

# CONFERENCE COMMITTEE REPORT FORM

Austin, Texas

5/26/11  
Date

Honorable David Dewhurst  
President of the Senate

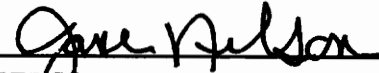
Honorable Joe Straus  
Speaker of the House of Representatives

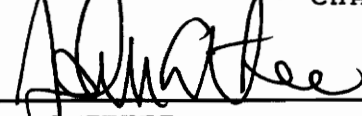
Sirs:


We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on House Bill 1951 have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

  
HEGAR, CHAIR

  
LARRY TAYLOR, CHAIR

  
NEILSON

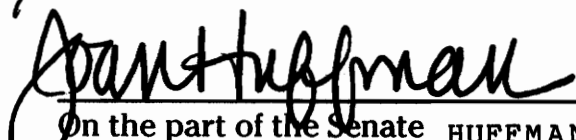
  
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On the part of the Senate HUFFMAN

  
On the part of the House HANCOCK

## Note to Conference Committee Clerk:

Please type the names of the members of the Conference Committee under the lines provided for signature. Those members desiring to sign the report should sign each of the six copies. Attach a copy of the Conference Committee Report and a Section by Section side by side comparison to each of the six reporting forms. The original and two copies are filed in house of origin of the bill, and three copies in the other house.

# CONFERENCE COMMITTEE REPORT

3<sup>rd</sup> Printing

H.B. No. 1951

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the continuation and operation of the Texas Department  
3 of Insurance and the operation of certain insurance programs;  
4 imposing administrative penalties.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 ARTICLE 1. GENERAL PROVISIONS

7 SECTION 1.001. Section 31.002, Insurance Code, is amended  
8 to read as follows:

9 Sec. 31.002. DUTIES OF DEPARTMENT. In addition to the other  
10 duties required of the Texas Department of Insurance, the  
11 department shall:

- 12 (1) regulate the business of insurance in this state;
- 13 (2) administer the workers' compensation system of  
14 this state as provided by Title 5, Labor Code; ~~and~~
- 15 (3) ensure that this code and other laws regarding  
16 insurance and insurance companies are executed;
- 17 (4) protect and ensure the fair treatment of  
18 consumers; and
- 19 (5) ensure fair competition in the insurance industry  
20 in order to foster a competitive market.

21 SECTION 1.002. Section 31.004(a), Insurance Code, is  
22 amended to read as follows:

23 (a) The Texas Department of Insurance is subject to Chapter  
24 325, Government Code (Texas Sunset Act). Unless continued in

1 existence as provided by that chapter, the department is abolished  
2 September 1, 2023 [~~2011~~].

3 SECTION 1.003. Subchapter B, Chapter 36, Insurance Code, is  
4 amended by adding Section 36.110 to read as follows:

5 Sec. 36.110. NEGOTIATED RULEMAKING AND ALTERNATIVE DISPUTE  
6 RESOLUTION POLICY. (a) The commissioner shall develop and  
7 implement a policy to encourage the use of:

8 (1) negotiated rulemaking procedures under Chapter  
9 2008, Government Code, for the adoption of department rules; and

10 (2) appropriate alternative dispute resolution  
11 procedures under Chapter 2009, Government Code, to assist in the  
12 resolution of internal and external disputes under the department's  
13 jurisdiction.

14 (b) The department's procedures relating to alternative  
15 dispute resolution must conform, to the extent possible, to any  
16 model guidelines issued by the State Office of Administrative  
17 Hearings for the use of alternative dispute resolution by state  
18 agencies.

19 (c) The commissioner shall:

20 (1) coordinate the implementation of the policy  
21 adopted under Subsection (a);

22 (2) provide training as needed to implement the  
23 procedures for negotiated rulemaking or alternative dispute  
24 resolution; and

25 (3) collect data concerning the effectiveness of those  
26 procedures.

ARTICLE 2. CERTAIN ADVISORY BOARDS, COMMITTEES, AND COUNCILS AND  
RELATED TECHNICAL CORRECTIONS

SECTION 2.001. Chapter 32, Insurance Code, is amended by adding Subchapter E to read as follows:

SUBCHAPTER E. RULES REGARDING USE OF ADVISORY COMMITTEES

Sec. 32.151. RULEMAKING AUTHORITY. (a) The commissioner shall adopt rules, in compliance with Section 39.003 of this code and Chapter 2110, Government Code, regarding the purpose, structure, and use of advisory committees by the commissioner, the state fire marshal, or department staff, including rules governing an advisory committee's:

- (1) purpose, role, responsibility, and goals;
- (2) size and quorum requirements;
- (3) qualifications for membership, including experience requirements and geographic representation;
- (4) appointment procedures;
- (5) terms of service;
- (6) training requirements; and
- (7) duration.

(b) An advisory committee must be structured and used to advise the commissioner, the state fire marshal, or department staff. An advisory committee may not be responsible for rulemaking or policymaking.

Sec. 32.152. PERIODIC EVALUATION. The commissioner shall by rule establish a process by which the department shall periodically evaluate an advisory committee to ensure its continued necessity. The department may retain or develop committees as

1 appropriate to meet changing needs.

2 Sec. 32.153. COMPLIANCE WITH OPEN MEETINGS ACT. A  
3 department advisory committee must comply with Chapter 551,  
4 Government Code.

5 SECTION 2.002. Section 843.441, Insurance Code, is  
6 transferred to Subchapter L, Chapter 843, Insurance Code,  
7 redesignated as Section 843.410, Insurance Code, and amended to  
8 read as follows:

9 Sec. 843.410 [~~843.441~~]. ASSESSMENTS. (a) To provide  
10 funds for the administrative expenses of the commissioner regarding  
11 rehabilitation, liquidation, supervision, conservatorship, or  
12 seizure [~~conservation~~] of a [~~an impaired~~] health maintenance  
13 organization in this state that is placed under supervision or in  
14 conservatorship under Chapter 441 or against which a delinquency  
15 proceeding is commenced under Chapter 443 and that is found by the  
16 commissioner to have insufficient funds to pay the total amount of  
17 health care claims and the administrative [~~, including~~] expenses  
18 incurred by the commissioner regarding the rehabilitation,  
19 liquidation, supervision, conservatorship, or seizure, the  
20 commissioner [~~acting as receiver or by a special deputy receiver,~~  
21 ~~the committee, at the commissioner's direction,~~] shall assess each  
22 health maintenance organization in the proportion that the gross  
23 premiums of the health maintenance organization that were written  
24 in this state during the preceding calendar year bear to the  
25 aggregate gross premiums that were written in this state by all  
26 health maintenance organizations, as found [~~provided to the~~  
27 ~~committee by the commissioner~~] after review of annual statements

1 and other reports the commissioner considers necessary.

2       **(b)** [~~(c)~~] The commissioner may abate or defer an assessment  
3 in whole or in part if, in the opinion of the commissioner, payment  
4 of the assessment would endanger the ability of a health  
5 maintenance organization to fulfill its contractual obligations.  
6 If an assessment is abated or deferred in whole or in part, the  
7 amount of the abatement or deferral may be assessed against the  
8 remaining health maintenance organizations in a manner consistent  
9 with the calculations made by the commissioner under Subsection (a)  
10 [~~basis for assessments provided by the approved plan of operation~~].

11       **(c)** [~~(d)~~] The total of all assessments on a health  
12 maintenance organization may not exceed one-fourth of one percent  
13 of the health maintenance organization's gross premiums in any one  
14 calendar year.

15       **(d)** [~~(e)~~] Notwithstanding any other provision of this  
16 subchapter, funds derived from an assessment made under this  
17 section may not be used for more than 180 consecutive days for the  
18 expenses of administering the affairs of a [an impaired] health  
19 maintenance organization the surplus of which is impaired and that  
20 is [while] in supervision[, rehabilitation,] or conservatorship  
21 [conservation for more than 150 days]. The commissioner  
22 [committee] may extend the period during which the commissioner  
23 [it] makes assessments for the administrative expenses [~~of an~~  
24 ~~impaired health maintenance organization as it considers~~  
25 ~~appropriate~~].

26       SECTION 2.003. Section 1660.004, Insurance Code, is amended  
27 to read as follows:

1           Sec. 1660.004. GENERAL RULEMAKING. The commissioner may  
2 adopt rules as necessary to implement this chapter [~~, including~~  
3 ~~rules requiring the implementation and provision of the technology~~  
4 ~~recommended by the advisory committee~~].

5           SECTION 2.004. Section 1660.102(b), Insurance Code, is  
6 amended to read as follows:

7           (b) The commissioner may consider [~~the~~] recommendations [~~of~~  
8 ~~the advisory committee~~] or any other information provided in  
9 response to a department-issued request for information relating to  
10 electronic data exchange, including identification card programs,  
11 before adopting rules regarding:

12                   (1) information to be included on the identification  
13 cards;

14                   (2) technology to be used to implement the  
15 identification card pilot program; and

16                   (3) confidentiality and accuracy of the information  
17 required to be included on the identification cards.

18           SECTION 2.005. Section 4001.009(a), Insurance Code, is  
19 amended to read as follows:

20           (a) As referenced in Section 4001.003(9), a reference to an  
21 agent in the following laws includes a subagent without regard to  
22 whether a subagent is specifically mentioned:

23                   (1) Chapters 281, 402, 421-423, 441, 444, 461-463,  
24 [~~523, 541-556, 558, 559, 702, 703, 705, 821, 823-825, 827, 828,~~  
25 844, 963, 1108, 1205-1208 [~~1205-1209~~], 1211, 1213, 1214  
26 [~~1211-1214~~], 1352, 1353, 1357, 1358, 1360-1363, 1369, 1453-1455,  
27 1503, 1550, 1801, 1803, 2151-2154, 2201-2203, 2205-2213, 3501,

- 1 3502, 4007, 4102, and 4201-4203;
- 2 (2) Chapter 403, excluding Section 403.002;
- 3 (3) Subchapter A, Chapter 491;
- 4 (4) Subchapter C, Chapter 521;
- 5 (5) Subchapter A, Chapter 557;
- 6 (6) Subchapter B, Chapter 805;
- 7 (7) Subchapters D, E, and F, Chapter 982;
- 8 (8) Subchapter D, Chapter 1103;
- 9 (9) Subchapters B, C, D, and E, Chapter 1204,
- 10 excluding Sections 1204.153 and 1204.154;
- 11 (10) Subchapter B, Chapter 1366;
- 12 (11) Subchapters B, C, and D, Chapter 1367, excluding
- 13 Section 1367.053(c);
- 14 (12) Subchapters A, C, D, E, F, H, and I, Chapter 1451;
- 15 (13) Subchapter B, Chapter 1452;
- 16 (14) Sections 551.004, 841.303, 982.001, 982.002,
- 17 982.004, 982.052, 982.102, 982.103, 982.104, 982.106, 982.107,
- 18 982.108, 982.110, 982.111, 982.112, and 1802.001; and
- 19 (15) Chapter 107, Occupations Code.

20 SECTION 2.006. Section 4102.005, Insurance Code, is amended

21 to read as follows:

22 Sec. 4102.005. CODE OF ETHICS. The commissioner [~~with~~

23 ~~guidance from the public insurance adjusters examination advisory~~

24 ~~committee,~~] by rule shall adopt:

- 25 (1) a code of ethics for public insurance adjusters
- 26 that fosters the education of public insurance adjusters concerning
- 27 the ethical, legal, and business principles that should govern



1 their conduct;

2 (2) recommendations regarding the solicitation of the  
3 adjustment of losses by public insurance adjusters; and

4 (3) any other principles of conduct or procedures that  
5 the commissioner considers necessary and reasonable.

6 SECTION 2.007. Section 2154.052(a), Occupations Code, is  
7 amended to read as follows:

8 (a) The commissioner:

9 (1) shall administer this chapter through the state  
10 fire marshal; and

11 (2) may issue rules to administer this chapter [~~in~~  
12 ~~compliance with Section 2154.054~~].

13 SECTION 2.008. The following laws are repealed:

14 (1) Article 3.70-3D(d), Insurance Code, as effective  
15 on appropriation in accordance with Section 5, Chapter 1457 (H.B.  
16 3021), Acts of the 76th Legislature, Regular Session, 1999;

17 (2) Chapter 523, Insurance Code;

18 (3) Section 524.061, Insurance Code;

19 (4) the heading to Subchapter M, Chapter 843,  
20 Insurance Code;

21 (5) Sections 843.435, 843.436, 843.437, 843.438,  
22 843.439, and 843.440, Insurance Code;

23 (6) Chapter 1212, Insurance Code;

24 (7) Section 1660.002(2), Insurance Code;

25 (8) Subchapter B, Chapter 1660, Insurance Code;

26 (9) Section 1660.101(c), Insurance Code;

27 (10) Sections 4002.004, 4004.002, 4101.006, and

1 4102.059, Insurance Code;

2 (11) Sections 4201.003(c) and (d), Insurance Code;

3 (12) Subchapter C, Chapter 6001, Insurance Code;

4 (13) Subchapter C, Chapter 6002, Insurance Code;

5 (14) Subchapter C, Chapter 6003, Insurance Code;

6 (15) Section 2154.054, Occupations Code; and

7 (16) Section 2154.055(c), Occupations Code.

8 SECTION 2.009. (a) The following boards, committees,  
9 councils, and task forces are abolished on the effective date of  
10 this Act:

11 (1) the consumer assistance program for health  
12 maintenance organizations advisory committee;

13 (2) the executive committee of the market assistance  
14 program for residential property insurance;

15 (3) the TexLink to Health Coverage Program task force;

16 (4) the health maintenance organization solvency  
17 surveillance committee;

18 (5) the technical advisory committee on claims  
19 processing;

20 (6) the technical advisory committee on electronic  
21 data exchange;

22 (7) the examination of license applicants advisory  
23 board;

24 (8) the advisory council on continuing education for  
25 insurance agents;

26 (9) the insurance adjusters examination advisory  
27 board;

- 1           (10) the public insurance adjusters examination  
2 advisory committee;
- 3           (11) the utilization review agents advisory  
4 committee;
- 5           (12) the fire extinguisher advisory council;
- 6           (13) the fire detection and alarm devices advisory  
7 council;
- 8           (14) the fire protection advisory council; and
- 9           (15) the fireworks advisory council.

10         (b) All powers, duties, obligations, rights, contracts,  
11 funds, records, and real or personal property of a board,  
12 committee, council, or task force listed under Subsection (a) of  
13 this section shall be transferred to the Texas Department of  
14 Insurance not later than February 28, 2012.

15         SECTION 2.010. The changes in law made by this Act by  
16 repealing Sections 523.003 and 843.439, Insurance Code, apply only  
17 to a cause of action that accrues on or after the effective date of  
18 this Act. A cause of action that accrues before the effective date  
19 of this Act is governed by the law in effect immediately before that  
20 date, and that law is continued in effect for that purpose.

21                                 ARTICLE 3. RATE REGULATION

22         SECTION 3.001. Subchapter F, Chapter 843, Insurance Code,  
23 is amended by adding Section 843.2071 to read as follows:

24           Sec. 843.2071. NOTICE OF INCREASE IN CHARGE FOR COVERAGE.  
25 (a) Not less than 60 days before the date on which an increase in a  
26 charge for coverage under this chapter takes effect, a health  
27 maintenance organization shall:

1           (1) give to each enrollee under an individual evidence  
2 of coverage written notice of the effective date of the increase;  
3 and

4           (2) provide the enrollee a table that clearly lists:

5                   (A) the actual dollar amount of the charge for  
6 coverage on the date of the notice;

7                   (B) the actual dollar amount of the charge for  
8 coverage after the charge increase; and

9                   (C) the percentage change between the amounts  
10 described by Paragraphs (A) and (B).

