the board in connection with a proceeding under this article provide additional information to the board or office, including any statistical, actuarial, or other information on which the petition or other materials were based.

Added by Acts 1983, 68th Leg., p. 1252, ch. 272, Sec. 1, eff. May 28, 1983. Sec. (d) amended by Acts 1987, 70th Leg., 1st C.S., ch. 1, Sec. 2.09, eff. Sept. 2, 1987; Secs. (a-1), (1) added by and Subsecs. (c), (i) amended by Acts 1991, 72nd Leg., ch. 242, Sec. 2.41, eff. Sept. 1, 1991; Subsec. (a-1) amended by Acts 1995, 74th Leg., ch. 984, Sec. 25, eff. Sept. 1, 1995; Subsec. (a-1) amended by Acts 2003, 78th Leg., ch. 206, Sec. 21.31, eff. June 11, 2003.

Art. 5.96A. HEARING ON POLICY FORMS AND ENDORSEMENTS. (a) This article applies to any policy or endorsement form for commercial automobile insurance or commercial multiperil insurance.

(b) If a hearing is requested by at least 25 persons, by a governmental subdivision or agency, or by an association that has at least 25 members and if the persons, subdivision, agency, or association is affected by the policy or endorsement form, the board must hold a public hearing before a policy or endorsement form is prescribed, adopted, amended, approved, or repealed.

(c) The provisions of Article 5.96 of this code that are not inconsistent with this article apply to the policy or endorsement.

(d) Notwithstanding Subsections (a) through (c) of this article, on or after September 1, 1992, policy or endorsement forms for commercial motor vehicle insurance are adopted as provided by Article 5.06 of this code.

Added by Acts 1987, 70th Leg., 1st C.S., ch. 1, Sec. 2.08, eff. Sept. 2, 1987. Subsec. (d) added by Acts 1991, 72nd Leg., ch. 242, Sec. 2.42, eff. Sept. 1, 1991; Subsec. (d) amended by Acts 1995, 74th Leg., ch. 984, Sec. 26, eff. Sept. 1, 1995.

Art. 5.97. LINES OF INSURANCE FOR WHICH FILING IS REQUIRED. (a) The department may take action on filings for standard and uniform rates, rating plans, manual rules, classification plans, statistical plans, and policy and endorsement forms, or any modification of any of these for the lines of insurance regulated in Subchapter B, Chapter 5, of this code under the procedure specified in this article.

(b) Any interested person may initiate proceedings before the commissioner with respect to any matter specified in Section (a) of this article by filing a petition with the department that includes the following:

(1) specific identification of the matter that is proposed to be adopted, approved, amended, or repealed;

(2) the wording of the matter proposed to be adopted, approved, amended, or repealed; and

(3) justification for the proposed action in sufficient particularity to inform the commissioner and any interested person of the petitioner's reasons and arguments.

(c) A copy of each petition initiating a proceeding shall be marked with the date it was received by the department and shall be made available for public inspection at the office of the chief clerk of the department throughout the period the petition is pending. Except for emergency matters acted on under Section (j) of this article, the commissioner may not act on a petition until it has been available for public inspection for at least 15 days after the date of filing and notice has been given in accordance with this section. Not later than the 10th day before the date the commissioner takes action on any rule, rating plan, classification plan, statistical plan, or policy or endorsement form under this article, the department shall publish in the Texas Register a brief summary of the substance of the proposed rule, rating plan, classification plan, statistical plan, or policy or endorsement form, and a statement that the full text of the rule, rating plan, classification plan, statistical plan, or policy or endorsement form is available for review in the office of the chief clerk of the department.

(d) Any interested person may request a hearing before the commissioner acts on a pending petition. Except as provided by Article 5.97A of this code, the commissioner has discretion whether or not to hold such a hearing.

(e) Repealed by Acts 2003, 78th Leg., ch. 206, Sec. 21.47.

(f) The commissioner may hold a hearing to consider the proposal or may enter an order implementing or denying the proposal. If the commissioner denies a proposal, the commissioner shall specify the reasons for the denial in the commissioner's order.

(g) On its own motion, the department may initiate a proceeding with respect to any matter specified in Section (a) of this article.

(h) If a hearing is scheduled to consider a proposal, the department shall publish notice in the Texas Register not less than 10 days before the hearing and shall state the time, place, and legal authority for the hearing and the matters to be considered.

(i) After entering an order with respect to any matter specified in Section (a) of this article, the department shall file a notice of the commissioner's action for publication in the adopted rule section of the Texas Register. In addition, before the effective date of the action, the department shall cause notice of the order to be mailed to the applicant, to all insurers writing the affected line of insurance in this state, and to all other persons who have made timely written request for notification. Failure to mail this notice will not invalidate any action taken.

(j) The commissioner's action takes effect 15 days after the date that notice of the action is published in the Texas Register or on a later specified date. If the commissioner finds that an imminent peril to the public health, safety, or welfare, or a requirement of state or federal law, requires the commissioner's action to be effective before the end of the 15-day period, the commissioner may take emergency action to be effective at an earlier time. The commissioner's action on an emergency matter may be effective for 120 days, and renewable once for a period not exceeding 60 days immediately following the 120-day period. The permanent adoption of an identical change is not precluded.

(k) Any person aggrieved by an order of the commissioner is entitled to redress as provided by Article 5.23 of this code.

(l) Chapters 2001 and 2002, Government Code, do not apply to commissioner or department action taken under this article.

(m) The department or the office of public insurance counsel may require that a person who has filed a petition under Subsection (b) of this article or who has otherwise presented materials to the department in connection with a proceeding under this article provide additional information to the department or office, including any statistical, actuarial, or other information on which the petition or

other materials were based.