11           (b) The notice required by this section must be based on  
12 coverage in effect on the date of the notice.

13           (c) This section may not be construed to prevent a health  
14 maintenance organization, at the request of an enrollee, from  
15 negotiating a change in benefits or rates after delivery of the  
16 notice required by this section.

17           (d) A health maintenance organization may not require an  
18 enrollee entitled to notice under this section to respond to the  
19 health maintenance organization to renew the coverage or take other  
20 action relating to the renewal or extension of the coverage before  
21 the 45th day after the date the notice described by Subsection (a)  
22 is given.

23           (e) The notice required by this section must include:

24                   (1) contact information for the department, including  
25 information concerning how to file a complaint with the department;

26                   (2) contact information for the Texas Consumer Health  
27 Assistance Program, including information concerning how to

1 request from the program consumer protection information or  
2 assistance with filing a complaint; and

3 (3) the addresses of Internet websites that provide  
4 consumer information related to rate increase justifications,  
5 including the websites of the department and the United States  
6 Department of Health and Human Services.

7 SECTION 3.002. Subchapter C, Chapter 1201, Insurance Code,  
8 is amended by adding Section 1201.109 to read as follows:

9 Sec. 1201.109. NOTICE OF RATE INCREASE. (a) Not less than  
10 60 days before the date on which a premium rate increase takes  
11 effect on an individual accident and health insurance policy  
12 delivered or issued for delivery in this state by an insurer, the  
13 insurer shall:

14 (1) give written notice to the insured of the  
15 effective date of the increase; and

16 (2) provide the insured a table that clearly lists:

17 (A) the actual dollar amount of the premium on  
18 the date of the notice;

19 (B) the actual dollar amount of the premium after  
20 the premium rate increase; and

21 (C) the percentage change between the amounts  
22 described by Paragraphs (A) and (B).

23 (b) The notice required by this section must be based on  
24 coverage in effect on the date of the notice.

25 (c) This section may not be construed to prevent an insurer,  
26 at the request of an insured, from negotiating a change in benefits  
27 or rates after delivery of the notice required by this section.

1       (d) An insurer may not require an insured entitled to notice  
2 under this section to respond to the insurer to renew the policy or  
3 take other action relating to the renewal or extension of the policy  
4 before the 45th day after the date the notice described by  
5 Subsection (a) is given.

6       (e) The notice required by this section must include:

7           (1) contact information for the department, including  
8 information concerning how to file a complaint with the department;

9           (2) contact information for the Texas Consumer Health  
10 Assistance Program, including information concerning how to  
11 request from the program consumer protection information or  
12 assistance with filing a complaint; and

13           (3) the addresses of Internet websites that provide  
14 consumer information related to rate increase justifications,  
15 including the websites of the department and the United States  
16 Department of Health and Human Services.

17       SECTION 3.003. Subchapter E, Chapter 1501, Insurance Code,  
18 is amended by adding Section 1501.216 to read as follows:

19       Sec. 1501.216. PREMIUM RATES: NOTICE OF INCREASE. (a) Not  
20 less than 60 days before the date on which a premium rate increase  
21 takes effect on a small employer health benefit plan delivered or  
22 issued for delivery in this state by an insurer, the insurer shall:

23           (1) give written notice to the small employer of the  
24 effective date of the increase; and

25           (2) provide the small employer a table that clearly  
26 lists:

27               (A) the actual dollar amount of the premium on

1 the date of the notice;

2 (B) the actual dollar amount of the premium after  
3 the premium rate increase; and

4 (C) the percentage change between the amounts  
5 described by Paragraphs (A) and (B).

6 (b) The notice required by this section must be based on  
7 coverage in effect on the date of the notice.

8 (c) This section may not be construed to prevent an insurer,  
9 at the request of a small employer, from negotiating a change in  
10 benefits or rates after delivery of the notice required by this  
11 section.

12 (d) An insurer may not require a small employer entitled to  
13 notice under this section to respond to the insurer to renew the  
14 policy or take other action relating to the renewal or extension of  
15 the policy before the 45th day after the date the notice described  
16 by Subsection (a) is given.

17 (e) The notice required by this section must include:

18 (1) contact information for the department, including  
19 information concerning how to file a complaint with the department;

20 (2) contact information for the Texas Consumer Health  
21 Assistance Program, including information concerning how to  
22 request from the program consumer protection information or  
23 assistance with filing a complaint; and

24 (3) the addresses of Internet websites that provide  
25 consumer information related to rate increase justifications,  
26 including the websites of the department and the United States  
27 Department of Health and Human Services.

1 SECTION 3.004. Section 2251.002(8), Insurance Code, is  
2 amended to read as follows:

3 (8) "Supporting information" means:

4 (A) the experience and judgment of the filer and  
5 the experience or information of other insurers or advisory  
6 organizations on which the filer relied;

7 (B) the interpretation of any other information  
8 on which the filer relied;

9 (C) a description of methods used in making a  
10 rate; and

11 (D) any other information the department  
12 receives from a filer as a response to a request under Section  
13 38.001 [~~requires to be filed~~].

14 SECTION 3.005. Section 2251.101, Insurance Code, is amended  
15 to read as follows:

16 Sec. 2251.101. RATE FILINGS AND SUPPORTING INFORMATION.

17 (a) Except as provided by Subchapter D, for risks written in this  
18 state, each insurer shall file with the commissioner all rates,  
19 applicable rating manuals, supplementary rating information, and  
20 additional information as required by the commissioner. An insurer  
21 may use a rate filed under this subchapter on and after the date the  
22 rate is filed.

23 (b) The commissioner by rule shall:

24 (1) determine the information required to be included  
25 in the filing, including:

26 (A) [~~1~~] categories of supporting information  
27 and supplementary rating information;



1           (B) [(2)] statistics or other information to  
2 support the rates to be used by the insurer, including information  
3 necessary to evidence that the computation of the rate does not  
4 include disallowed expenses; and

5           (C) [(3)] information concerning policy fees,  
6 service fees, and other fees that are charged or collected by the  
7 insurer under Section 550.001 or 4005.003; and

8           (2) prescribe the process through which the department  
9 requests supplementary rating information and supporting  
10 information under this section, including:

11           (A) the number of times the department may make a  
12 request for information; and

13           (B) the types of information the department may  
14 request when reviewing a rate filing.

15           SECTION 3.006. Section 2251.103, Insurance Code, is amended  
16 to read as follows:

17           Sec. 2251.103. COMMISSIONER ACTION CONCERNING [~~DISAPPROVAL~~  
18 ~~OF RATE IN~~] RATE FILING NOT YET IN EFFECT; HEARING AND ANALYSIS.

19           (a) Not later than the earlier of the date the rate takes effect or  
20 the 30th day after the date a rate is filed with the department  
21 under Section 2251.101, the [The] commissioner shall disapprove the  
22 [a] rate if the commissioner determines that the rate [filing made  
23 under this chapter] does not comply with the requirements of this  
24 chapter [meet the standards established under Subchapter B].

25           (b) Except as provided by Subsection (c), if a rate has not  
26 been disapproved by the commissioner before the expiration of the  
27 30-day period described by Subsection (a), the rate is not

1 considered disapproved under this section.

2 (c) For good cause, the commissioner may, on the expiration  
3 of the 30-day period described by Subsection (a), extend the period  
4 for disapproval of a rate for one additional 30-day period. The  
5 commissioner and the insurer may not by agreement extend the 30-day  
6 period described by Subsection (a) or this subsection.

7 (d) If the commissioner disapproves a rate under this  
8 section [filing], the commissioner shall issue an order specifying  
9 in what respects the rate [filing] fails to meet the requirements of  
10 this chapter.

11 (e) An insurer that files a rate that is disapproved under  
12 this section [~~(c)~~ ~~The filer~~] is entitled to a hearing on written  
13 request made to the commissioner not later than the 30th day after  
14 the date the order disapproving the rate [filing] takes effect.

15 (f) The department shall track, compile, and routinely  
16 analyze the factors that contribute to the disapproval of rates  
17 under this section.

18 SECTION 3.007. Subchapter C, Chapter 2251, Insurance Code,  
19 is amended by adding Section 2251.1031 to read as follows:

20 Sec. 2251.1031. REQUESTS FOR ADDITIONAL INFORMATION.

21 (a) If the department determines that the information filed by an  
22 insurer under this subchapter or Subchapter D is incomplete or  
23 otherwise deficient, the department may request additional  
24 information from the insurer.

25 (b) If the department requests additional information from  
26 the insurer during the 30-day period described by Section  
27 2251.103(a) or 2251.153(a) or under a second 30-day period

1 described by Section 2251.103(c) or 2251.153(c), as applicable, the  
2 time between the date the department submits the request to the  
3 insurer and the date the department receives the information  
4 requested is not included in the computation of the first 30-day  
5 period or the second 30-day period, as applicable.

6 (c) For purposes of this section, the date of the  
7 department's submission of a request for additional information is  
8 the earlier of:

9 (1) the date of the department's electronic mailing or  
10 documented telephone call relating to the request for additional  
11 information; or

12 (2) the postmarked date on the department's letter  
13 relating to the request for additional information.

14 (d) The department shall track, compile, and routinely  
15 analyze the volume and content of requests for additional  
16 information made under this section to ensure that all requests for  
17 additional information are fair and reasonable.

18 SECTION 3.008. The heading to Section 2251.104, Insurance  
19 Code, is amended to read as follows:

20 Sec. 2251.104. COMMISSIONER DISAPPROVAL OF RATE IN EFFECT;  
21 HEARING.

22 SECTION 3.009. Section 2251.107, Insurance Code, is amended  
23 to read as follows:

24 Sec. 2251.107. PUBLIC [~~INSPECTION OF~~] INFORMATION. (a)  
25 Each filing made, and any supporting information filed, under this  
26 chapter is public information subject to Chapter 552, Government  
27 Code, including any applicable exception from required disclosure

1 under that chapter [~~open to public inspection as of the date of the~~  
2 ~~filing~~].

3 (b) Each year the department shall make available to the  
4 public information concerning the department's general process and  
5 methodology for rate review under this chapter, including factors  
6 that contribute to the disapproval of a rate. Information provided  
7 under this subsection must be general in nature and may not reveal  
8 proprietary or trade secret information of any insurer.

9 SECTION 3.010. Section 2251.151, Insurance Code, is amended  
10 by adding Subsections (c-1) and (f) and amending Subsection (e) to  
11 read as follows:

12 (c-1) If the commissioner requires an insurer to file the  
13 insurer's rates under this section, the commissioner shall  
14 periodically assess whether the conditions described by Subsection  
15 (a) continue to exist. If the commissioner determines that the  
16 conditions no longer exist, the commissioner shall issue an order  
17 excusing the insurer from filing the insurer's rates under this  
18 section.

19 (e) If the commissioner requires an insurer to file the  
20 insurer's rates under this section, the commissioner shall issue an  
21 order specifying the commissioner's reasons for requiring the rate  
22 filing and explaining any steps the insurer must take and any  
23 conditions the insurer must meet in order to be excused from filing  
24 the insurer's rates under this section. An affected insurer is  
25 entitled to a hearing on written request made to the commissioner  
26 not later than the 30th day after the date the order is issued.

27 (f) The commissioner by rule shall define:

1           (1) the financial conditions and rating practices that  
2 may subject an insurer to this section under Subsection (a)(1); and  
3           (2) the process by which the commissioner determines  
4 that a statewide insurance emergency exists under Subsection  
5 (a)(2).

6           SECTION 3.011. Section 2251.156, Insurance Code, is amended  
7 to read as follows:

8           Sec. 2251.156. RATE FILING DISAPPROVAL BY COMMISSIONER;  
9 HEARING. (a) If the commissioner disapproves a rate filing under  
10 Section 2251.153(a)(2), the commissioner shall issue an order  
11 disapproving the filing in accordance with Section 2251.103(d)  
12 [~~2251.103(b)~~].

13           (b) An insurer whose rate filing is disapproved is entitled  
14 to a hearing in accordance with Section 2251.103(e) [~~2251.103(e)~~].

15           (c) The department shall track precedents related to  
16 disapprovals of rates under this subchapter to ensure uniform  
17 application of rate standards by the department.

18           SECTION 3.012. Section 2254.003(a), Insurance Code, is  
19 amended to read as follows:

20           (a) This section applies to a rate for personal automobile  
21 insurance or residential property insurance filed on or after the  
22 effective date of Chapter 206, Acts of the 78th Legislature,  
23 Regular Session, 2003.

24           SECTION 3.013. Section 2251.154, Insurance Code, is  
25 repealed.

26           SECTION 3.014. Sections 2251.002(8) and 2251.107,  
27 Insurance Code, as amended by this Act, apply only to a request to

1 inspect information or to obtain public information made to the  
2 Texas Department of Insurance on or after the effective date of this  
3 Act. A request made before the effective date of this Act is  
4 governed by the law in effect immediately before the effective date  
5 of this Act, and the former law is continued in effect for that  
6 purpose.

7 SECTION 3.015. Section 2251.103, Insurance Code, as amended  
8 by this Act, and Section 2251.1031, Insurance Code, as added by this  
9 Act, apply only to a rate filing made on or after the effective date  
10 of this Act. A rate filing made before the effective date of this  
11 Act is governed by the law in effect at the time the filing was made,  
12 and that law is continued in effect for that purpose.

13 SECTION 3.016. Section 2251.151(c-1), Insurance Code, as  
14 added by this Act, applies to an insurer that is required to file  
15 the insurer's rates for approval under Section 2251.151, Insurance  
16 Code, on or after the effective date of this Act, regardless of when  
17 the order requiring the insurer to file the insurer's rates for  
18 approval under that section is first issued.

19 SECTION 3.017. Section 2251.151(e), Insurance Code, as  
20 amended by this Act, applies only to an order issued by the  
21 commissioner of insurance on or after the effective date of this  
22 Act. An order of the commissioner issued before the effective date  
23 of this Act is governed by the law in effect on the date the order  
24 was issued, and that law is continued in effect for that purpose.

25 ARTICLE 4. STATE FIRE MARSHAL'S OFFICE

26 SECTION 4.001. Section 417.008, Government Code, is amended  
27 by adding Subsection (f) to read as follows:

1       (f) The commissioner by rule shall prescribe a reasonable  
2 fee for an inspection performed by the state fire marshal that may  
3 be charged to a property owner or occupant who requests the  
4 inspection, as the commissioner considers appropriate. In  
5 prescribing the fee, the commissioner shall consider the overall  
6 cost to the state fire marshal to perform the inspections,  
7 including the approximate amount of time the staff of the state fire  
8 marshal needs to perform an inspection, travel costs, and other  
9 expenses.

10       SECTION 4.002. Section 417.0081, Government Code, is  
11 amended to read as follows:

12       Sec. 417.0081. INSPECTION OF CERTAIN STATE-OWNED OR  
13 STATE-LEASED BUILDINGS. (a) The state fire marshal, at the  
14 commissioner's direction, shall periodically inspect public  
15 buildings under the charge and control of the Texas Facilities  
16 [General Services] Commission and buildings leased for the use of a  
17 state agency by the Texas Facilities Commission.

18       (b) For the purpose of determining a schedule for conducting  
19 inspections under this section, the commissioner by rule shall  
20 adopt guidelines for assigning potential fire safety risk to  
21 state-owned and state-leased buildings. Rules adopted under this  
22 subsection must provide for the inspection of each state-owned and  
23 state-leased building to which this section applies, regardless of  
24 how low the potential fire safety risk of the building may be.