(n) Notwithstanding Subsections (a) through (l) of this article, this article does not apply to a line of insurance subject to Article 5.13-2 of this code.

Added by Acts 1983, 68th Leg., p. 1252, ch. 272, Sec. 1, eff. May 28, 1983. Sec. (d) amended by Acts 1987, 70th Leg., 1st C.S., ch. 1, Sec. 2.10, eff. Sept. 2, 1987; Subsecs. (c), (j) amended by and Subsecs. (m), (n), added by Acts 1991, 72nd Leg., ch. 242, Sec. 2.43, eff. Sept. 1, 1991; Subsec. (n) amended by Acts 1995, 74th Leg., ch. 984, Sec. 27, eff. Sept. 1, 1995; Subsecs. (a) to (d), (f) to (m), amended by Acts 2003, 78th Leg., ch. 206, Sec. 21.32, eff. June 11, 2003; Subsec. (e) amended by Acts 2003, 78th Leg., ch. 206, Sec. 21.47(7), eff. June 11, 2003.

Art. 5.97A. HEARING ON POLICY AND ENDORSEMENT FORMS. (a) This article applies to any policy or endorsement form for general liability insurance.

(b) If a hearing is requested by at least 25 persons, by a governmental subdivision or agency, or by an association that has at least 25 members and if the persons, subdivision, agency, or association is affected by the policy or endorsement form, the board must hold a public hearing before a policy or endorsement form is prescribed, adopted, amended, approved, or repealed.

(c) The provisions of Article 5.97 of this code that are not inconsistent with this article apply to the policy or endorsement.

Added by Acts 1987, 70th Leg., 1st C.S., ch. 1, Sec. 2.08, eff. Sept. 2, 1987.

CHAPTER 21. GENERAL PROVISIONS

SUBCHAPTER E. MISCELLANEOUS PROVISIONS

Art. 21.41. OTHER LAWS FOR CERTAIN COMPANIES. No provision of this chapter shall apply to companies carrying on the business of life or casualty insurance on the assessment or annual premium plan, under the provisions of this code.

Acts 1951, 52nd Leg., ch. 491.

Art. 21.42. TEXAS LAWS GOVERN POLICIES. Any contract of insurance payable to any citizen or inhabitant of this State by any insurance company or corporation doing business within this State shall be held to be a contract made and entered into under and by virtue of the laws of this State relating to insurance, and governed thereby, notwithstanding such policy or contract of insurance may provide that the contract was executed and the premiums and policy (in case it becomes a demand) should be payable without this State, or at the home office of the company or corporation issuing the same.

Acts 1951, 52nd Leg., ch. 491.

Art. 21.47. FALSE STATEMENT IN WRITTEN INSTRUMENT; PENALTY.

(a) A person commits an offense if the person knowingly or intentionally makes, files or uses any instrument in writing required to be made to or filed with the State Board of Insurance or the Insurance Commissioner, either by the Insurance Code or by rule or regulation of the State Board of Insurance, when the instrument in writing contains any false, fictitious, or fraudulent statement or entry with regard to any material fact.

(b) For purposes of this article, "Texas Department of Insurance" includes but is not limited to the executive director of the Texas Department of Insurance, the State Board of Insurance, or any association, corporation, or person created by the Insurance Code.

(c) An offense under this article is a felony of the third degree.

Added by Acts 1971, 62nd Leg., p. 2449, ch. 789, Sec. 2, eff. June 8, 1971.

Amended by Acts 1991, 72nd Leg., ch. 565, Sec. 7, eff. Sept. 1, 1991.

Art. 21.49-3. MEDICAL LIABILITY INSURANCE UNDERWRITING ASSOCIATION ACT.

Sec. 1. Repealed by Acts 2005, 79th Leg., Ch. 727, Sec. 18, eff. April 1, 2007.

Sec. 2. DEFINITIONS. (1) "Medical liability insurance" means primary and excess insurance coverage against the legal liability of

the insured and against loss, damage, or expense incident to a claim arising out of the death or injury of any person as the result of negligence in rendering or the failure to render professional service by a health care provider or physician who is in one of the categories eligible for coverage by the association.

(2) "Association" means the joint underwriting association established pursuant to the provisions of this article.

(3) "Net direct premiums" means gross direct premiums written on automobile liability and liability other than auto insurance written pursuant to the provisions of the Insurance Code, less policyholder dividends, return premiums for the unused or unabsorbed portion of premium deposits and less return premiums upon cancelled contracts written on such liability risks.

(4) "Board" means the State Board of Insurance of the State of Texas.

(5) "Physician" means a person licensed to practice medicine in this state.

(6) "Health care provider" means:

(A) any person, partnership, professional association, corporation, facility, or institution duly licensed or chartered by the State of Texas to provide health care as defined in Section 1.03(a)(2), Medical Liability and Insurance Improvement Act of Texas (Article 4590i, Vernon's Texas Civil Statutes), as:

(i) a registered nurse, hospital, dentist, podiatrist, pharmacist, chiropractor, or optometrist;

(ii) a for-profit or not-for-profit nursing home;

(iii) a radiation therapy center that is independent of any other medical treatment facility and which is licensed by the Texas Department of Health in that agency's capacity as the Texas Radiation Control Agency pursuant to the provisions of Chapter 401, Health and Safety Code, and which is in compliance with the regulations promulgated under that chapter;

(iv) a blood bank that is a nonprofit corporation chartered to operate a blood bank and which is accredited by the American Association of Blood Banks;

(v) a nonprofit corporation which is organized for the delivery of health care to the public and which is certified under Chapter 162, Occupations Code;

(vi) a health center as defined by 42 U.S.C. Section 254b, as amended; or

(vii) a for-profit or not-for-profit assisted living facility; or

(B) an officer, employee, or agent of an entity listed in Paragraph (A) of this subdivision acting in the course and scope of that person's employment.

Sec. 3. Repealed by Acts 2005, 79th Leg., Ch. 727, Sec. 18, eff. April 1, 2007.

Sec. 3A. Repealed by Acts 2005, 79th Leg., Ch. 727, Sec. 18, eff. April 1, 2007.

Sec. 3B. Repealed by Acts 2005, 79th Leg., Ch. 727, Sec. 18, eff. April 1, 2007.

Sec. 3C. Repealed by Acts 2007, 80th Leg., R.S., Ch. 730, Sec. 3B.060(b), eff. September 1, 2007.

Sec. 4. Repealed by Acts 2005, 79th Leg., Ch. 727, Sec. 18, eff. April 1, 2007.

Sec. 4A. Repealed by Acts 2005, 79th Leg., Ch. 727, Sec. 18, eff. April 1, 2007.

Sec. 4B. Repealed by Acts 2005, 79th Leg., Ch. 727, Sec. 18, eff. April 1, 2007.

Sec. 5. Repealed by Acts 2005, 79th Leg., Ch. 727, Sec. 18, eff. April 1, 2007.

Sec. 6. Repealed by Acts 2005, 79th Leg., Ch. 727, Sec. 18, eff. April 1, 2007.

Sec. 7. Repealed by Acts 2005, 79th Leg., Ch. 727, Sec. 18, eff. April 1, 2007.

Sec. 8. Repealed by Acts 2005, 79th Leg., Ch. 727, Sec. 18, eff. April 1, 2007.

Sec. 9. Repealed by Acts 2005, 79th Leg., Ch. 727, Sec. 18, eff. April 1, 2007.

Sec. 10. Repealed by Acts 2005, 79th Leg., Ch. 727, Sec. 18, eff. April 1, 2007.

Sec. 11. DISSOLUTION OF THE ASSOCIATION. Upon the effective date of this article, the board shall, after consultation with the joint underwriting association, representatives of the public, the Texas Medical Association, the Texas Podiatry Association, the Texas Hospital Association, and other affected individuals and organizations, promulgate a plan of suspension consistent with the provisions of this article, to become effective and operative on December 31, 1985, unless the board determines before that time that the association may be suspended or is no longer needed to accomplish

the purposes for which it was created. The plan of suspension shall contain provisions for maintaining reserves for losses which may be reported subsequent to the expiration of all policies in force at the time of such suspension. If, after the date of suspension ordered by the board, the board finds, after notice and hearing, that all known claims have been paid, provided for, or otherwise disposed of by the association, relating to policies issued prior to such suspension, then the board may wind up the affairs of the association, relating to policies issued prior to such suspension, by paying all funds remaining in the association to a special fund created by the statutory liquidator of the board as a reasonable reserve to be administered by said liquidator for unknown claims and claims expenses and for reimbursing assessments and contributions in accordance with Section 4(b)(5) of this article. The board shall, after consultation with the representatives of the public, the Texas Medical Association, the Texas Podiatry Association, the Texas Hospital Association, and other affected individuals and organizations, promulgate a plan for distribution of funds, if any, less reasonable and necessary expenses, to the policyholders ratably in proportion to premiums and assessments paid during the period of time prior to suspension in which the association issued policies. When all claims have been paid and no further liability of this association exists, the statutory liquidator shall distribute all funds in its possession to the applicable policyholders in accordance with the plan promulgated by the board. If such reserve fund administered by the statutory liquidator proves inadequate, the association shall be treated as an insolvent insurer in respect to the applicable provisions of Articles 21.28, 21.28A and 21.28-C, Insurance Code, not inconsistent with this article. Notice of claim shall be made upon the board.

Sec. 12. AUTHORITY OF THE BOARD OVER DISSOLUTION. At any time the board finds that the association is no longer needed to accomplish the purposes for which it was created, the board may issue an order suspending the association as of a certain date stated in the order. As soon as may be reasonably practical after December 31, 1984, the board shall determine whether or not medical liability insurance is reasonably available to physicians, health care providers, or any category of physicians or health care providers in this state through facilities other than the association and the need for the continuation of the operation of the association as to

physicians, health care providers, or any category of physicians or health care providers. The board shall not make such determination until a public meeting has been held. Prior notice of such meeting shall be given at least 10 days to the same persons or entities as are required for consultation in Section 11 of this article.

Sec. 13. TERMINATION OF POLICIES. After the date ordered for suspension by the board, no policies will be issued by the association. All then issued policies shall continue in force until terminated in accordance with the terms and conditions of such policies.