25       (c) On or before January 1 of each year, the state fire  
26 marshal shall report to the governor, lieutenant governor, speaker  
27 of the house of representatives, and appropriate standing

1 committees of the legislature regarding the state fire marshal's  
2 findings in conducting inspections under this section.

3 SECTION 4.003. Section 417.0082, Government Code, is  
4 amended to read as follows:

5 Sec. 417.0082. PROTECTION OF CERTAIN STATE-OWNED OR  
6 STATE-LEASED BUILDINGS AGAINST FIRE HAZARDS. (a) The state fire  
7 marshal, under the direction of the commissioner, shall take any  
8 action necessary to protect a public building under the charge and  
9 control of the Texas Facilities [~~Building and Procurement~~]  
10 Commission, and the building's occupants, and the occupants of a  
11 building leased for the use of a state agency by the Texas  
12 Facilities Commission, against an existing or threatened fire  
13 hazard. The state fire marshal and the Texas Facilities [~~Building~~  
14 ~~and Procurement~~] Commission shall include the State Office of Risk  
15 Management in all communication concerning fire hazards.

16 (b) The commissioner, the Texas Facilities [~~Building and~~  
17 ~~Procurement~~] Commission, and the risk management board shall make  
18 and each adopt by rule a memorandum of understanding that  
19 coordinates the agency's duties under this section.

20 SECTION 4.004. Section 417.010, Government Code, is amended  
21 to read as follows:

22 Sec. 417.010. DISCIPLINARY AND ENFORCEMENT ACTIONS;  
23 ADMINISTRATIVE PENALTIES [~~ALTERNATE REMEDIES~~]. (a) This section  
24 applies to each person and firm licensed, registered, or otherwise  
25 regulated by the department through the state fire marshal,  
26 including:

27 (1) a person regulated under Title 20, Insurance Code;



1 and

2 (2) a person licensed under Chapter 2154, Occupations  
3 Code.

4 (b) The commissioner by rule shall delegate to the state  
5 fire marshal the authority to take disciplinary and enforcement  
6 actions, including the imposition of administrative penalties in  
7 accordance with this section on a person regulated under a law  
8 listed under Subsection (a) who violates that law or a rule or order  
9 adopted under that law. In the rules adopted under this subsection,  
10 the commissioner shall:

11 (1) specify which types of disciplinary and  
12 enforcement actions are delegated to the state fire marshal; and

13 (2) outline the process through which the state fire  
14 marshal may, subject to Subsection (e), impose administrative  
15 penalties or take other disciplinary and enforcement actions.

16 (c) The commissioner by rule shall adopt a schedule of  
17 administrative penalties for violations subject to a penalty under  
18 this section to ensure that the amount of an administrative penalty  
19 imposed is appropriate to the violation. The department shall  
20 provide the administrative penalty schedule to the public on  
21 request. The amount of an administrative penalty imposed under  
22 this section must be based on:

23 (1) the seriousness of the violation, including:

24 (A) the nature, circumstances, extent, and  
25 gravity of the violation; and

26 (B) the hazard or potential hazard created to the  
27 health, safety, or economic welfare of the public;

- 1           (2) the economic harm to the public interest or public
- 2 confidence caused by the violation;
- 3           (3) the history of previous violations;
- 4           (4) the amount necessary to deter a future violation;
- 5           (5) efforts to correct the violation;
- 6           (6) whether the violation was intentional; and
- 7           (7) any other matter that justice may require.

8           (d) In [~~The state fire marshal, in~~] the enforcement of a law  
9 that is enforced by or through the state fire marshal, the state  
10 fire marshal may, in lieu of cancelling, revoking, or suspending a  
11 license or certificate of registration, impose on the holder of the  
12 license or certificate of registration an order directing the  
13 holder to do one or more of the following:

- 14           (1) cease and desist from a specified activity;
- 15           (2) pay an administrative penalty imposed under this  
16 section [~~remit to the commissioner within a specified time a~~  
17 monetary forfeiture not to exceed \$10,000 for each violation of an  
18 applicable law or rule]; or [~~and~~]
- 19           (3) make restitution to a person harmed by the holder's
- 20 violation of an applicable law or rule.

21           (e) The state fire marshal shall impose an administrative  
22 penalty under this section in the manner prescribed for imposition  
23 of an administrative penalty under Subchapter B, Chapter 84,  
24 Insurance Code. The state fire marshal may impose an  
25 administrative penalty under this section without referring the  
26 violation to the department for commissioner action.

27           (f) An affected person may dispute the imposition of the

1 penalty or the amount of the penalty imposed in the manner  
2 prescribed by Subchapter C, Chapter 84, Insurance Code. Failure to  
3 pay an administrative penalty imposed under this section is subject  
4 to enforcement by the department.

5 ARTICLE 5. TITLE INSURANCE

6 SECTION 5.001. Section 2703.153(c), Insurance Code, is  
7 amended to read as follows:

8 (c) Not less frequently than once every five years, the  
9 commissioner shall evaluate the information required under this  
10 section to determine whether the department needs additional or  
11 different information or no longer needs certain information to  
12 promulgate rates. If the department requires a title insurance  
13 company or title insurance agent to include new or different  
14 information in the statistical report, that information may be  
15 considered by the commissioner in fixing premium rates if the  
16 information collected is reasonably credible for the purposes for  
17 which the information is to be used.

18 ARTICLE 6. ELECTRONIC TRANSACTIONS

19 SECTION 6.001. Subtitle A, Title 2, Insurance Code, is  
20 amended by adding Chapter 35 to read as follows:

21 CHAPTER 35. ELECTRONIC TRANSACTIONS

22 Sec. 35.001. DEFINITIONS. In this chapter:

23 (1) "Conduct business" includes engaging in or  
24 transacting any business in which a regulated entity is authorized  
25 to engage or is authorized to transact under the law of this state.

26 (2) "Regulated entity" means each insurer or other  
27 organization regulated by the department, including:

- 1                   (A) a domestic or foreign, stock or mutual, life,  
2 health, or accident insurance company;
- 3                   (B) a domestic or foreign, stock or mutual, fire  
4 or casualty insurance company;
- 5                   (C) a Mexican casualty company;
- 6                   (D) a domestic or foreign Lloyd's plan;
- 7                   (E) a domestic or foreign reciprocal or  
8 interinsurance exchange;
- 9                   (F) a domestic or foreign fraternal benefit  
10 society;
- 11                   (G) a domestic or foreign title insurance  
12 company;
- 13                   (H) an attorney's title insurance company;
- 14                   (I) a stipulated premium company;
- 15                   (J) a nonprofit legal service corporation;
- 16                   (K) a health maintenance organization;
- 17                   (L) a statewide mutual assessment company;
- 18                   (M) a local mutual aid association;
- 19                   (N) a local mutual burial association;
- 20                   (O) an association exempt under Section 887.102;
- 21                   (P) a nonprofit hospital, medical, or dental  
22 service corporation, including a company subject to Chapter 842;
- 23                   (Q) a county mutual insurance company; and
- 24                   (R) a farm mutual insurance company.

25           Sec. 35.002. CONSTRUCTION WITH OTHER LAW.

26 (a) Notwithstanding any other provision of this code, a regulated  
27 entity may conduct business electronically in accordance with this

1 chapter and the rules adopted under Section 35.004.

2 (b) To the extent of any conflict between another provision  
3 of this code and a provision of this chapter, the provision of this  
4 chapter controls.

5 Sec. 35.003. ELECTRONIC TRANSACTIONS AUTHORIZED. A  
6 regulated entity may conduct business electronically to the same  
7 extent that the entity is authorized to conduct business otherwise  
8 if before the conduct of business each party to the business agrees  
9 to conduct the business electronically.

10 Sec. 35.004. RULES. (a) The commissioner shall adopt  
11 rules necessary to implement and enforce this chapter.

12 (b) The rules adopted by the commissioner under this section  
13 must include rules that establish minimum standards with which a  
14 regulated entity must comply in the entity's electronic conduct of  
15 business with other regulated entities and consumers.

16 SECTION 6.002. Chapter 35, Insurance Code, as added by this  
17 Act, applies only to business conducted on or after the effective  
18 date of this Act. Business conducted before the effective date of  
19 this Act is governed by the law in effect on the date the business  
20 was conducted, and that law is continued in effect for that purpose.

21 ARTICLE 7. DATA COLLECTION

22 SECTION 7.001. Chapter 38, Insurance Code, is amended by  
23 adding Subchapter I to read as follows:

24 SUBCHAPTER I. DATA COLLECTION RELATING TO  
25 CERTAIN PERSONAL LINES OF INSURANCE

26 Sec. 38.401. APPLICABILITY OF SUBCHAPTER. This subchapter  
27 applies only to an insurer who writes personal automobile insurance

1 or residential property insurance in this state.

2 Sec. 38.402. FILING OF CERTAIN CLAIMS INFORMATION.

3 (a) The commissioner shall require each insurer described by  
4 Section 38.401 to file with the commissioner aggregate personal  
5 automobile insurance and residential property insurance claims  
6 information for the period covered by the filing, including the  
7 number of claims:

8 (1) filed during the reporting period;

9 (2) pending on the last day of the reporting period,  
10 including pending litigation;

11 (3) closed with payment during the reporting period;

12 (4) closed without payment during the reporting  
13 period; and

14 (5) carrying over from the reporting period  
15 immediately preceding the current reporting period.

16 (b) An insurer described by Section 38.401 must file the  
17 information described by Subsection (a) on an annual basis. The  
18 information filed must be broken down by quarter.

19 Sec. 38.403. PUBLIC INFORMATION. (a) The department shall  
20 post the data contained in claims information filings under Section  
21 38.402 on the department's Internet website. The commissioner by  
22 rule may establish a procedure for posting data under this  
23 subsection that includes a description of the data that must be  
24 posted and the manner in which the data must be posted.

25 (b) Information provided under this section must be  
26 aggregate data by line of insurance for each insurer and may not  
27 reveal proprietary or trade secret information of any insurer.

1        Sec. 38.404. RULES. The commissioner may adopt rules  
2 necessary to implement this subchapter.

3                ARTICLE 8. STUDY ON RATE FILING AND APPROVAL  
4                REQUIREMENTS FOR CERTAIN INSURERS WRITING IN  
5                UNDERSERVED AREAS; UNDERSERVED AREA DESIGNATION

6        SECTION 8.001. Section 2004.002, Insurance Code, is amended  
7 by amending Subsection (b) and adding Subsections (c) and (d) to  
8 read as follows:

9                (b) In determining which areas to designate as underserved,  
10 the commissioner shall consider:

11                (1) whether residential property insurance is not  
12 reasonably available to a substantial number of owners of insurable  
13 property in the area; ~~and~~

14                (2) whether access to the full range of coverages and  
15 policy forms for residential property insurance does not reasonably  
16 exist; and

17                (3) any other relevant factor as determined by the  
18 commissioner.

19                (c) The commissioner shall determine which areas to  
20 designate as underserved under this section not less than once  
21 every six years.

22                (d) The commissioner shall conduct a study concerning the  
23 accuracy of current designations of underserved areas under this  
24 section for the purpose of increasing and improving access to  
25 insurance in those areas not less than once every six years.

26        SECTION 8.002. Subchapter F, Chapter 2251, Insurance Code,  
27 is amended by adding Section 2251.253 to read as follows:

1       Sec. 2251.253. REPORT. (a) The commissioner shall conduct  
2 a study concerning the impact of increasing the percentage of the  
3 total amount of premiums collected by insurers for residential  
4 property insurance under Section 2251.252.

5       (b) The commissioner shall report the results of the study  
6 in the biennial report required under Section 32.022.

7       (c) This section expires September 1, 2013.

8           ARTICLE 9. INDIVIDUAL HEALTH COVERAGE FOR CHILDREN

9           SECTION 9.001. Section 1502.002, Insurance Code, is amended  
10 to read as follows:

11           Sec. 1502.002. RULES. (a) The commissioner may adopt rules  
12 to implement this chapter, including rules necessary to:

13               (1) increase the availability of coverage to children  
14 younger than 19 years of age;

15               (2) establish an open enrollment period; and

16               (3) establish qualifying events as exceptions to the  
17 open enrollment period, including loss of coverage when a child  
18 becomes ineligible for coverage under the state child health plan.

19           (b) The commissioner may adopt rules on an emergency basis  
20 using the procedures established under Section 2001.034,  
21 Government Code.

22           (c) Notwithstanding Subsection (b), the commissioner is not  
23 required to make a finding under Section 2001.034(a), Government  
24 Code, before adopting rules on an emergency basis.

25           ARTICLE 10. ADJUSTER ADVISORY BOARD

26           SECTION 10.001. (a) The adjuster advisory board  
27 established under this section is composed of the following nine



1 members appointed by the commissioner:

- 2 (1) two public insurance adjusters;
- 3 (2) two members who represent the general public;
- 4 (3) two independent adjusters;
- 5 (4) one adjuster who represents a domestic insurer
- 6 authorized to engage in business in this state;
- 7 (5) one adjuster who represents a foreign insurer
- 8 authorized to engage in business in this state; and
- 9 (6) one representative of the Independent Insurance
- 10 Agents of Texas.

11 (b) A member who represents the general public may not be:

- 12 (1) an officer, director, or employee of:
  - 13 (A) an adjuster or adjusting company;
  - 14 (B) an insurance agent or agency;
  - 15 (C) an insurance broker;
  - 16 (D) an insurer; or
  - 17 (E) any other business entity regulated by the
  - 18 department;
- 19 (2) a person required to register as a lobbyist under
- 20 Chapter 305, Government Code; or
- 21 (3) a person related within the second degree of
- 22 affinity or consanguinity to a person described by Subdivision (1)
- 23 or (2).

24 (c) The advisory board shall make recommendations to the

25 commissioner regarding:

- 26 (1) matters related to the licensing, testing, and
- 27 continuing education of licensed adjusters;



1 SECTION 12.001. Section 1451.153, Insurance Code, is  
2 amended by amending Subsection (a) and adding Subsection (c) to  
3 read as follows:

4 (a) A managed care plan may not:

5 (1) discriminate against a health care practitioner  
6 because the practitioner is an optometrist, therapeutic  
7 optometrist, or ophthalmologist;

8 (2) restrict or discourage a plan participant from  
9 obtaining covered vision or medical eye care services or procedures  
10 from a participating optometrist, therapeutic optometrist, or  
11 ophthalmologist solely because the practitioner is an optometrist,  
12 therapeutic optometrist, or ophthalmologist;

13 (3) exclude an optometrist, therapeutic optometrist,  
14 or ophthalmologist as a participating practitioner in the plan  
15 because the optometrist, therapeutic optometrist, or  
16 ophthalmologist does not have medical staff privileges at a  
17 hospital or at a particular hospital; [~~or~~]

18 (4) exclude an optometrist, therapeutic optometrist,  
19 or ophthalmologist as a participating practitioner in the plan  
20 because the services or procedures provided by the optometrist,  
21 therapeutic optometrist, or ophthalmologist may be provided by  
22 another type of health care practitioner; or

23 (5) as a condition for a therapeutic optometrist or  
24 ophthalmologist to be included in one or more of the plan's medical  
25 panels, require the therapeutic optometrist or ophthalmologist to  
26 be included in, or to accept the terms of payment under or for, a  
27 particular vision panel in which the therapeutic optometrist or

1 ophthalmologist does not otherwise wish to be included.

2 (c) For the purposes of Subsection (a)(5), "medical panel"  
3 and "vision panel" have the meanings assigned by Section  
4 1451.154(a).

5 SECTION 12.002. The change in law made by Section 12.001 of  
6 this Act applies only to a contract entered into or renewed by a  
7 therapeutic optometrist or ophthalmologist and an issuer of a  
8 managed care plan on or after January 1, 2012. A contract entered  
9 into or renewed before January 1, 2012, is governed by the law in  
10 effect immediately before the effective date of this Act, and that  
11 law is continued in effect for that purpose.