Acts 1975, 64th Leg., p. 867, ch. 331, Sec. 1, eff. June 3, 1975. Amended by Acts 1977, 65th Leg., p. 129, ch. 59, Sec. 1, 2, eff. April 13, 1977; Acts 1977, 65th Leg. p. 2057, ch. 817, Sec. 31.03 to 31.12, eff. Aug. 29, 1977; Acts 1979, 66th Leg., p. 147, ch. 79, Sec. 1, 2, eff. Aug. 27, 1979; Acts 1981, 67th Leg., p. 3159, ch. 829, Sec. 1, eff. June 17, 1981. Secs. 3, 11 to 13 amended by Acts 1983, 68th Leg., p. 5027, ch. 904, Sec. 1, eff. Aug. 29, 1983; Sec. 2(6) amended by Acts 1986, 69th Leg., 3rd C.S., ch. 11, Sec. 1, eff. Oct. 2, 1986; Sec. 3(b) amended by Acts 1987, 70th Leg., 1st C.S., ch. 1, Sec. 7.02, eff. Sept. 2, 1987; Sec. 2(6) amended by Acts 1991, 72nd Leg., ch. 14, Sec. 284(89), eff. Sept. 1, 1991; Sec. 6 amended by Acts 1991, 72nd Leg., ch. 242, Sec. 9.11, eff. Sept. 1, 1991; Sec. 7(b) amended by Acts 1991, 72nd Leg., ch. 242, Sec. 1.14, eff. Sept. 1, 1991; Sec. 7(b) amended by Acts 1993, 73rd Leg., ch. 685, Sec. 22.07, eff. Sept. 1, 1993; Sec. 10 amended by Acts 1997, 75th Leg., ch. 879, Sec. 9, eff. Sept. 1, 1997; Sec. 7 amended by Acts 1999, 76th Leg., ch. 779, Sec. 1, eff. Sept. 1, 1999; Sec. 2(6) amended by Acts 2001, 77th Leg., ch. 921, Sec. 1, eff. Sept. 1, 2001; Sec. 2(6) amended by Acts 2001, 77th Leg., ch. 1284, Sec. 5.04, eff. June 15, 2001; Sec. 3A(c) added by Acts 2001, 77th Leg., ch. 921, Sec. 2, eff. Sept. 1, 2001; Sec. 3A(c) added by Acts 2001, 77th Leg., ch. 1284, Sec. 5.05, eff. June 15, 2001; Sec. 4(b)(1) amended by Acts 2001, 77th Leg., ch. 921, Sec. 3, eff. Sept. 1, 2001; Sec. 4(b)(1), (3) amended by Acts 2001, 77th Leg., ch. 1284, Sec. 5.06, eff. June 15, 2001; Sec. 4(b)(6) added by Acts 2001, 77th Leg., ch. 1284, Sec. 5.06, eff. June 15, 2001; Sec. 4(d) added by Acts 2001, 77th Leg., ch. 921, Sec. 4, eff. Sept. 1, 2001; Sec. 4A amended by Acts 2001, 77th Leg., ch. 921, Sec. 5, eff. Sept. 1, 2001; Sec. 4A amended by Acts 2001, 77th Leg.,

ch. 1284, Sec. 5.07, eff. June 15, 2001; Secs. 4B, 4C added by Acts 2001, 77th Leg., ch. 1284, Sec. 5.08, eff. June 15, 2001; Sec. 5 amended by Acts 2001, 77th Leg., ch. 1284, Sec. 5.09, eff. June 15, 2001; Sec. 2(6) amended by Acts 2003, 78th Leg., ch. 141, Sec. 3, eff. Sept. 1, 2003; Sec. 3(d), added by Acts 2003, 78th Leg., ch. 1195, Sec. 1, eff. Sept. 1, 2003; Sec. 3A amended by Acts 2003, 78th Leg., ch. 141, Sec. 4, eff. Sept. 1, 2003; Sec. 3B added by Acts 2003, 78th Leg., ch. 141, Sec. 5, eff. Sept. 1, 2003; Sec. 4(a)(2) amended by Acts 2003, 78th Leg., ch. 56, Sec. 1, eff. Sept. 1, 2003; Sec. 4(b)(1) amended by Acts 2003, 78th Leg., ch. 141, Sec. 6, eff. Sept. 1, 2003; Sec. 4(b)(2) amended by Acts 2003, 78th Leg., ch. 206, Sec. 21.47(8), eff. June 11, 2003; Sec. 4(b)(3), amended by Acts 2003, 78th Leg., ch. 141, Sec. 6, eff. Sept. 1, 2003; Sec. 4(b)(4) amended by Acts 2003, 78th Leg., ch. 206, Sec. 21.34, eff. June 11, 2003; Sec. 4(b)(5) amended by Acts 2003, 78th Leg., ch. 206, Sec. 18.01, eff. June 11, 2003; Sec. 4(b)(6) amended by Acts 2003, 78th Leg., ch. 141, Sec. 6, eff. Sept. 1, 2003; Sec. 4(e), (f) added by Acts 2003, 78th Leg., ch. 56, Sec. 2, eff. Sept. 1, 2003; Sec. 4A amended by Acts 2003, 78th Leg., ch. 141, Sec. 7, eff. Sept. 1, 2003; amended by Acts 2003, 78th Leg., ch. 1195, Sec. 2, eff. Sept. 1, 2003; Sec. 4A(b) amended by Acts 2003, 78th Leg., ch. 56, Sec. 3, eff. Sept. 1, 2003; Sec. 4B(a) amended by Acts 2003, 78th Leg., ch. 141, Sec. 9, eff. Sept. 1, 2003; Sec. 4B(b) amended by Acts 2003, 78th Leg., ch. 56, Sec. 4, eff. Sept. 1, 2003; amended by Acts 2003, 78th Leg. ch. 141, Sec. 9, eff. Sept. 1, 2003; Sec. 4B(d), (e), (h) amended by Acts 2003, 78th Leg., ch. 141, Sec. 9, eff. Sept. 1, 2003; Sec. 4C(a), (c) amended by Acts 2003, 78th Leg., ch. 141, Sec. 10, eff. Sept. 1, 2003, Sec. 4C(d-1) added by Acts 2003, 78th Leg., ch. 141, Sec. 10, eff. Sept. 1, 2003; Sec. 5(a) amended by Acts 2003, 78th Leg., ch. 141, Sec. 11, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 246 (H.B. [655](#)), Sec. 1, eff. May 30, 2005.

Acts 2005, 79th Leg., Ch. 727 (H.B. [2017](#)), Sec. 18, eff. April 1, 2007.

Acts 2005, 79th Leg., Ch. 1136 (H.B. [2680](#)), Sec. 2, eff. June 18, 2005.

Acts 2007, 80th Leg., R.S., Ch. 730 (H.B. [2636](#)), Sec. 3B.060(b), eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 9.060(b), eff. September 1, 2007.

Art. 21.49-3a. REACTIVATION OF JOINT UNDERWRITING ASSOCIATIONS .

Sec. 1. Subsequent to the suspension of the operation of the Joint Underwriting Association created by the Texas Medical Liability Insurance Underwriting Association Act (Article 21.49-3, Insurance Code), it may be reactivated in conformity with the terms of Section 3 of this article. The board may also, if it deems such action to be appropriate, direct the statutory liquidator to secure reinsurance for all claims which potentially might be brought on policies issued by the Joint Underwriting Association or take any other action which will reduce to a minimum the participation and activities of the Joint Underwriting Association until such time as the association may be reactivated under the terms of Section 3 of this article.

Sec. 2. All terms used in this article have the same meanings as those specifically set out in Section 2, Article 21.49-3, Insurance Code.

Sec. 3. The State Board of Insurance, after notice and hearing as hereinafter provided, is authorized to reactivate the Joint Underwriting Association created by Article 21.49-3, Insurance Code. A hearing to determine the need for reactivation shall be set by the State Board of Insurance on petition of the Texas Medical Association, the Texas Podiatry Association, or the Texas Hospital Association or as many as 15 physicians or health care providers practicing or operating in this state, or such hearing may be set by the State Board of Insurance on its own finding that physicians or health care providers, or any category thereof, in this state are threatened with the possibility of being unable to secure medical liability insurance. At least 15 days prior to the date set, notice of the hearing shall be given to each insurer which, if reactivation is ordered, would be a member of the association as provided in Section 3(a), Article 21.49-3, Insurance Code. If the board finds that reactivation of the Joint Underwriting Association will be in the public interest, the board shall order the reactivation, designating the category or categories of physicians or health care providers who shall be eligible to secure medical liability insurance coverage from the association and specifying in the order a date not

fewer than 15 nor more than 60 days thereafter on which the provisions of Article 21.49-3, Insurance Code, shall become effective as if the same had been reenacted to be effective on the date specified in the order.

Added by Acts 1983, 68th Leg., p. 5031, ch. 904, Sec. 2, eff. Aug. 29, 1983.

Art. 21.49-3c. TEXAS NONPROFIT ORGANIZATION LIABILITY INSURANCE UNDERWRITING ASSOCIATION.

Sec. 1. DEFINITIONS. In this article:

(1) "Association" means the Texas Nonprofit Organization Liability Insurance Underwriting Association.

(2) "Board" means the State Board of Insurance.

(3) "Board of directors" means the board of directors of the association.

(4) "Fund" means the policyholder stabilization reserve fund.

(5) "Net direct premiums" means gross direct premiums written on automobile liability and liability other than automobile insurance written under this code, less the total of the policyholder dividends, return premiums for the unused or unabsorbed portion of premium deposits, and return premiums on canceled contracts written on those liability risks.

(6) "Nonprofit organization" means an organization that is listed under Section 501(c)(3) or (4), Internal Revenue Code of 1986.

(7) "Nonprofit organization liability insurance" means primary insurance coverage against the legal liability of the insured organization and its officers and employees acting on behalf of the organization and against any loss, damage, or expense incident to a claim arising out of the acts of the insured organization or its officers and employees acting on behalf of the organization.

Sec. 2. CREATION; COMPOSITION OF THE ASSOCIATION; DISSOLUTION.

(a) The Texas Nonprofit Organization Liability Insurance Underwriting Association is created if, after notice and hearing, the board determines that a market assistance program created under Article 21.49-12 of this code has not alleviated a problem in the availability of liability insurance to nonprofit organizations. The board may not make this determination until a market assistance

program has been in operation for at least 180 days.

(b) The association is composed of all insurers authorized to write and engaged in writing, on or after January 1, 1987, automobile liability insurance and liability other than automobile insurance in this state on a direct basis as provided by this code and includes Lloyd's and reciprocal or interinsurance exchanges.

(c) The association does not include farm mutual insurance companies authorized by Chapter 16 of this code and mutual insurance companies authorized by Chapter 17 of this code.

(d) Each insurer covered by Subsection (b) of this section must be a member of the association as a condition of its authority to continue to transact a liability insurance business in this state.

(e) The association is not a licensed insurer under Article 1.14-2 of this code.

(f) Not later than the first anniversary of the creation of the association under this section, the board shall give notice and hold a hearing to determine whether it is necessary to continue the association beyond the first anniversary of its creation. If the association is continued beyond the first anniversary of its creation, the board shall give notice and hold a hearing annually to determine whether it is necessary to continue the association for another year.

Sec. 3. INSURER PARTICIPATION IN ASSOCIATION. (a) Each insurer that is a member of the association shall participate in its writings, expenses, and losses in the proportion that the net direct premiums of each member, excluding that portion of premiums attributable to the operation of the association, written during the preceding calendar year bears to the aggregate net direct premiums written in this state by all members of the association.

(b) Each insurer's participation in the association shall be determined annually on the basis of net direct premiums written during the preceding calendar year, as reported in the annual statements and other reports filed by the insurer with the board.