12 ARTICLE 13. CLAIMS REPORTING BY INSURERS

13 SECTION 13.001. Subtitle C, Title 5, Insurance Code, is  
14 amended by adding Chapter 563 to read as follows:

15 CHAPTER 563. PRACTICES RELATING TO CLAIMS REPORTING

16 Sec. 563.001. DEFINITIONS. In this chapter:

17 (1) "Claims database" means a database used by  
18 insurers to share, among insurers, insureds' claims histories or  
19 damage reports concerning covered properties.

20 (2) "Insurer," "personal automobile insurance," and  
21 "residential property insurance" have the meanings assigned by  
22 Section 2254.001.

23 Sec. 563.002. REPORTING TO CLAIMS DATABASE. An insurer or  
24 an insurer's agent may not report to a claims database information  
25 regarding an inquiry by an insured regarding coverage provided  
26 under a personal automobile insurance policy or a residential  
27 property insurance policy unless and until the insured files a

1 claim under the policy.

2 ARTICLE 14. SURETY BONDS AND RELATED INSTRUMENTS

3 SECTION 14.001. Section 3503.005(a), Insurance Code, is  
4 amended to read as follows:

5 (a) A bond that is made, given, tendered, or filed under  
6 Chapter 53, Property Code, or Chapter 2253, Government Code, may be  
7 executed only by a surety company that is authorized to write surety  
8 bonds in this state. If the amount of the bond exceeds \$100,000,  
9 the surety company must also:

10 (1) hold a certificate of authority from the United  
11 States secretary of the treasury to qualify as a surety on  
12 obligations permitted or required under federal law; or

13 (2) have obtained reinsurance for any liability in  
14 excess of \$1 million [~~\$100,000~~] from a reinsurer that:

15 (A) is an authorized reinsurer in this state; or  
16 [~~and~~]

17 (B) holds a certificate of authority from the  
18 United States secretary of the treasury to qualify as a surety or  
19 reinsurer on obligations permitted or required under federal law.

20 SECTION 14.002. Section 3503.004(b), Insurance Code, is  
21 repealed.

22 ARTICLE 15. RESIDENTIAL FIRE ALARM TECHNICIANS

23 SECTION 15.001. Section 6002.158(e), Insurance Code, is  
24 amended to read as follows:

25 (e) The curriculum for a residential fire alarm technician  
26 course must consist of at least seven [~~eight~~] hours of instruction  
27 on installing, servicing, and maintaining single-family and

1 two-family residential fire alarm systems as defined by National  
2 Fire Protection Standard No. 72 and an examination on National Fire  
3 Protection Standard No. 72 for which at least one hour is allocated  
4 for completion. The examination must consist of at least 25  
5 questions, and an applicant must accurately answer at least 80  
6 percent of the questions to pass the examination.

7 SECTION 15.002. The changes in law made by this Act to  
8 Section 6002.158, Insurance Code, apply only to an application for  
9 approval or renewal of approval of a training school submitted to  
10 the state fire marshal on or after the effective date of this Act.  
11 An application submitted before the effective date of this Act is  
12 governed by the law in effect immediately before the effective date  
13 of this Act, and that law is continued in effect for that purpose.

14 ARTICLE 16. TRANSITION; EFFECTIVE DATE

15 SECTION 16.001. Except as otherwise provided by this Act,  
16 this Act applies only to an insurance policy, contract, or evidence  
17 of coverage that is delivered, issued for delivery, or renewed on or  
18 after January 1, 2012. A policy, contract, or evidence of coverage  
19 delivered, issued for delivery, or renewed before January 1, 2012,  
20 is governed by the law as it existed immediately before the  
21 effective date of this Act, and that law is continued in effect for  
22 that purpose.

23 SECTION 16.002. This Act takes effect September 1, 2011.

**House Bill 1951 by Taylor (Hegar)**  
Conference Committee Report  
Section-by-Section Analysis  
May 27, 2011

HOUSE VERSION

SECTION 1.001. Amends Section 31.002, Insurance Code. Adds two new duties to the Texas Department of Insurance (TDI): to protect and ensure the fair treatment of consumers and to ensure fair competition in the insurance industry in order to foster a competitive market.

SECTION 1.002. Amends Section 31.004(a), Insurance Code. Changes TDI's Sunset date from 2011 to 2023, continuing the agency for 12 years.

SECTION 1.003. Amends Subchapter B, Chapter 36, Insurance Code, by adding Section 36.110. Adds standard Sunset language requiring the Commissioner of Insurance to develop a policy that encourages the use of negotiated rulemaking and alternative dispute resolution.

SECTION 1.004. Amends Section 559.003, Insurance Code. Requires TDI to include, with consumer information posted on their website, information on how individuals can obtain copies of credit scores and claims history reports.

*(Floor Amendment 21 by Howard, Donna)*

SECTION 1.005. Amends Subchapter A, Chapter 2301, Insurance Code, by adding Section 2301.010. Provides that

SENATE VERSION

SECTION 1.001. Same as House version.

SECTION 1.002. Amends Section 31.004(a), Insurance Code. Changes TDI's Sunset date from 2011 to 2017, continuing the agency for six years.

*(Committee Substitute)*

SECTION 1.003. Same as House version.

No equivalent provision.

No equivalent provision.

CONFERENCE

SECTION 1.001. Same as House version.

SECTION 1.002. Same as House version.

SECTION 1.003. Same as House version.

Same as Senate version.

Same as Senate version.

**House Bill 1951 by Taylor (Hegar)**  
Conference Committee Report  
Section-by-Section Analysis  
May 27, 2011

HOUSE VERSION

SENATE VERSION

CONFERENCE

insurers may provide for, in residential or commercial property policy forms or endorsement forms, a contractual limitation period for filing a suit on a first-party claim. Prohibits the contractual limit period from being shorter than two years from the date the claim is accepted, or rejected or three years from the date of the loss. Allows a policy to include a provision that claims must be filed no later than one year from the date of the loss. Requires such a policy to include a provision that, in cases of good cause, a claim may be filed after the first anniversary of the loss.

*(Floor Amendment 43 by Hancock)*

SECTION 1.006. Amends Section 16.070, Civil Practice and Remedies Code, by amending subsection (a) and adding subsection (c). To conform with changes in Section 2301.10, Insurance Code, regarding residential or commercial property insurance policies, provides and exception to a prohibition in this Code against contracts limiting the time to bring suit to periods less than two years.

*(Floor Amendment 43 by Hancock)*

SECTION 1.007. Instructional Provision. Requires TDI to conduct a study of the feasibility and effectiveness of establishing a mandatory medical reinsurance program that would require issuers if health benefit plans for employers

No equivalent provision.

Same as Senate version.

No equivalent provision.

Same as Senate version.



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with 100 or fewer employees to purchase reinsurance. Requires TDI to analyze data from 2009, 2010, and 2011 and to determine what effect such a program would have on rates and cost to employers. Authorizes TDI to request information from the Employees Retirement System, Teachers Retirement System, and health benefits plan issuers. Requires TDI to report the findings of the study in its biennial report to the legislature nearest to December 31, 2012.

*(Floor Amendment 54 by Perry)*

SECTION 1.008. Instructional Provision. Provides that the changes to contractual limitations and claim filing periods made in Section 2301.010 apply only to a policy made or renewed after January 1, 2012.

*(Floor Amendment 43 by Hancock)*

SECTION 2.001. Amends Chapter 32, Insurance Code, by adding Subchapter E. Adds language requiring the Commissioner of Insurance to adopt rules regarding the purpose, structure, and use of advisory committees by the Commissioner, the State Fire Marshal, or TDI staff. Requires the rules to include the purpose, role, responsibility and goals; size and quorum requirements; qualifications for membership including experience requirements and geographic representation; appointment

No equivalent provision.

Same as Senate version.

SECTION 2.001. Same as House version.

SECTION 2.001. Same as House version.

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procedures; terms of service; training requirements; and duration. Provides that advisory committees must be structured to advise the Commissioner, the State Fire Marshal's Office, or TDI staff, and may not be responsible for rulemaking or policymaking.

Requires the Commissioner to establish a process in rule by which the Department shall periodically evaluate an advisory committee to ensure its continued necessity. Provides that the Department may retain or develop committees as appropriate to meet changing needs.

Requires TDI advisory committees to comply with Chapter 551, Government Code, the Open Meetings Act.

SECTION 2.002. Amends Section 843.441, Insurance Code, by transferring it to Subchapter L, Chapter 843, Insurance Code, and redesignating it as Section 843.410. Makes conforming changes tied to eliminating advisory committees in statute. Adds conservatorship and seizure to the list of financial states of health maintenance organizations that the Section provides for funds for the administrative expenses of the Commissioner. Requires the Commissioner to assess each health maintenance organization, in an amount determined by information found after a review of annual statements and other reports, to pay health care costs and administrative expenses incurred by a health maintenance organization that is placed in supervision or conservatorship or in a

SECTION 2.002. Same as House version.

SECTION 2.002. Same as House version.

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delinquency proceeding and is found by the Commissioner to have insufficient funds to pay the total amount of health care claims and the administrative expenses incurred by the Commissioner regarding the rehabilitation, liquidation, supervision, conservatorship, or seizure.

Authorizes the Commissioner to abate or defer an assessment in an amount determined in a manner consistent with calculations made by the Commissioner in determining the amount of the assessments.

Prohibits funds from assessments from being used for more than 180 consecutive days for the expenses of administering the affairs of a health maintenance organization that has a surplus that is impaired and that is in supervision or conservatorship. Authorizes the Commissioner to extend the period during which the Commissioner can make assessments for administrative expenses.

SECTION 2.003. Amends Section 1660.004, Insurance Code. Deletes language that authorizes the Commissioner to adopt rules requiring the implementation and provision of the technology recommended by the technical advisory committee on electronic data exchange, which is abolished elsewhere in the bill.

SECTION 2.004. Amends Section 1660.102(b), Insurance

SECTION 2.003. Same as House version.

SECTION 2.004. Same as House version.

SECTION 2.003. Same as House version.

SECTION 2.004. Same as House version.

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Code. Deletes a reference to the technical advisory committee on electronic data exchange, which is abolished elsewhere in the bill.

SECTION 2.005. Amends Section 4001.009(a), Insurance Code. Deletes references to the Market Assistance Program (Chapter 523) and the Technical Advisory Committee on Claims Processing (Chapter 1212), both of which are abolished elsewhere in the bill. Makes conforming changes.

SECTION 2.006. Amends 4102.005, Insurance Code. Deletes a reference to the public insurance adjusters examination advisory committee, abolished elsewhere in the bill.

SECTION 2.007. Amends Section 2154.052(a), Occupations Code. Deletes a reference to the advisory committee on fireworks, which is abolished elsewhere in this bill, in Section 2154.054 that authorizes the Commissioner to adopt rules.

SECTION 2.008. Repeals the following chapters, subchapters, and sections of the Insurance and Occupations Code.

Article 3.70-3D(d), Insurance Code, as effective on appropriation in accordance with Section 5, Chapter 1457

SECTION 2.005. Same as House version.

SECTION 2.006. Same as House version.

SECTION 2.007. Same as House version.

SECTION 2.008. Same as House version.

SECTION 2.005. Same as House version.

SECTION 2.006. Same as House version.

SECTION 2.007. Same as House version.

SECTION 2.008. Same as House version.

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(H.B. 3021), Acts of the 76th Legislature, Regular Session, 1999

Chapter 523, Insurance Code

Section 524.061, Insurance Code

The heading to Subchapter M, Chapter 843, Insurance Code

Section 843.435, Insurance Code

Section 843.436, Insurance Code

Section 843.437, Insurance Code

Section 843.438, Insurance Code

Section 843.439, Insurance Code

Section 843.440, Insurance Code

Chapter 1212, Insurance Code

Section 1660.002(2), Insurance Code

Subchapter B, Chapter 1660, Insurance Code

Section 1660.101(c), Insurance Code

Section 4002.004, Insurance Code

Section 4004.002, Insurance Code

Section 4101.006, Insurance Code

Section 4102.059, Insurance Code

Sections 4201.003(c) and (d) , Insurance Code

Subchapter C, Chapter 6001, Insurance Code

Subchapter C, Chapter 6002, Insurance Code

Subchapter C, Chapter 6003, Insurance Code

Section 2154.054, Occupations Code

Section 2154.055(c), Occupations Code

The repealed section repeals the enabling chapter for the obsolete Market Assistance Program, which has been

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superseded by the Texas FAIR Plan. The repealed sections abolish the following boards, committees, councils, and task forces: the consumer assistance program for health maintenance organization advisory committee; the executive committee of the market assistance program residential property insurance; the TexLink to Health Coverage Program task force; the health maintenance organization solvency surveillance committee; the technical advisory committee on claims processing; the technical advisory committee on electronic data exchange; the examination of license applicants advisory board; the advisory council on continuing education for insurance agents; the insurance adjusters examination advisory board; the public insurance adjusters examination advisory committee; the utilization review agents advisory committee; the fire extinguisher advisory council; the fire detection and alarm devices advisory council; the fire protection advisory council; and the fireworks advisory council.

SECTION 2.009. Instructional Provision. Provides that the following boards are abolished on the effective date of the Act: the consumer assistance program for health maintenance organization advisory committee; the executive committee of the market assistance program residential property insurance; the TexLink to Health Coverage Program task force; the health maintenance organization solvency surveillance committee; the technical advisory committee on claims processing; the technical

SECTION 2.009. Same as House version.

SECTION 2.009. Same as House version.

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advisory committee on electronic data exchange; the examination of license applicants advisory board; the advisory council on continuing education for insurance agents; the insurance adjusters examination advisory board; the public insurance adjusters examination advisory committee; the utilization review agents advisory committee; the fire extinguisher advisory council; the fire detection and alarm devices advisory council; the fire protection advisory council; and the fireworks advisory council.

Provides that all powers, duties, obligations, rights, contracts, funds, records, and real or personal property of any of the above boards, committees, councils, or task forces shall be transferred to TDI not later than February 28, 2012.

SECTION 2.010. Instructional Provision. Provides that the changes made by repealing Sections 523.003 (Immunity) and 843.439 (Immunity From Liability), Insurance Code apply only to a cause of action that accrues on or after the effective date of the Act. Provides that a cause of action that accrues before the effective date of this Act is governed by the law in effect immediately before that date, and that law is continues in effect for that purpose.

SECTION 3.001. Amends Subchapter F, Chapter 843,

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SECTION 2.010. Same as House version.

No equivalent provision.

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SECTION 2.010. Same as House version.

SECTION 3.001. Same as House version.

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Insurance Code, by adding Section 843.2071. Requires health maintenance organizations to inform enrollees no less than 60 days before a rate increase. Requires HMOs to provide the current actual dollar amount, the actual dollar amount after the increase, and the percentage between the difference in a notice to the insured. Prohibits HMO from requiring enrollees to respond to notices or take action on the coverage before the 45th day after the notice is given. Requires that notices contain contact and information on the complaints process for TDI and the Texas Consumer Health Assistance Program, website information that contains justification for the rate increase, and the website address for the United States Department of Health and Human Services.

*(Floor Amendment 28 by Walle)*

SECTION 3.002. Amends Subchapter C, Chapter 1201, Insurance Code, by adding Section 1201.109. Requires individual accident and health insurance policies to inform enrollees 60 days before a rate increase. Requires the accident and health insurance companies to provide the current actual dollar amount, the actual dollar amount after the increase, and the percentage between the difference in a notice to the insured. Prohibits insurance companies from requiring enrollees to respond to notices or take action on the coverage before the 45th day after the notice is given. Requires that a notice contain contact and information on the complaints process for TDI and the Texas Consumer

No equivalent provision.