(c) A member of the association is not obligated in any one year to reimburse the association in excess of one percent of its surplus to policyholders on account of its proportionate share in the deficit from the operations of the association in that year. The aggregate amount not reimbursed shall be reallocated among the remaining members under the method of determining participation provided by this section, after excluding from the computation the total net

direct premiums of all members not sharing in the excess deficit.

(d) If the deficit from the operations allocated to all members of the association in a calendar year exceeds one percent of their respective surplus to policyholders, the amount of the deficit shall be allocated to each member under the method of determining participation under this section.

Sec. 4. GENERAL RESPONSIBILITY OF ASSOCIATION. The association shall provide liability insurance on a self-supporting basis to nonprofit organizations.

Sec. 5. GENERAL AUTHORITY. Pursuant to this article and the plan of operation, the association may:

(1) issue, or cause to be issued, nonprofit organization liability insurance policies that include primary and incidental coverages in amounts not to exceed \$750,000 per occurrence and \$1.5 million aggregate a year for an individual insured;

(2) underwrite association insurance and adjust and pay losses with respect to that insurance;

(3) appoint service companies to adjust and pay losses for the association; and

(4) purchase reinsurance.

Sec. 6. BOARD OF DIRECTORS. (a) The association is governed by a board of directors composed of nine members.

(b) Members of the board of directors serve for terms of one year.

(c) Four members of the board of directors shall be members of the general public, appointed by the board. The remaining members of the board of directors shall be selected by members of the association and must be selected so that they fairly represent various classes of insurers and organizations that are members of the association.

(d) The plan of operation shall provide a process for the selection of members of the board of directors who are representatives of the insurance industry.

(e) A public representative who is a member of the board of directors may not be:

(1) an officer, director, or employee of an insurance company, insurance agency, agent, broker, solicitor, adjuster, or any other business entity regulated by the State Board of Insurance;

(2) a person required to register with the secretary of state under Chapter 305, Government Code; or

(3) related to a person described by Subdivision (1) or (2) of this subsection within the second degree of affinity or consanguinity.

Sec. 7. PLAN OF OPERATION. (a) The initial board of directors of the association shall prepare and adopt a plan of operation that is consistent with this article.

(b) The plan must provide for:

(1) economic, fair, and nondiscriminatory administration of the association and its duties;

(2) prompt and efficient provision of primary liability insurance for nonprofit organizations;

(3) preliminary assessment of association members for initial expenses necessary to begin operations;

(4) establishing necessary facilities;

(5) management of the association;

(6) assessment of members and policyholders to defray losses and expenses;

(7) administration of the policyholder stabilization reserve fund;

(8) commission arrangements;

(9) reasonable and objective underwriting standards;

(10) obtaining reinsurance;

(11) appointment of servicing carriers; and

(12) determining amounts of insurance to be provided by the association.

(c) The plan of operation must provide that any balance remaining in the various funds of the association at the close of its fiscal year shall be added to the reserves of the association. A balance remaining at the close of the fiscal year means the excess of revenue over expenditures after reimbursement of members' contributions as provided by Section 12 of this article.

(d) The board of directors may amend the plan of operation with the approval of the board and shall amend the plan of operation at the direction of the board.

Sec. 8. ELIGIBILITY FOR COVERAGE. (a) The board, by order, shall establish the categories of nonprofit organizations that are eligible to obtain coverage from the association and may amend the order to include or exclude from eligibility particular categories of nonprofit organizations.

(b) If a category of nonprofit organizations is excluded from

eligibility to obtain coverage from the association, the board, after notice and hearing, may determine that liability insurance for nonprofit organizations in that category is not available, and on that determination that category of nonprofit organizations is eligible to obtain insurance coverage from the association.

Sec. 9. APPLICATION FOR COVERAGE. (a) A nonprofit organization included in a category eligible for coverage by the association is entitled to submit an application to the association for coverage as provided by this article and the plan of operation.

(b) An agent authorized under Article 21.14 of this code may submit the application to the association on behalf of an applicant.

(c) If the association determines that the applicant meets the underwriting standards provided by the plan of operation and that there is no unpaid, uncontested premium, policyholder stabilization reserve fund charge, or assessment owed by the applicant for prior insurance, the association, on receipt of the premium and the policyholder stabilization reserve fund charge or the portion of that charge required by the plan of operation, shall cause a liability insurance policy to be issued to the nonprofit organization for one year.

Sec. 10. RATES AND POLICY FORMS. (a) The rates, rating plans, rating rules, rating classification, territories, and policy forms that apply to liability insurance written by the association and the statistics relating to that insurance coverage are governed by Subchapter B, Chapter 5, of this code, except to the extent that this article is in conflict. This article prevails over any conflict with Subchapter B, Chapter 5, of this code.

(b) In carrying out its responsibilities under Subsection (a) of this section, the board shall give due consideration to the past and prospective loss and expense experience, as available, for liability insurance covering nonprofit organizations inside and outside this state for all member companies of the association, trends in frequency and severity of losses, the investment income of the association, and other information the board may require.

(c) After the initial year of operation for the association, rates, rating plans, and rating rules and any provision for recoupment shall be based on the association's loss and expense experience to the extent credible, together with other information based on that experience. The board of directors shall engage the services of an independent actuarial firm to develop and recommend

actuarially sound rates, rating plans, and rating rules and classifications. Those recommendations shall become effective unless, after hearing and not later than the 30th day after the date the recommendations are submitted, the commissioner determines the recommendations to be arbitrary and capricious.

Sec. 11. ASSOCIATION DEFICIT. (a) A deficit sustained by the association in any year shall be recouped pursuant to the plan of operation and the rating plan that is in effect at the time of the deficit.

(b) The association shall recoup the deficit by following one or more of the following procedures in this sequence:

(1) a contribution from the policyholder stabilization reserve fund until that fund is exhausted;

(2) an assessment on the policyholders under Section 13 of this article; and

(3) an assessment on the members of the association as provided by Section 12 of this article.

Sec. 12. ASSESSMENT OF ASSOCIATION MEMBERS. (a) In addition to assessments paid as provided by the plan of operation and contributions from the policyholder stabilization reserve fund, if sufficient funds are not available for the sound financial operation of the association, the members of the association shall contribute to the financial requirements of the association on the basis and for the period considered necessary by the board.

(b) A member of the association shall be reimbursed for any assessment or contribution made under this section plus interest at a rate determined by the board.

(c) Pending the recoupment or reimbursement of assessments or contributions paid by a member to the association, the unrepaid balance of the assessments and contributions may be reflected in the books of the member of the association as an admitted asset of the insurer for all purposes including exhibition in the annual statement under Article 6.12 of this code.

(d) To the extent that a member of the association has paid one or more assessments and has not received reimbursement from the association as provided by Subsection (b) of this section, the member is entitled to a credit against its premium taxes under Article 4.10 of this code. The tax credit shall be allowed at a rate of 20 percent a year over a period of five successive years following the year in which the deficit is sustained or over a different number of

years at the option of the member.

Sec. 13. POLICYHOLDER ASSESSMENT. (a) Each policyholder of the association has a contingent liability for a proportionate share of any assessment of policyholders made under this article.

(b) If a deficit as calculated under the plan of operation is sustained by the association in any year, the board of directors shall levy an assessment only on those policyholders who had policies in force at any time during the two most recently completed calendar years in which the association issued policies preceding the date on which the assessment is levied.

(c) The aggregate amount of the assessment shall be equal to that part of the deficit that is not paid from the policyholder stabilization reserve fund.

(d) The maximum aggregate assessment for each policyholder may not exceed the annual premium for the liability policy from the association most recently in effect.

(e) Subject to the limitation provided by Subsection (d) of this section, each policyholder shall be assessed for that portion of the deficit that reflects the proportion that the earned premium on the policies of the policyholder bears to the total earned premium for all policies of the association in the two most recently completed calendar years.

Sec. 14. POLICYHOLDER STABILIZATION RESERVE FUND. (a) The policyholder stabilization reserve fund is created and shall be administered as provided by this article and the plan of operation.

(b) Each policyholder shall pay to the fund annually an amount determined annually by the board of directors as provided by the plan of operation.

(c) The charge shall be computed in proportion to each premium payment due for liability insurance through the association.

(d) The policy shall state the charge separately. The charge is not part of the premium and is not subject to premium taxes, servicing fees, acquisition costs, or any other similar charges.

(e) The association shall collect money for and administer the fund, and the fund shall be treated as a liability of the association along with and in the same manner as premium and loss reserves.

(f) The board of directors shall value the fund annually at the close of the last preceding year.

(g) The association shall continue to collect the charge until the time the net balance of the fund is not less than the projected

sum of premiums to be written in the year following the valuation date under Subsection (f) of this section.

(h) All charges collected from policyholders shall be credited to the fund, and the fund shall be charged with any deficit from operations of the association during the previous year.

Sec. 15. APPEAL. (a) A person insured or applying for insurance under this article or his authorized representative or an affected insurer who may be aggrieved by an act, ruling, or decision of the association may appeal the act, ruling, or decision to the board of directors not later than the 30th day after the date on which the act took place or the ruling or decision was issued.

(b) The board of directors shall hold a hearing on the appeal not later than the 30th day after the date the appeal is filed and shall give at least 10 days' written notice of the time and place of the hearing to the person filing the appeal or his authorized representative.

(c) Not later than the 10th day after the date the hearing ends, the board of directors shall issue an order affirming, reversing, or modifying the appealed act, ruling, or decision.

(d) A person or entity that is a party to an appeal under Subsection (a) of this section may appeal the board of directors' decision to the board.

(e) The board shall hold a hearing on an appeal filed under Subsection (d) of this section not later than the 30th day after the date on which the appeal is filed with the board and shall give written notice to any person or entity filing the appeal or his authorized representative not later than the 10th day before the date on which the appeal is to be heard.

(f) Not later than the 30th day after the date on which the board's hearing ends, the board shall decide the appeal and shall issue an order.

(g) Pending a hearing and decision on an appeal to the board, the board may suspend or postpone the effective date of the decision appealed.

(h) A final decision of the board may be appealed as provided by Subsection (f), Article 1.04, of this code.

Sec. 16. IMMUNITY. The association, its agents and employees, an insurer, a licensed agent, or the board or its authorized representatives are not liable for any statements made in good faith by them.

Sec. 17. ANNUAL STATEMENTS. (a) The association shall file with the board a statement that includes information with respect to its transactions, condition, operations, and affairs during the preceding calendar year. This statement must be filed each year on or before March 1.

(b) The statement shall include those matters and that information that is required by the board and shall be in the form approved by the board.

(c) The board may require the association to furnish additional information with regard to the association's transactions, condition, or any matter connected with its transactions and condition considered to be material and of assistance in evaluating the scope, operation, and experience of the association.

Sec. 18. EXAMINATIONS. The board shall make an examination into the affairs of the association at least annually. The examination shall be conducted, the report of the examination filed, and the expenses borne and paid in the manner provided by Articles 1.15 and 1.16 of this code.

Sec. 19. FILING INFORMATION WITH STATE. The association shall collect the data, information, and statements and shall file with the board the reports and statements required by Articles 1.24A and 1.24B of this code.