SECTION 3.002. Same as House version.



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Health Assistance Program, website information that contains justification for the rate increase, and the website address for the United States Department of Health and Human Services.

*(Floor Amendment 28 by Walle)*

SECTION 3.003. Amends Subchapter E, Chapter 1501, Insurance Code, by adding Section 1501.216. Requires insurers to inform enrollees in a small employer health benefits plan 60 days before a rate increase. Requires the insurance companies to provide the current actual dollar amount, the actual dollar amount after the increase, and the percentage between the difference in a notice to the insured. Prohibits insurance companies from requiring enrollees to respond to notices or take action on the coverage before the 45th day after the notice is given. Requires that a notice contain contact and information on the complaints process for TDI and the Texas Consumer Health Assistance Program, website information that contains justification for the rate increase, and the website address for the United States Department of Health and Human Services.

*(Floor Amendment 28 by Walle)*

SECTION 3.004. Amends Section 2251.002(8), Insurance Code. Redefines "supporting information," to include any

SENATE VERSION

No equivalent provision.

No equivalent provision.

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SECTION 3.003. Same as House version.

SECTION 3.004. Same as House version.

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information TDI receives in response to a request from TDI on property and casualty insurance rates, rather than any other information the department requires to be filed.

*(Floor Amendment 41 by Hartnett)*

SECTION 3.005. Amends Section 2251.101, Insurance Code. Provides that an insurer may use a rate filed under this rate regulation subchapter on and after the date that the rate is filed. Adds subsection (b)(2) and renumbers and reletters the subsection accordingly. Requires the Commissioner to adopt rules to prescribe the process through which TDI asks for supplemental and supporting rating information. Provides that the process must include the number of times TDI may request information and the types of information TDI may request.

SECTION 3.006. Amends Section 2251.103, Insurance Code, by amending Subsections (a), (b), and (e), and adding Subsections (b), (c), and (f).

Changes the title of 2251.103 to: COMMISSIONER ACTION CONCERNING RATE FILING NOT YET IN EFFECT; HEARING AND ANALYSIS.

(a) Requires the Commissioner to disapprove a rate, if the rate does not comply with the requirements laid out in this law, not later than the earlier of the date the rate takes

SECTION 3.001. Same as House version.

SECTION 3.002. Same as House version.

SECTION 3.005. Same as House version.

SECTION 3.006. Same as House version.

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effect or the 30th day after the date a rate is filed.

(b) Provides that if a rate has not been disapproved before the expiration of the 30-day period described above, then the rate is not considered to be disapproved.

(c) Authorizes the Commissioner to extend the 30-day period for disapproval of a rate for an additional 30-day period for good cause. Prohibits the Commissioner and the insurer from agreeing to extend the review period, as described in (a) and (c).

(d) Clarifies that the section applies to rates, not rate filings, as filings often contain more than one rate.

(e) Replaces “The filer” with “An insurer that files a rate that is disapproved under this section” for clarity.

(f) Requires TDI to track, compile, and routinely analyze the factors that contribute to the disapproval of rates.

SECTION 3.007. Amends Subchapter C, Chapter 2251, Insurance Code, by adding Section 2251.1031.

SECTION 3.003. Same as House version.

SECTION 3.007. Same as House version.

Sec. 2251.1031. REQUESTS FOR ADDITIONAL INFORMATION.

(a) Authorizes TDI to request additional information from an insurer if TDI determines that the rating information

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filed is incomplete or otherwise deficient.

(b) Provides that if TDI requests additional information, the time between the date TDI submits the request the date TDI receives the information is not included in the computation of the first 30-day period or the second 30-day period as described in 2251.103(a) or 2251.153(c).

(c) Provides that the date of TDI submission of a request for additional information is the earlier of the date of TDI's electronic mailing or documented telephone call or the postmarked date on the letter.

(d) Requires TDI to track, compile, and routinely analyze the volume and content of requests for additional information to ensure that all requests for additional information are fair and reasonable.

SECTION 3.008. Amends the heading to Section 2251.104, Insurance Code. Changes the heading to read: COMMISSIONER DISAPPROVAL OF RATE IN EFFECT; HEARING.

SECTION 3.009. Amends Section 2251.107, Insurance Code.

Amends the Heading to Section 2251.107 to read "PUBLIC INFORMATION" instead of "PUBLIC INSPECTION OF

SECTION 3.004. Same as House version.

SECTION 3.005. Amends Section 2251.107, Insurance Code.

Same as House version.

SECTION 3.008. Same as House version.

SECTION 3.009.

Same as House version.

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INFORMATION”.

Specifies that rate filings and any supporting information filed is public information subject to the state’s open records law, including any applicable exception from required disclosure, rather than open to public inspection as of the date of the filing, as is current practice.

No equivalent provision.

Same as House version.

*(Floor Amendment 41 by Hartnett)*

No equivalent provision.

Adds new Section 2251.107(b). Requires TDI to make information concerning the department's general process and methodology for rate review under this chapter, including factors that contribute to the disapproval of a rate, public each year. Specifies that the information must be general and may not reveal proprietary or trade secret information of any insurer.

Same as Senate version.

SECTION 3.010. Amends Section 2251.151, Insurance Code, adding Subsections (c-1) and (f) and amending Subsection (e).

SECTION 3.006. Same as House version.

SECTION 3.010. Same as House version.

(c-1) Requires the Commissioner to periodically assess the conditions that lead to requiring an insurer to file rates for prior approval. Requires the Commissioner to issue an order excusing the insurer from filing rates for prior approval if the Commissioner determines that the conditions no longer exist.

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(e) Requires the Commissioner, in the original order requiring rates to be filed for prior approval, to explain the steps an insurer must meet in order to be excused from filing for prior approval.

(f) Requires the Commissioner to define, in rule, the financial conditions and rating practices that may subject an insurer to filing rates for approval and the process by which the Commissioner determines that a statewide insurance emergency exists.

SECTION 3.011. Amends 2251.156, Insurance Code, by amending Subsections (a) and (b) and adding Subsection (c).

(a) Replaces a reference to 2251.103(b) with 2251.103(d).  
(b) Replaces 2251.103(c) with 2251.103(e), to conform with the bill.

(c) Requires TDI to track precedents related to disapprovals of rates to ensure uniform application of rate standards.

SECTION 3.012. Amends Section 2254.003(a), Insurance Code.

(a) Specifies that the section, relating to premium refunds for certain personal lines, applies to rates for personal

SECTION 3.007. Same as House version.

SECTION 3.008. Amends Section 2254.003, Insurance Code, by amending Subsection (a), and adding Subsections (a-1), (a-2), and (a-3).

Same as House version.

SECTION 3.011. Same as House version.

SECTION 3.012. Same as House version.

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automobile or residential property insurance.

No equivalent provision.

(a-1) - (a-3). Provides that if a personal property and casualty insurer files a rate that TDI finds to be excessive or unfairly discriminatory, that the insurer may file a new rate with TDI. Requires the insurer to refund policyholders the excessive premium and interest of prime plus 6 percent, if that new rate is accepted, and premium plus 18 percent, if the insurer does not file or TDI doesn't accept a new rate, and the rate is ultimately found to be excessive or unfairly discriminatory. Provides that the refund period starts on the day TDI first provides written notice that a rate is excessive or unfairly discriminatory.

*(Committee Substitute)*

SECTION 3.013. Repeals Section 2251.154, relating to requests for additional information, superseded by language elsewhere in the bill.

SECTION 3.009. Same as House version.

SECTION 3.013. Same as House version.

No equivalent provision.

SECTION 3.010. Repeals Section 2254.003(c) which contains current language about interest on refunds, which is superseded by new language in the bill.

Same as House version.

SECTION 3.014. Instructional Provision. Provides that changes made in the bill relating to notice of premium changes (Sections 843.2071, 1201.109, and 1501.216)

No equivalent provision.

Same as Senate version.

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apply only to policies coverage made or renewed on or after the effective date of this Act.

*(Floor Amendment 28 by Walle)*

SECTION 3.015. Instructional Provision. Provides that changes related to the public information related to filings (Sections 2251.002(8) and 2251.107) apply only to requests made on or after the effective date of the Act.

*(Floor Amendment 41 by Hartnett)*

SECTION 3.016. Instructional Provision. Provides that the changes in the bill relating to filing rates (Sections 2251.103 and 2251.1031) only apply to rates filed after the effective date of the Act, and that rates filed before the effective dates are governed by current law.

SECTION 3.017. Instructional Provision. Provides that the requirement to periodically assess the need for insurers to file rates for prior approval, (Section 2251.151(c-1)) applies to an insurer that is required to file rates for prior approval, regardless of when the order to do so was issued.

SECTION 3.018. Instructional Provision. Provides that the changes made to require Commissioner to explain, in the original order, the steps an insurer must meet in order be excused from filing for prior approval (2251.151(e))

No equivalent provision.

SECTION 3.011. Same as House version.

SECTION 3.012. Same as House version.

SECTION 3.013. Same as House version.

SECTION 3.014. Same as House version.

SECTION 3.015. Same as House version.

SECTION 3.016. Same as House version.

SECTION 3.017. Same as House version.



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apply only to orders issued after the effective date of this Act.

SECTION 4.001. Amends Section 417.008, Government Code by adding Subsection (f). Requires the commissioner of insurance to prescribe a fee for inspections performed by the state fire marshal that may be charged to property owners or occupants who request an inspection. Requires the commissioner to consider certain factors in setting the fee.

SECTION 4.001. Same as House version.

SECTION 4.001. Same as House version.

SECTION 4.002. Amends Section 417.0081, Government Code, to require the state fire marshal to periodically inspect state-leased buildings. Requires the Commissioner of Insurance to adopt guidelines, in rule, for a risk-based approach to conducting routine inspections of state-owned and state-leased buildings. Requires the Office to report its findings in conducting state inspections to the governor, lieutenant governor, speaker of the house of representatives, and the standing committees of the legislature each year.

SECTION 4.002. Same as House version.

SECTION 4.002. Same as House version.

SECTION 4.003. Amends Section 417.0082, Government Code, to require the state fire marshal to take necessary actions to protect the occupants of buildings leased for the use of a state agency by the Texas Facilities Commission.

SECTION 4.003. Same as House version.

SECTION 4.003. Same as House version.

SECTION 4.004. Amends 417.010, Government Code, to

SECTION 4.004. Same as House version.

SECTION 4.004. Same as House version.

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require the Commissioner of Insurance to delegate, by rule, to the state fire marshal the authority to take enforcement action against persons regulated by the state fire marshal, including persons engaged in planning, installing, and servicing fire sprinkler systems, fire extinguishers, and fire alarm systems, and who sell fireworks. Requires the Commissioner to adopt by rule a penalty schedule for violations, and to consider certain factors in setting penalties. Deletes authority for license holders to remit monetary forfeitures not to exceed \$10,000 for violations. Authorizes the state fire marshal to impose fees without referral to the Department of Insurance. Provides for enforcement by the Department of Insurance for non-payment of fines.

SECTION 5.001. Amends Chapter 2501, Insurance Code, by adding Section 2501.009. Authorizes TDI to accept gifts, grants, and donations to be used by TDI employees for title insurance educational purposes. Provides that the commissioner may adopt rules.

*(Floor Amendment 9 by Anderson)*

SECTION 5.002. Amends Section 2502.055(a), Insurance Code. Provides that title insurance companies and title insurance agents may provide continuing education courses at market rates, regardless if credit is received for the hours.

No equivalent provision.

Same as Senate version.

No equivalent provision.

Same as Senate version.

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*(Floor Amendment 6 by Darby)*

SECTION 5.003. Amends Section 2551.302, Insurance Code. Authorizes title companies to reinsure any of their policies if the reinsuring title company is authorized in Texas or if the reinsuring title company is eligible according to the amendments made in Section 2551.305. Removes the requirement that TDI first approve the contract before the title company can reinsure.

No equivalent provision.

Same as Senate version.

*(Floor Amendment 42 by Deshotel)*

SECTION 5.004. Amends Section 2551.305, Insurance Code. Provides that a title insurance company may reinsure with a title insurance company not authorized to engage in business in Texas if they have a combined capital and surplus of at least \$20M and they are authorized to engage in business in more than one state. Requires the title insurance company seeking reinsurance to provide written notice to the commissioner 30 days before acquiring the reinsurance. Requires the commissioner to respond during the 30-day period if the title insurance company is prohibited from obtaining reinsurance through the reinsuring title company. Requires title insurance companies seeking reinsurance to provide TDI sufficient information to evaluate the transaction. Allows title insurance companies, that have exhausted their other

No equivalent provision.

Same as Senate version.

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options, to get reinsurance from out-of-state title insurance company that does not meet the above requirements but does have combined capital and surplus of \$2M. This is an increase from 1.4M.

*(Floor Amendment 42 by Deshotel)*

SECTION 5.005. Amends Section 2651.007, Insurance Code, by adding Subsections (d), (e), (f), and (g).

No equivalent provision.

Same as Senate version.

(d) Requires TDI to notify a title insurance licensee of any deficiency in their renewal application no later than 20 days after receiving the application.

(e) Requires TDI to notify the title insurance licensee no later than the 5th business day after the renewal application is complete.

(f) Provides that an application is automatically approved on the 30th business day after the date the renewal application is completed unless TDI has not contacted the applicant in writing of grounds for denial.

(g) Provides that TDI may provide a notice via e-mail.

*(Floor Amendment 6 by Darby)*

SECTION 5.006. Amends Section 2651.009, Insurance

No equivalent provision.

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Code, by amending Subsection (c) and adding Subsections (c-1) and (c-2) and (c-3).

(c) Increases the time limit TDI has to notify a title insurance agent and the appointing title insurance company of any deficiencies in a notification for appointment to no later than 20 days. Provides that a notice to represent additional title companies be considered completed upon the date TDI receives the notices, unless the TDI finds deficiencies.

(c-1) Requires TDI to notify, within five business days, the title insurance agent and appointing title insurance company in writing of the date the notice is complete.

(c-2) Provides that the appointment is effective on the eight business day after the notice of appointment is complete and TDI receives the fee. However, if TDI proposes to reject the appointment TDI shall notify the title insurance agent and the appointing title insurance company, by writing, within seven days from the date the notice of appointment is complete.

(c-3) provides that TDI may provide a notice via email.

*(Floor Amendment 6 by Darby)*

SECTION 5.007. Amends Subchapter G, Chapter 2651, Insurance Code, by adding Sections 2651.3015 and 2651.303. Prohibits TDI from rejecting, delaying or

No equivalent provision.

Same as Senate version.

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denying a notice of title insurance agent appointment or a title insurance agent license renewal based on pending TDI audits or complaints investigations, or on a pending disciplinary action. Provides that TDI may reject a notice for appointment or renewal for material misstatement or for attempted fraud or misrepresentation. Provides that TDI may delay approval if a licensee or an appointing title insurance company is subject of a criminal investigation or prosecution or the deputy commissioner in the title division makes a good faith determination that there is suspicion of ongoing fraud.

Requires TDI to provide notice of the initiation of an enforcement or disciplinary action within thirty days, unless the case is ongoing criminal or there is suspicion of ongoing fraud. Provides for automatic dismissal in 60 days, once a hearing has been requested, unless the Department serves notice of hearing. Provides that TDI may send the notice via email. Authorizes TDI to provide information about an enforcement action to any title insurance company that the licensee has, or is trying to obtain, appointment.

*(Floor Amendment 6 by Darby)*

SECTION 5.008. Amends Subchapter B, Chapter 2652, Insurance Code, by adding Section 2652.059. Revises escrow officer's license application and application renewal procedures. Requires TDI to notify renewal applicants

No equivalent provision.

Same as Senate version.

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within 20 days of any deficiencies, requires TDI to notify the applicant within five days of the applications completion, and provides for automatic approval within thirty days unless TDI notifies applicant in writing of factual grounds for denial. Provides that TDI provide the required notices via email.

*(Floor Amendment 6 by Darby)*

SECTION 5.009. Amends Subchapter E, Chapter 2652, Insurance Code, by adding Section 2652.2015 and 2652.203. Prohibits TDI from delaying or denying an escrow officer application for licensure or application for renewal based on pending TDI audits or complaints investigations, or on a pending disciplinary action. Provides that TDI may delay approval of an application if the applicant or licensee is the subject of a criminal investigation or prosecution or the deputy commissioner in the title division makes a good faith determination that there is suspicion of ongoing fraud. Provides that TDI may reject an application for material misstatement or for attempted fraud or misrepresentation.

Requires TDI to provide notice of the initiation of an enforcement or disciplinary action within thirty days, unless the cases are ongoing criminal or there is suspicion of ongoing fraud. Provides for automatic dismissal in 60 days, once a hearing has been requested, unless the Department serves notice of hearing. Provides that TDI

No equivalent provision.

Same as Senate version.

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may send the notice via email. Provides that TDI may provide information about an enforcement action to any title insurance company or direct operation the escrow officer has, or is trying to obtain, employment.

*(Floor Amendment 6 by Darby)*

SECTION 5.010. Amends Subchapter B, Chapter 2703, Insurance Code, by adding Section 2703.0515. Prohibits TDI from requiring title companies to provide coverage for loss resulting from the use of the surface of the land for the extraction or development of coal, lignite oil, gas, or other minerals if the policy includes a general exception or exclusion from coverage. Defines “general exception or exclusion” as a provision in a title insurance policy or title form that specifies that the covered property does not include coal, lignite, oil, gas and other minerals in and under the covered property together with the related rights, privileges, and immunities and that the policy does not cover a lease, grant, exception, or reservation of coal, lignite, oil, gas, or other minerals or related rights, privileges, and immunities, appearing in the public record.

*(Floor Amendment 7 by Orr)*

Prohibits title companies from adding premiums or other amounts charged for an endorsement to a loan policy of title insurance, if the endorsement insures against loss from damages to improvements or permanent buildings located

No equivalent provision.

Same as Senate version.



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on the land that result from the future exercise of any existing rights to use the surface of the land for extraction and development of coal, lignite, oil, gas, or other mineral, does not expressly insure against loss due to subsidence, and was promulgated by the commissioner in calendar year 2009.

*(Third Reading Floor Amendment 9 by Hughes)*

SECTION 5.011. Amends Subchapter B, Chapter 2703, Insurance Code, by adding Section 2703.055 and 2703.056. Prohibits the commissioner from requiring that title companies issue policies that insure against the loss from damages to a property caused by severance of minerals from the surface of the estate, or requiring that title insurers provide insurance as to ownership of minerals. Provides the title insurance companies may include a general exception or a special exception. Clarifies that a general or special exception does not create coverage as to the condition or ownership of the mineral estate.

*(Floor Amendment 8 by Hughes)*

SECTION 5.012. Amends Section 2703.153, Insurance Code, by amending Subsections (c) and (d) and adding Subsections (h) and (i).  
(c) Requires the Commissioner to evaluate the information used to promulgate title insurance rates at least every five

No equivalent provision.

Same as Senate version.

SECTION 5.001. Amends Section 2703.153(c), Insurance Code.

Same as House version.

SECTION 5.001.

Same as House version.

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years, and determine whether TDI needs additional, different, or less information than what it is receiving.

(d) Makes a conforming change related to changing the rate hearings from biennial hearings to periodic hearings.

(h) Requires the contents of the title rate statistical report be established in a rulemaking hearing under Subchapter B, Chapter 2001, Government Code.

(i) Prohibits the contents of the statistical report from applying retroactively.

*(Floor Amendment 6 by Darby)*

SECTION 5.013. Amends Section 2703.202, Insurance Code, by amending Subsections (b) and (d) and adding Subsections (g), (h), (i), (j), (k), (l), (m), (n), and (o).

(b) Requires the commissioner to order a public hearing to consider changing a premium rate, including fixing a new premium rate, upon written request. Extend the list of those authorized to request a hearing to associations composed of at least 50% of the title insurance agents and title insurance companies licensed or authorized to practice in the state and an association composed of at least 20% of the number of title insurance agents licensed or authorized by the TDI.

(d) Requires the commissioner to conduct a hearing held

No equivalent provision.

No equivalent provision.

No equivalent provision.

No equivalent provision.

Same as Senate version.

Same as Senate version.

Same as Senate version.

Same as Senate version.

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under Subsection (a) or under Section 2703.206 as a contested case hearing at the request of a title insurance company; an associations composed of at least 50% of the title insurance agents and title insurance companies licensed or authorized to practice in the state; an association composed of at least 20% of the number of title insurance agents licensed or authorized by the TDI; and OPIC.

(g) Requires the commissioner to render a decision and issue a final order on a hearing, not conducted as a contested case hearing, no later than 120 days after the commissioner receives a written request.

(h) Requires the commissioner to issue a call for items to be considered at the hearing no later than the 30th day after the request is received. Prohibits the commissioner from requiring a response to the notice before the 60th day after the notice is issued. Requires the commissioner to issue a notice of public hearing no later than the 30th day after the date the request was received and to commence a public hearing not earlier than 120 days after the date the notice of hearing is issued. Requires the commissioner to close the public hearing no later than the 150th day after the notice of the hearing is issued and to render a decision and issue final order no later than 60 day after the record made in the public hearing is closed.

(i) Prohibits limiting a party's presentation of relevant and

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admissible oral testimony in a hearing.

(j) Requires the commissioner to consider each matter presented in a hearing and announce in a public hearing all decisions on all matters considered.

(k) Provides that a party may petition a district court in Travis County to enter an order requiring the commissioner to comply with the deadlines, if the commissioner has failed to meet them.

(l) Provides that a combination of at least three associations, persons, or entities listed in the chapter may jointly petition a district court in Travis County to adopt a rate based on the record made in the hearing held by the commissioner.

(m) Provides that the court shall hold an evidentiary hearing to establish a record if the record made in the hearing is not completed by the commissioner.

(n) Prohibits the commissioner from issuing findings or an order after a petition to the court has been made.

(o) Provides that the district court may appoint a magistrate to adopt a rate under this section.

*(Floor Amendment 6 by Darby)*

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SECTION 5.014. Amends Section 2703.203, Insurance Code. Changes the biennial requirement for hearing to consider title insurance premium rates and matters to a periodic hearing to take place once every five years.

No equivalent provision.

Same as Senate version.

*(Floor Amendment 6 by Darby)*

SECTION 5.015. Amends Section 2703.204, Insurance Code. Requires that a trade association whose membership is composed of at least 20% of the members of an industry or group represented by the trade association, an association, a person or entity described by Section 2703.202(b), or TDI staff, be admitted as a party to the periodic hearing under Section 2703.203.

No equivalent provision.

Same as Senate version.

*(Floor Amendment 6 by Darby)*

SECTION 5.016 Amends Section 2703.207, Insurance Code. Requires TDI to send notice of a hearing and items to be considered, in the hearing to all parties to the previous hearing conducted under Sections 2703.202, 2703.203, and 2703.206, if the hearing was conducted as a contested case hearing. Requires TDI to publish the notice and items to be considered in a hearing in the Texas Register and on TDI's website.

No equivalent provision.

Same as Senate version.

*(Floor Amendment 6 by Darby)*

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<p>SECTION 5.017. Repeals Section 2551.303, Insurance Code. Regarding TDI approved forms for title insurance company's reinsurance contracts.</p> <p><i>(Floor Amendment 42 by Deshotel)</i></p>	No equivalent provision.	Same as Senate version.
<p>SECTION 5.018. Repeals Section 2703.205, Insurance Code. Regarding procedures for the biennial rate hearing.</p> <p><i>(Floor Amendment 6 by Darby)</i></p>	No equivalent provision.	Same as Senate version.
<p>SECTION 5.019. Instructional Provision. Provides that the changes related to (Section 2703.0515) extraction endorsement apply only to policies delivered or issued for delivery on or before January 1, 2012.</p> <p><i>(Floor Amendment 7 by Orr)</i></p>	No equivalent provision.	Same as Senate version.
<p>SECTION 5.020. Instructional Provision. Provides that the changes made relating to (Sections 2703.055 and 2703.056) mineral coverages apply only to policies delivered on or after January 1, 2012.</p> <p><i>(Floor Amendment 8 by Hughes)</i></p>	No equivalent provision.	Same as Senate version.
<p>SECTION 5.021. Instructional Provision. Provides that the changes made relating to (Sections 2551.302, 2551.305 and repealed Section 2551.303) reinsurance requirements</p>	No equivalent provision.	Same as Senate version.

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only apply to contracts entered into on or after the effective date of the Act.

*(Floor Amendment 42 by Deshotel)*

SECTION 6.001. Amends Subtitle A, Title 2 of the Insurance Code by adding Chapter 35.

SECTION 6.001. Same as House version.

SECTION 6.001. Same as House version.

CHAPTER 35, ELECTRONIC TRANSACTIONS. Defines "Conduct business" and "Regulated entity" for use in this chapter. Authorizes regulated entities to conduct business electronically in accordance with this chapter and the rules adopted under Section 35.004. Provides that this chapter controls, if this chapter conflicts with another provision of this code. Authorizes a regulated entity to conduct business electronically if each party to the business agrees to conduct the business electronically. Requires the commissioner of insurance to adopt rules to implement and enforce this chapter, including rules to set minimum standards for compliance by a regulated entity doing business with other regulated entities and consumers.

SECTION 6.002. Same as House version.

SECTION 6.002. Same as House version.

SECTION 6.002. Instructional Provision. Provides that Chapter 35 as added by the Act applies only to business conducted on or after the effective date of this Act, and that business conducted before the effective date of this Act is governed by the law in effect on the date the business was conducted, and that law is continued in effect for that

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purpose.

SECTION 7.001. Amends Chapter 38, Insurance Code, by adding Subchapter I. Applies this subchapter only to insurers who write personal automobile insurance or residential property insurance in this state. Requires the commissioner of insurance to require each insurer described by Section 38.401 to file aggregate personal automobile insurance and residential property insurance claims. Specifies claim information to be reported. Requires an insurer to file this information on an annual basis and broken down by quarter.

Requires the department of insurance to post the data contained in claims information filings under Section 38.402 on the department's Internet website. Authorizes the commissioner by rule to establish a procedure for posting data. Provides that the information provided under this section must be aggregate data by line of insurance for each insurer and may not reveal proprietary or trade secret information of any insurer. Authorizes the commissioner of insurance to adopt rules necessary to implement this subchapter.

SECTION 7A.001. Amends Subtitle B, Title 5, Insurance Code, by adding Chapter 525. Requires TDI to develop and implement a health benefits plan innovations program to study the number of uninsured individuals, the reasons

SECTION 7.001. Same as House version.

No equivalent provision.

SECTION 7.001. Same as House version.

Same as Senate version.



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they are uninsured, and ways to expand access to affordable health benefit plan coverage. Requires the consumer protection division of TDI to implement the program using existing resources and prohibits them from hiring full-time employees solely for the purpose of implementing the program. Requires TDI to include the findings of the program in the biennial report to the legislature.

Requires that the program evaluate programs in other states aimed at reducing the number of the uninsured, monitor the health benefits market in the state. Prohibits the program from duplicating a service or function of another state agency. Provides that the program may operate a clearinghouse for objective consumer information on health care coverage; collect, track, and qualify problems and inquiries encountered by consumers; educate consumer's rights and responsibilities regarding health insurance coverage; provide existing health-related information to the general public and health care providers; and establish an advisory committee composed of state agencies. Provides that TDI may coordinate with Health and Human Services Commission and health benefits plan issuers.

Provides that TDI may accept funding in the form of gift and grants from the federal government or organization or private parties without a potential conflict of interest. Provides that the TDI may adopt rules, after presenting them to the Texas Ethics Commission and to the commissioner, governing acceptance of gifts and grants. Provides that the commissioner may adopt rules to

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implement this Chapter.

*(Floor Amendment 53 by McClendon)*

SECTION 8.001. Amends Section 2004.002, Insurance Code, by amending Subsection (b) and adding Subsections (c) and (d). Requires the Commissioner to consider whether access to the full range of coverages and policy forms for residential property insurance does not reasonably exist in area when determining which areas to designate as underserved. Requires the Commissioner to determine which areas to designate as underserved at least every six years. Requires the Commissioner to conduct a study concerning the accuracy of current designations of underserved areas for the purpose of increasing and improving access to insurance in those areas at least every six years.

SECTION 8.001. Same as House version.

SECTION 8.001. Same as House version.

SECTION 8.002. Amends Subchapter F, Chapter 2251, Insurance Code, by adding Section 2251.253, which expires September 1, 2013. Requires the Commissioner to conduct a study concerning the impact of increasing the percentage of the total amount of premiums collected by insurers for residential property insurance and requires the Commissioner to report the results of the study in its biennial report.

SECTION 8.002. Same as House version.

SECTION 8.002. Same as House version.

SECTION 9.001. Amends Section 83.002, Insurance Code,

No equivalent provision.

Same as Senate version.

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by adding Subsection (c). Specifies that qualified inspectors under Section 2210.254 and 2210.255 and those acting as qualified inspectors, but not appointed, under Section 2210.254 and 2210.255 fall under TDI's enforcement authority.

*(Floor Amendment 1 by Taylor, Larry)*

SECTION 9.002. Amends Section 2210.105, Insurance Code, by amending Subsection (b) and adding Subsections (b-1), (e) and (f).

Provides that the commissioner, or the commissioner's designated representative, has access to all closed meetings Texas Windstorm Insurance Association board of directors or members. Requires the association to broadcast all open meetings live on the association's website and to maintain an archive of the meetings for at least five years.

*(Floor Amendment 1 by Taylor, Larry and Third Reading Floor Amendment 6 by Gallego)*

SECTION 9.003. Amends Subchapter C, Chapter 2210, Insurance Code, by adding Section 2210.108. Provides that the association's meetings and records are subject to Chapters 551 (open meetings) and 552 (public information), Government Code.

*(Floor Amendment 1 by Taylor, Larry)*

No equivalent provision.

Same as Senate version.

No equivalent provision.

Same as Senate version.

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SECTION 9.004. Amends Section 2210.202(b), Insurance Code. Requires the association to develop a simplified renewal process for coverage renewal and payment of premiums to be used by persons insured through the association, and property and casualty agents. Requires the application for both initial and renewal coverage to provide a statement that the agent acted on behalf of the applicant.

No equivalent provision.

Same as Senate version.

*(Floor Amendment 1 and Floor Amendment 22 by Taylor, Larry)*

SECTION 9.005. Amends Section 2210.203(a) and (c), Insurance Code. Provides that the association may collect the premium for a renewed policy directly from the applicant.

No equivalent provision.

Same as Senate version.

*(Floor Amendment 22 by Taylor, Larry)*

SECTION 9.006. Amends Section 2210.204(d) and (e), Insurance Code. Clarifies that refunds for cancellation for agent commissions shall come from the agent receiving the commission, not the agent submitting the application. Reduces the time period for a minimum retained premium from no less than 180 days to no less than 90 days.

No equivalent provision.

Same as Senate version.