Added by Acts 1987, 70th Leg., 1st C.S., ch. 1, Sec. 5.06, eff. Sept. 2, 1987. Sec. 6 amended by Acts 1991, 72nd Leg., ch. 242, Sec. 9.13, eff. Sept. 1, 1991.

Art. 21.49-5. [BLANK].

Art. 21.52B. PHARMACEUTICAL SERVICES.

Sec. 1. DEFINITIONS. In this article:

(1) "Health insurance policy" means an individual, group, blanket, or franchise insurance policy, insurance policy or agreement, or group hospital service contract that provides benefits for pharmaceutical services that are necessary as a result of or to prevent an accident or sickness, but does not include evidence of

coverage provided by a health maintenance organization under the Texas Health Maintenance Organization Act (Chapter 20A, Vernon's Texas Insurance Code).

(2) "Pharmaceutical services" means services, including dispensing prescription drugs, that are ordinarily and customarily rendered by a pharmacy or pharmacist licensed to practice pharmacy under the Texas Pharmacy Act (Article 4542a-1, Vernon's Texas Civil Statutes).

(3) "Pharmacist" means a person licensed to practice pharmacy under the Texas Pharmacy Act (Article 4542a-1, Vernon's Texas Civil Statutes).

(4) "Pharmacy" means a facility licensed as a pharmacy under the Texas Pharmacy Act (Article 4542a-1, Vernon's Texas Civil Statutes).

(5) "Drugs" and "prescription drugs" have the meanings assigned by Section 5, Texas Pharmacy Act (Article 4542a-1, Vernon's Texas Civil Statutes).

(6) "Managed care plan" means a health maintenance organization, a preferred provider organization, or another organization that, under a contract or other agreement entered into with a participant in the plan:

(A) provides health care benefits, or arranges for health care benefits to be provided, to a participant in the plan; and

(B) requires or encourages those participants to use health care providers designated by the plan.

Sec. 2. PROHIBITED CONTRACTUAL PROVISIONS. (a) A health insurance policy or managed care plan that is delivered, issued for delivery, or renewed or for which a contract or other agreement is executed may not:

(1) prohibit or limit a person who is a beneficiary of the policy from selecting a pharmacy or pharmacist of the person's choice to be a provider under the policy to furnish pharmaceutical services offered or provided by that policy or interfere with that person's selection of a pharmacy or pharmacist;

(2) deny a pharmacy or pharmacist the right to participate as a contract provider under the policy or plan if the pharmacy or pharmacist agrees to provide pharmaceutical services that meet all terms and requirements and to include the same administrative, financial, and professional conditions that apply to pharmacies and pharmacists who have been designated as providers under the policy or plan; or

(3) require a beneficiary of a policy or a participant in a plan to obtain or request a specific quantity or dosage supply of pharmaceutical products.

(b) Notwithstanding Subsection (a)(3) of this section, a health insurance policy or managed care plan may allow the physician of a beneficiary or participant to prescribe drugs in a quantity or dosage supply the physician determines appropriate and that is in compliance with state and federal statutes.

(c) This section does not prohibit:

(1) a provision of a policy or plan from limiting the quantity or dosage supply of pharmaceutical products for which coverage is provided or providing financial incentives to encourage the beneficiary or participant and the prescribing physician to use a program that provides pharmaceutical products in quantities that result in cost savings to the insurance program or managed care plan and the beneficiary or participant if the provision applies equally to all designated providers of pharmaceutical services under the policy or plan;

(2) a pharmacy card program that provides a means of obtaining pharmaceutical services offered by the policy or plan through all designated providers of pharmaceutical services; or

(3) a plan from establishing reasonable application and recertification fees for a pharmacy which provides pharmaceutical services as a contract provider under the plan, provided that such fees are uniformly charged to each pharmacy under contract to the plan.

Sec. 3. PROVISION VOID. A provision of a health insurance policy or managed care plan that is delivered, issued for delivery, entered into, or renewed in this state that conflicts with Section 2 of this article is void to the extent of the conflict.

Sec. 4. CONSTRUCTION OF ARTICLE. This article does not require a health insurance policy or managed care plan to provide pharmaceutical services.

Sec. 5. APPLICATION OF PROHIBITION. The provisions of Section 2 of this article do not apply to a self-insured employee benefit plan that is subject to the Employee Retirement Income Security Act of 1974 (29 U.S.C. Section 1001, et seq.).

Sec. 6. Repealed by Acts 1993, 73rd Leg., ch. 685, Sec. 19.06, eff. Aug. 30, 1993.

Added by Acts 1991, 72nd Leg., ch. 182, Sec. 1, eff. Sept. 1, 1991. Sec. 2(b) amended by Acts 1993, 73rd Leg., ch. 685, Sec. 19.07, eff. Sept. 1, 1993; Sec. 5 amended by Acts 1993, 73rd Leg., ch. 685, Sec. 19.08, eff. Sept. 1, 1993; Sec. 6 repealed by Acts 1993, 73rd Leg., ch. 685, Sec. 19.06, eff. Aug. 30, 1993; Sec. 1(6) added by Acts 1995, 74th Leg., ch. 852, Sec. 1, eff. Sept. 1, 1995; Sec. 2 amended by Acts 1995, 74th Leg., ch. 852, Sec. 2, eff. Sept. 1, 1995; Sec. 3 amended by Acts 1995, 74th Leg., ch. 852, Sec. 3, eff. Sept. 1, 1995; Sec. 4 amended by Acts 1995, 74th Leg., ch. 852, Sec. 4, eff. Sept. 1, 1995.