*(Floor Amendment 22 by Taylor, Larry)*

SECTION 9.007. Amends Section 2210.254, Insurance Code, by adding Subsection (e). Authorizes TDI to create

No equivalent provision.

Same as Senate version.

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an annual renewal period for qualified inspectors.

*(Floor Amendment 22 by Taylor, Larry)*

SECTION 9.008. Amends Subchapter F, Chapter 2210, Insurance Code, by adding Section 2210.2551. Clarifies that TDI has exclusive authority over the appointment and oversight of qualified inspectors under this chapter and the Texas Board of Professional Engineers has authority over engineers licensed under 1001.003, Occupations Code. Provides that commissioner shall establish qualification criteria for appointment as a qualified inspector under this chapter.

No equivalent provision.

Same as Senate version.

*(Floor Amendment 22 by Taylor, Larry and Third Reading Floor Amendment 8 by Smith, Wayne)*

SECTION 9.009. Amends the heading to Section 2210.256, Insurance Code, to read DISCIPLINARY PROCEEDINGS REGARDING APPOINTED INSPECTORS AND CERTAIN OTHER PERSONS.

No equivalent provision.

Same as Senate version.

*(Floor Amendment 22 by Taylor, Larry)*

SECTION 9.010. Amends Section 2210.256, Insurance Code, by adding Subsection (a-2). Authorizes the commissioner ex parte to enter an emergency cease and desist order against a qualified inspector if they fail to

No equivalent provision.

Same as Senate version.

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demonstrate that a structure meets the requirements of the chapter or rules, refuses to comply with TDI's requirements, if a person acts as a qualified inspection without appointment, or if the commissioner determines that an inspectors conduct is fraudulent, hazardous, or creates an immediate public danger.

*(Floor Amendment 22 by Taylor, Larry)*

SECTION 9.011. Amends 2210.258(b), Insurance code, with conforming changes to comply with changes in 2210.260.

*(Floor Amendment 22 by Taylor, Larry)*

SECTION 9.012. Amends Subchapter F, Chapter 2210, Insurance Code, by adding Subsection 2210.260. Authorizes TDI to issue an alternative certification to a person who has an insurable interest in a residential structure if at least one qualifying structural building component has been inspected by a TDI inspector or qualified inspector, or the structure is in compliance with building code standards set forth in the plan of operation. Requires the commissioner to adopt rules to implement the alternative certification that must establish what constitutes a qualifying structural building component, considering the items most likely to generate losses for the association's policyholder and the cost to upgrade them.

No equivalent provision.

Same as Senate version.

No equivalent provision.

Same as Senate version.

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Requires persons insured by the association by January 1, 2012 that have not obtained a certificate of compliance for a residential structure to obtain an alternative certification on or after January 1, 2013. Requires each residential structure with a alternative certification to comply with the chapter, with 2210.258, Insurance Code, and the association's underwriting requirements. Requires the association to develop and implement actuarially sound rate, credit, or surcharge that reflect risk. Provides that rate, credit, or surcharge may vary based on the number of qualifying components included in a structure.

*(Floor Amendment 22 by Taylor, Larry)*

SECTION 9.013. Instructional Provision. Provides that the changes in the Article 9 relate only to insurance policies delivered, issued for delivery, or renewed on or after the 30th day after the effective date of the Act.

*(Floor Amendment 22 by Taylor, Larry)*

SECTION 9.014. Instructional Provision. Requires the association to make necessary amendments to its plan of operation to conform to the changes made in Article 9 no later than January 1, 2012.

No equivalent provision.

Same as Senate version.

No equivalent provisions

Same as Senate version.

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*(Floor Amendment 22 by Taylor, Larry)*

SECTION 10.001. Instructional Provision. Establishes a nine member adjuster advisory board to make recommendation to the commissioner on issues related to licensing and regulation of licensees; professionally relevant issues such as claims handling and catastrophic loss preparedness; or any matter the commissioner submits. Requires the commissioner to appoint to the board two public insurance adjusters; two members representing the general public; two independent adjusters; one adjuster representing a domestic insurer authorized to engage in business in the state; one adjuster representing a foreign insurer authorized to engage in business in the state; and one representative of the Independent Insurance Agents of Texas. Prohibits public members from participating, or being related within the second degree to a person, in the industry as an officer, director, or employee; or from being a registered lobbyist. Requires members to serve without compensation and provides that the commissioner may authorize reimbursements for some expenses association with attending the meetings.

No equivalent provision.

SECTION 10.001. Same as House version.

*(Floor Amendment 3 by Taylor, Larry)*

SECTION 11.001. Amends Chapter 524, Insurance Code, as amended by Chapter 721 (S.B. 78), Acts of the 81st Legislature, Regular Session, 2009, by adding Section

No equivalent provision.

Same as Senate version.



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524.004.

Authorizes the division of TDI that administers the TexLink to Health Coverage Program to enter in to an information sharing agreement with federal and state agencies to carry out the their responsibilities. Requires the agreements to adequately protect confidentiality of information shared and to comply with all state and federal laws.

*(Floor Amendment 13 by Zerwas)*

SECTION 11.002. Amends Chapter 524.051, Insurance Code, as added by Chapter 721 (S.B. 78), Acts of the 81st Legislature, Regular Session, 2009.

Authorizes the division to establish a procedure for health care programs to submit their plans for certification as qualified plan; establish a multi-tiered rating system and assign rating based on the actuarial level of coverage the plan offers; provide information regarding the availability of and cost of coverage after the application of any applicable credits. Subjects health care programs with division certified qualified health plans to regulation by TDI under this code.

*(Floor Amendment 13 and 14 by Zerwas)*

SECTION 11.003. Amends Chapter 524.053, Insurance Code, as added by Chapter 721 (S.B. 78), Acts of the 81st Legislature, Regular Session, 2009, by adding Subsection

No equivalent provision.

Same as Senate version.

No equivalent provision.

Same as Senate version.

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(d). Authorizes the division to provide comparative information of the certified health plans, using a standard format, on an Internet website.

*(Floor Amendment 13 by Zerwas)*

SECTION 11.004. Amends Chapter 524, Insurance Code, as amended by Chapter 721 (S.B. 78), Acts of the 81st Legislature, Regular Session, 2009, by adding Section 524.0545.

Provides that the division may make information on enrollment in medical assistant programs offered in the state and work with the Health and Human Services Commission to facilitate the enrollment of eligible individuals in to medical assistant programs.

*(Floor Amendment 13 by Zerwas)*

SECTION 12.001. Amends Chapter 541, Insurance Code, by adding Subchapter D-1. Requires an individual, with an alternative dispute resolution written into their residential property insurance policy, to comply with the alternative dispute resolution procedure before filing a private action. Requires the insurer to initiate the alternative dispute resolutions procedure on the 45th day after receiving a notice of dispute from the insured, or an earlier date provided by the policy. Provides that the insured may

No equivalent provision.

Same as Senate version.

No equivalent provision.

Same as Senate version.

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initiate a private action if the insurer does not comply with the chapter.

Provides that the courts may abate the action or order the parties to participate in an alternative dispute resolution procedure or award to the insurer court cost and reasonable and necessary attorney's fees, if the insured initiates a private action in violation of Section 541.181. Prohibits insurers from collecting or enforcing an award before initiating the alternative dispute resolution procedure. Provides that the insured may proceed in court if the insurer does not initiate the alternative dispute resolution before the 45th day after the date the court order is entered and is not required to pay attorney or court fees for the insured. Prohibits the insured from collecting attorney's fees out of money awarded to the insured after an alternative dispute resolution procedure.

Requires the insurer to provide the insured, upon receipt of written notice of a dispute, all necessary information related to prerequisites for bring a private action.

*(Floor Amendment 15 by Burkett)*

SECTION 12.002. Amends Section 542.058(b), Insurance Code. Makes conforming changes to include alternative dispute resolution procedure.

*(Floor Amendment 15 by Burkett)*

No equivalent provision.

Same as Senate version.

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SECTION 12.003. Instructional Provision. Provides that the Subchapter D-1 additions and changes apply only to a residential property insurance policy delivered, issued for delivery, or renewed on or after January 1, 2012.

No equivalent provision.

Same as Senate version.

*(Floor Amendment 15 by Burkett)*

SECTION 13.001. Amends Subtitle C, Title 5, Insurance Code, by adding Chapter 563. Prohibits personal automobile and residential property insurers from reporting an inquiry by the insured to a claims database, unless, and until, the insured files a claim under the policy.

No equivalent provision.

SECTION 13.001. Same as House version.

*(Floor Amendment 25 by Vo)*

SECTION 14.001. Amends Section 843.002, Insurance Code, by amending Subdivision (9-a) and adding Subdivision (9-b). Defines "Extrapolation."

No equivalent provision.

Same as Senate version.

*(Floor Amendment 26 by Torres)*

SECTION 14.002. Amends Section 843.338, Insurance Code. Makes a conforming change to include Section 843.339, Insurance Code, to the Section providing exceptions.

No equivalent provision.

Same as Senate version.

*(Floor Amendment 26 by Torres)*

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SECTION 14.003. Amends Section 843.339, Insurance Code. Requires a HMO or a Pharmacy Benefits Manager to pay an electronically submitted pharmacy claim through electronic funds no later than the 18th day after the claim was affirmatively adjudicated. Requires a HMO or a PBM to pay a non-electronically submitted claim no later than 21 days after the claim was affirmatively adjudicated.

No equivalent provision.

Same as Senate version.

*(Floor Amendment 26 by Torres)*

SECTION 14.004. Amends Subchapter J, Chapter 843, Insurance Code, by adding Section 843.3401. Prohibits a HMO or a PBM from using extrapolation to complete an audit of a pharmacist or pharmacy. Prohibits a HMO from requiring extrapolation audits as a condition of participating in the HMO's contract, network, or program for a provider that is a pharmacist or pharmacy. Requires a HMO or a PBM to provide the pharmacist or pharmacy reasonable notice of an on-site audit and accommodate the providers schedule to the greatest extent possible. Requires the notice to be in writing and be sent by certified mail to the provider no later than the 15th day before the on-site audit is to occur.

No equivalent provision.

Same as Senate version.

*(Floor Amendment 26 by Torres)*

SECTION 14.005. Amends Section 843.344, Insurance Code. Makes conforming change to include pharmacy

No equivalent provision.

Same as Senate version.

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benefits manager.

*(Floor Amendment 26 by Torres)*

SECTION 14.006. Amends Subchapter J, Chapter 843, Insurance Code, by adding Section 843.354. Clarifies the legislative intent of the Chapter to apply to all HMOs and PBMs, unless otherwise prohibited by federal law.

No equivalent provision.

Same as Senate version.

*(Floor Amendment 26 by Torres)*

SECTION 14.007. Amends Section 1301.001, Insurance Code, by amending Subdivision (1) and adding Subdivision (1-a). Defines “Extrapolation” and adds pharmacist and pharmacy to definition of health care provider.

No equivalent provision.

Same as Senate version.

*(Floor Amendment 26 by Torres)*

SECTION 14.008. Amends Section 1301.103, Insurance Code. Makes a conforming change to include Section 1301.104, Insurance Code, to a Section providing exceptions.

No equivalent provision.

Same as Senate version.

*(Floor Amendment 26 by Torres)*

SECTION 14.009. Amends Section 1301.104, Insurance Code. Requires an insurer or a PBM, administering pharmacy claims for the insurer under a preferred provider

No equivalent provision.

Same as Senate version.

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benefit plan, to pay an electronically submitted pharmacy claim through electronic funds no later than the 18th day after the claim was affirmatively adjudicated. Requires an insurer or a PBM, administering pharmacy claims for the insurer under a preferred provider benefit plan, to pay a non-electronically submitted claim no later than 21 days after the claim was affirmatively adjudicated.

*(Floor Amendment 26 by Torres)*

SECTION 14.010. Amends Subchapter C, Chapter 1301, Insurance Code, by adding Section 1301.1041. Prohibits an insurer or a PBM, administering pharmacy claims for the insurer under a preferred provider benefit plan, from using extrapolation to complete an audit of a pharmacist or pharmacy. Prohibits an insurer from requiring extrapolation audits as a condition of participating in the insurer's contract, network, or program for a provider that is a pharmacist or pharmacy. Requires an insurer or a PBM to provide the pharmacist or pharmacy reasonable notice of an on-site audit and accommodate the providers schedule to the greatest extent possible. Requires the notice to be in writing and be sent by certified mail to the provider no later than the 15th day before the on-site audit is to occur.

*(Floor Amendment 26 by Torres)*

SECTION 14.011. Amends Section 1301.109, Insurance

No equivalent provision.

Same as Senate version.

No equivalent provision.

Same as Senate version.

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Code. Makes conforming change to include pharmacy benefits manager.

*(Floor Amendment 26 by Torres)*

SECTION 14.012. Amends Subchapter C-1, Chapter 1301, Insurance Code, by adding Section 1301.139. Clarifies the legislative intent of the Chapter to apply to all insurers and PBMs, unless otherwise prohibited by federal law.

*(Floor Amendment 26 by Torres)*

SECTION 14.013. Instructional Provision. Provides that changes in the law under this article are effective on or after the effective date of the Act.

*(Floor Amendment 26 by Torres)*

SECTION 15.001. Amends Chapter 1102, Insurance Code. Adds definitions for "Life insurance policy" and "Retained asset account." Makes conforming changes to restructure the chapter accordingly.

Prohibits an insurer from transferring proceeds from a life insurance policy payable to a beneficiary into a retained asset account without disclosing the option. Requires the insurer to inform the beneficiary of the right to receive a lump-sum payment. Prohibits an insurer from making a

No equivalent provision.

Same as Senate version.

No equivalent provision.

Same as Senate version.

No equivalent provision.

Same as Senate version.



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retained asset account the default mode of settlement unless it is conspicuously disclosed.

Requires the insurer to disclose on the claim form, for payment of proceeds under a life insurance policy, benefits payment options available under the policy in plain language.

Prohibits transfer of proceeds payable to a retained asset account unless the insurer first discloses to the claimant a recommendation to consult a tax, investment, or financial advisor regarding tax liability and investment options; interest rate information and dividends and other gains that may be paid or distributed to the account holder; the contact information for the custodian of the retained asset account; any coverage by the FDIC, including the amount of the coverage; limitations on withdrawal of funds from the account; anticipated delays in completing an authorized transaction; any fee charged for services, including a list of fees and method of calculating fees; the frequency statements are issued; that some or all of the benefits may be paid through check, draft or other instruments; whether income can be earned on the account; contact information to obtain additional information regarding the account; description of the insurer's policy regarding inactive accounts; and any other information prescribed by rule.

*(Floor Amendment 30 and 31 by Eiland)*

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SECTION 15.002. Instructional Provision. Provides that the changes in this article apply only to a claim made under a life insurance policy on or after September 1, 2011.

No equivalent provision.

Same as Senate version.

*(Floor Amendment 30 from Eiland)*

SECTION 16.001. Amends Section 1451.153, Insurance Code, by amending Subsection (a) and adding Subsection (c).

No equivalent provision.

SECTION 12.001. Same as House version.

Prohibits managed care plans from requiring a therapeutic optometrist or ophthalmologist to be included in, or accept the terms of payment under or for, a particular vision panel, in order to be included in one or more of the plan's medical panels.

*(Floor Amendment 33 by Smithee)*

SECTION 16.002. Instructional Provision. Provides that changes to Sections 16.001 of this Act are effective on or after January 1, 2012.

No equivalent provision.

SECTION 12.002. Same as House version.

*(Floor Amendment 33 by Smithee)*

SECTION 17.001. Amends Subtitle F, Title 8, Insurance Code, by adding Chapter 1458. Relating to provider network contract arrangements, provides definitions, including contracting entities, provider, and health benefit plans. Provides exemptions to the new registration

No equivalent provision.

Same as Senate version.

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requirements. Requires registration of contracting entities, unless the entity has a certificated of authority from TDI as an insurer or health maintenance organization. Requires contracting entities to provide certain disclosures. Prohibits a contracting entity from providing access or discounts unless the contract makes certain disclosures.

Requires contracting entities to notify providers of the carriers' access to discounts; notify third parties contracting for network access of the network contract terms; require third party payors to disclose the identity of the contracting entity and the existence of the provider network contract on each remittance advice or explanation of payment; notify third parties of provider contract terminations; and require the third party payors to cease making claims under provider contracts after termination.

Prohibits access to discounts for claims occurring after provider contract termination. Requires increased information in contracts for providers on coding, bundling, or other payment processes. Provides how a provider can use information obtained from a contracting entity.

Provides for third-party rights and responsibilities, and requires certain third party disclosures. Provides that unauthorized access to provider contractual discounts is a unfair or deceptive practice violation, but does not include a private cause of action or class action.

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Prohibits a contracting entity from providing a third party access to discounts unless the third party is a payor or its claims administrator/processor, a preferred provider benefit plan issuer, a preferred provider network, or a clearinghouse that does not provide the discounts to others. Authorizes TDI to collect registration fees.

*(Floor Amendment 34 and Third Reading Floor Amendment 2 by Eiland)*

SECTION 17.002. Instructional Provision. Provides that a change made by this article relating to provider network contracts applies only to a provider network contract entered into or renewed on or after January 1, 2012.

*(Floor Amendment 34 by Eiland)*

SECTION 18.001. Amends Subchapter A, Chapter 2211, Insurance Code, by adding Section 2211.004. Limits FAIR Plan liability to amounts for loss of the insured structure, contents, and additional living expenses; and court costs and reasonable attorney's fees. Prohibits an insured from recovering consequential, punitive, exemplary or statutory treble damages, or interest as provided by Chapter 542, Insurance Code.

*(Floor Amendment 40 by Smithee)*

No equivalent provision.

Same as Senate version.

No equivalent provision.

Same as Senate version.

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SECTION 18.002. Instructional Provision. Provides that changes made by Section 2211.004 to the FAIR Plan's liability only apply to a cause of action that accrues against the Plan on or after the effective date of the Act.

No equivalent provision.

Same as Senate version.

*(Floor Amendment 40 by Smithee)*

SECTION 19.001. Amends Section 2301.008, Insurance Code. Requires the Commissioner to adopt standard forms that an insurer is required to use in addition to its own forms.

No equivalent provision.

Same as Senate version.

*(Floor Amendment 44 by Eiland)*

SECTION 19.002. Amends Section 2301.052(b), Insurance Code. Makes a conforming change related to requiring the use of minimum standard insurance policy forms.

No equivalent provision.

Same as Senate version.

*(Floor Amendment 44 by Eiland)*

SECTION 19.003. Amends Subchapter B, Chapter 2301, Insurance Code, by adding Section 2301.0525. Requires residential property insurers to use the standard form adopted by the Commissioner, and under certain circumstances, also allows insurers to use other approved forms. Prohibits an insurer from offering policies unless the insurer informs the applicant may elect the standard

No equivalent provision.

Same as Senate version.

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policy. Requires the insurer to disclose the coverage and costs of the standard forms. Requires the insurer to disclose the coverage and costs differences between the standard and approved forms.

*(Floor Amendment 44 by Eiland)*

SECTION 19.004. Instructional Provision. Provides that the changes made by this article to required standard forms apply only to a to a policy issued, delivered, or renewed on or after January 1, 2012.

*(Floor Amendment 44 by Eiland)*

SECTION 20.001. Amends Section 3503.005(a), Insurance Code. For a surety bond that exceeds \$100,000, increase the requirement for reinsurance from any liability in excess of \$100,000 to any liability in excess of \$1 million.

*(Floor Amendment 45 by Truitt)*

SECTION 20.002. Repeals Section 3503.004(b), Insurance Code, which prohibits an amount reinsured from exceeding 10 percent of the reinsurer's capital and surplus.

No equivalent provision.

No equivalent provision.

No equivalent provision.

Same as Senate version.

SECTION 14.001. Same as House version.

SECTION 14.002. Same as House version.

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*(Floor Amendment 45 by Truitt)*

SECTION 21.001. Amends Subchapter B, Chapter 542, Insurance Code, by adding Section 542.063. Prohibits a request for an appraisal from staying court proceedings during the appraisal. Limits a decision resulting from an appraisal to being binding only to the 'amount of loss' and prohibits its use to determine liability issues such as coverage, causation, or policy conditions or limits. Provides that the appraisal decision not affect any other remedy in law.

No equivalent provision.

Same as Senate version.

*(Third Reading Floor Amendment 1 by Eiland)*

SECTION 21.002. Amends the heading to Subchapter B, Chapter 542, Insurance Code, to read "PROMPT PAYMENT OF CLAIMS; APPRAISALS."

No equivalent provision.

Same as Senate version.

*(Third Reading Floor Amendment 1 by Eiland)*

SECTION 21.003. Instructional Provision. Provides that changes made by Section 542.063 to appraisals apply only to disputes that arise on or after the effective date of this Act.

No equivalent provision.

Same as Senate version.

*(Third Reading Floor Amendment 1 by Eiland)*

SECTION 22.001. Amends Subtitle A, Title 8, Insurance

No equivalent provision.

Same as Senate version.

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Code, by adding Chapter 1221. Authorizes the Commissioner to by rule develop procedures to allow an employer to make financial contributions or premium payments for an employee's on retiree's individual health insurance policy, that eliminates or minimizes federal or state tax consequences or results in positive tax consequences to the employer.

*(Third Reading Floor Amendment 3 by Eiland)*

SECTION 23.001. Amends Subchapter B, Chapter 1952, by adding Section 1952.059. Applies to automobile insurers subject to Section 1952.001 and to county mutuals. Requires an insurer offering a personal automobile insurance policy to offer provisions that exclude from coverage any resident of the named insured's household that is specifically named as excluded. Requires the exclusion to meet certain requirements.

*(Third Reading Floor Amendment 4 by Davis, Y.)*

SECTION 24.001. Amends Section 6002.158(e), Insurance Code. Amends the entrance exam/requirements to become a residential fire alarm technician. Reduces minimum number of hours required period of instruction from eight hours to seven hours. Requires that one of those minimum hours be dedicated to completing the course exam. Requires course examination to contain a minimum

No equivalent provision.

Same as Senate version.

No equivalent provision.

SECTION 15.001. Same as House version.



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of 25 questions and that an applicant accurately answer at least 80 percent for passage.

*(Third Reading Floor Amendment 5 by Bohac)*

SECTION 24.002. Instructional Provision. Provides that changes to Section 6002.158 related to residential fire alarm technician license apply only to applications on or after the effective date on this Act.

*(Third Reading Floor Amendment 5 by Bohac)*

SECTION 25.001. Amends Subchapter A, Chapter 2502, Insurance Code, by adding Section 2502.006. Prohibits title companies from insuring against loss or damages sustained by reason of bankruptcy, state insolvency, or similar creditor's rights laws. Authorizes the commissioner to by rule designate coverage that violates this section. Does not prohibit title insurance with respect to liens, encumbrances, or other defects to title to land that is in the public record before the date the title contract is made; occur or result from transactions before the transaction vesting title in the insured or creating the lien of the insured mortgage; or results from failure to timely perfect or record any instruments before the date on which the contract of title insurance is made. Prohibits title companies from selling in Texas if they provide creditor's rights coverage in another state, unless that state requires the company to

No equivalent provision.

No equivalent provision.

SECTION 15.002. Same as House version.

Same as Senate version.

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provide the coverage.

*(Third Reading Floor Amendment 11 by Deshotel)*

SECTION 25.002. Instructional Provision. Provides that changes in Section 2502.006 related to prohibiting creditor's rights coverage apply only to a policy that is delivered, issued, or renewed on or after January 1, 2012.

No equivalent provision.

Same as Senate version.

*(Third Reading Floor Amendment 11 by Deshotel)*

SECTION 26.001. Amends Chapter 1202, Insurance Code, by adding Subchapter C. Defines rescission and provides what type of health plans the new Subchapter applies to, including individual and group coverage, and insurers and HMOs. Prohibits issuers from rescinding health coverage, absent fraud or intentional misrepresentation. Provides for a 30-day advance notice that includes pertinent information to the enrollee before the rescission can be made; and information on how the enrollee may appeal the decision. The health benefits plan bears the burden of proof. Requires that an independent review appeals process must be provided to the enrollee, in a manner prescribed by rule and authorizes individuals to appeal rescissions to an independent review organization. Requires the issuer to bear the burden of proof in an appeal.

No equivalent provision.

Same as Senate version.

*(Third Reading Floor Amendment 13 by Coleman)*

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SECTION 26.002. Instructional Provision. Provides that changes made by this article relating to prohibiting rescission apply only to a health benefit plan delivered, issued, or renewed on or after January 1, 2012.

*(Third Reading Floor Amendment 13 by Coleman)*

No equivalent provision.

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No equivalent provision.

SECTION \_\_. Amends Section 1502.002, Insurance Code.

Sec. 1502.002. RULES. (a) The commissioner may adopt rules to implement this chapter, including rules necessary to:

- (1) increase the availability of coverage to children younger than 19 years of age;
- (2) establish open enrollment periods; and
- (3) establish qualifying events as exceptions to the open enrollment periods, including loss of coverage when a child becomes ineligible for coverage under the state child health plan.

(b) The commissioner may adopt rules on an emergency basis using the procedures established under Section 2001.034, Government Code.

(c) Notwithstanding Subsection (b), the commissioner is not required to make a finding under Section 2001.034(a), Government Code before adopting rules on an

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Same as Senate version.

SECTION 9.001. Same as Senate version, except remove “s” from “periods” in (a)(2) and (a)(3).

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emergency basis.

*(Floor Amendment 3 by Ellis)*

SECTION \_\_. Amends Section 4051.101(c), Insurance Code. Exempts persons selling job protection insurance who generate less than \$40,000 in direct premium from propriety and casualty insurance agent licensing requirements.

*(Floor Amendment 5 by Van de Putte)*

SECTION 9.001. Same as House version.

SECTION 9.002. Same as House version.

SECTION 11.001. Same as Senate version.

SECTION 16.001. Same as House version.

SECTION 16.002. Same as House version.

No equivalent provision.

SECTION 27.001. Instructional Provision. Provides that the Act only applies to insurance policies, contracts, or evidence of coverage that is delivered, issued for delivery, or renewed on or after January 1, 2012. Provides that policies delivered or renewed before January 1, 2012 are governed by current law.

SECTION 27.002. Effective Date: September 1, 2011.

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION**

**May 27, 2011**

**TO:** Honorable David Dewhurst, Lieutenant Governor, Senate  
Honorable Joe Straus, Speaker of the House, House of Representatives

**FROM:** John S O'Brien, Director, Legislative Budget Board

**IN RE: HB1951** by Taylor, Larry (Relating to the continuation and operation of the Texas Department of Insurance and the operation of certain insurance programs; imposing administrative penalties. ), **Conference Committee Report**

<b>No significant fiscal implication to the State is anticipated.</b>
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The bill would amend the Insurance Code relating to the continuation and operation of the Texas Department of Insurance (TDI) and the operation of certain insurance programs; imposing administrative penalties. TDI is subject to the Sunset Act and will be abolished on September 1, 2011, unless continued by the Legislature. The bill would continue TDI for 12 years and would take effect on September 1, 2011.

The bill would eliminate certain advisory committees in statute, and require TDI to ensure that agency-created advisory committees meet standard criteria. The bill would require HMO's, accident and health insurance companies, and companies providing insurance to small business to send a 60-day notice before a rate increase and the actual dollar amount of the increase, and would set a 30-day time limit for the Department to review and administratively disapprove a property and casualty insurance rate under the file-and-use system.

The bill would require the Commissioner to assess what information is needed to promulgate title insurance rates every five years and would clarify provisions in the Insurance Code to clearly permit the use of electronic commerce transactions.

The bill would require TDI to develop and implement a plan to collect from insurers and publish certain information relating to the processing of personal automobile and residential property claims, and to adopt rules relating to individual health coverage for children.

The bill would require TDI to determine, at least every six years, which areas of the state should be designated as underserved and to study the accuracy of current designations for the purpose of increasing access to insurance in those areas. Additionally, the bill would create a Public Insurance Adjusters advisory board.

The bill would prohibit insurance companies from reporting claims to a database until the claim has been filed. The bill would prohibit managed care plans from requiring that therapeutic optometrists or ophthalmologists participate in a payment plan that they do not wish to participate in. The bill would increase liability on surety bonds from \$100,000 to \$1 million for requiring reinsurance. The bill would amend the entrance exam and hours of instruction requirements for residential fire alarm technicians.

The bill would authorize the State Fire Marshal's Office (SFMO), housed at TDI, to charge a fee for inspections of privately owned buildings. The bill would require the SFMO to periodically inspect state-leased buildings and requires the SFMO to create a risk-based approach to conducting its routine inspections of state buildings. Article 4 would require the Commissioner of Insurance to establish a penalty matrix for violations by SFMO licensees, and to delegate administration of these penalties to

the SFMO.

This analysis assumes that costs related to implementing this provision would be revenue neutral. It is assumed that authorizing the SFMO to institute a fee for conducting inspections of privately owned buildings would result in a gain in revenue and it is also assumed that this gain would offset the SFMO's costs in providing the inspections and that the revenue would be redirected to those functions. The gain could not be estimated as it is dependent upon the fee level which would be determined by the SFMO and the number of requests that would be realized once the SFMO charges for this service. Since General Revenue-Dedicated Texas Department of Insurance Fund 36 is a self-leveling account, this analysis also assumes that any additional revenue resulting from the implementation of the bill would accumulate in the account fund balances and that the department would adjust the assessment of the maintenance tax or other fees accordingly in the following year. The bill would require the SFMO to periodically inspect state-leased buildings and requires the SFMO to create a risk-based approach to conducting its routine inspections of state buildings.

Based on the analysis provided by the Sunset Advisory Commission and the Texas Department of Insurance, implementation of this bill will have no fiscal impact.

**Local Government Impact**

No fiscal implication to units of local government is anticipated.

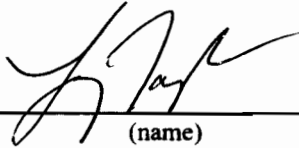
**Source Agencies:** 454 Department of Insurance, 116 Sunset Advisory Commission

**LBB Staff:** JOB, CH, KM, SD, MW

## Certification of Compliance with Rule 13, Section 6(b), House Rules of Procedure

Rule 13, Section 6(b), House Rules of Procedure, requires that a copy of a conference committee report signed by a majority of each committee of the conference must be furnished to each member of the committee in person or if unable to deliver in person by placing a copy in the member's newspaper mailbox at least one hour before the report is furnished to each member of the house under Section 10(a) of this rule. The paper copies of the report submitted to the chief clerk under Section 10(b) of this rule must contain a certificate that the requirement of this subsection has been satisfied, and that certificate must be attached to the printed copy of the report furnished to each member under Section 10(d) of this rule. Failure to comply with this subsection is not a sustainable point of order under this rule.

I certify that a copy of the conference committee report on 14 B. 1951 was furnished to each member of the conference committee in compliance with Rule 13, Section 6(b), House Rules of Procedure, before submission of the paper copies of the report to the chief clerk under Section 10(b), Rule 13, House Rules of Procedure.

  
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(name)

5/27/11  
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(date)