

No. 2020-6631

**Official Order
of the
Texas Commissioner of Insurance**

Date: 12/29/2020

Subject Considered:

Assessment of Examination Rates

General remarks and official action taken:

The subject of this order is the assessment of examination overhead rates and hourly rates based on the average annual examiner's salary and other department employee's salary, as applicable, under Insurance Code §§ 201.001(a)(1), (b), and (c); 401.151; 401.152; 401.155; and 843.156(h); Labor Code § 407A.252; and 28 TAC § 7.1001 to ensure that TDI has sufficient funds to cover its examination expenses.

The applicable Insurance Code, Labor Code, and Administrative Code provisions provide for examination expenses to be collected from each domestic and foreign insurance company, and each self-insurance group providing workers' compensation insurance, examined during calendar year 2021. TDI uses current 2020 salary information to set the average annual examiner and department employee salary rates. Also, they provide for the rates of assessment to be collected from each domestic insurer, based on 50% admitted assets and 50% gross premium receipts for calendar year 2020, and from each foreign insurer examined during the 2020 calendar year using the same method.

TDI adopted 28 TAC § 7.1001 on December 9, 2020, providing for the Commissioner to set overhead examination rates and hourly rates based on the average annual examiner's salary and other department employee's salary, by order each year. TDI held a stakeholder meeting to discuss the proposed rates on October 27, 2020.

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Based on available information; TDI staff recommendations; and the requirements of the Insurance Code, Labor Code, and 28 TAC § 7.1001, the Commissioner has determined that the following rates of assessment are just and reasonable.

Under Insurance Code §§ 401.151, 401.152, 401.155; Insurance Code Chapter 803; and Labor Code § 407A.252, as applicable, the Commissioner assesses the examination expenses for a domestic insurance company, a foreign insurance company, and a workers' compensation self-insurance group as follows:

- (1) The hourly rate for examiners for calendar year 2021 is \$48; and
- (2) The hourly rate for other department employees for calendar year 2021 is \$70.

Under Insurance Code §§ 401.151, 401.152, 401.155, and Chapter 803, as applicable, the Commissioner assesses the rates of overhead assessment for a domestic insurance company, a foreign insurance company, and a workers' compensation self-insurance group as follows:

- (1) Except as provided in the following paragraphs (2) and (3), as applicable, the overhead assessment to cover administrative departmental expenses attributable to examination of companies is:
 - (A) 0.00116 of 1% of the admitted assets of the company as of December 31, 2020, taking into consideration the annual admitted assets that are not attributable to 90% of pension plan contracts as defined in § 818(a) of the Internal Revenue Code of 1986 (26 U.S.C. § 818(a)); and
 - (B) 0.00251 of 1% of the gross premium receipts of the company for the year 2020, taking into consideration the annual premium receipts that are not attributable to 90% of pension plan contracts as defined in § 818(a) of the Internal Revenue Code of 1986 (26 U.S.C. § 818(a)).
- (2) Except as provided in the following paragraph (3), if a company was a domestic insurance company for less than a full year during calendar year 2020, the overhead assessment for the company is the overhead assessment divided by 365 and multiplied by the number of days the company was a domestic insurance company during calendar year 2020.

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- (3) If the calculation for overhead assessment for a company is less than \$25, the company must pay a minimum overhead assessment of \$25.

TDI will send domestic insurance companies, foreign insurance companies, and workers' compensation self-insurance groups a written statement of amounts due by June 30, 2021.

Domestic insurance companies, foreign insurance companies, and workers' compensation self-insurance groups must reimburse TDI for the salary and examination expenses of examiners and other TDI employees participating in an examination of the insurance company allocable to an examination of the company. To determine the allocable salary, including benefits, for each examiner and other participating department employee, TDI divides the average annual examiner's and other TDI employee's salary, including benefits, by the number of working hours in a year. TDI assesses the company the part of the annual salary, including benefits, attributable to each working hour that the examiner and other TDI employee examines the company during calendar year 2021. The expenses TDI assesses are those incurred by examiners and other TDI employees to the extent permitted by law.

Under Insurance Code § 401.152(a-1), a foreign insurance company examined in calendar year 2020 entirely, or an exam beginning in calendar year 2020 and completed in calendar year 2021, must pay an annual assessment in an amount sufficient to meet all other expenses and disbursements necessary to comply with the laws of this state relating to the examination of insurers. The amount is computed in the same manner as the amount for domestic insurers.

The overhead assessment revenue need is calculated as the amount of revenue needed to reach the targeted fiscal 2021 year-end fund balance, taking into account the beginning balance, expected direct billing revenues, and estimated expenditures. To calculate the assessment rates, TDI allocates 50% of the revenue need to admitted assets and 50% to gross premium receipts, the assessment bases. Then TDI divides the revenue need allocated to each assessment base by the assessment base.

TDI bases the overhead assessments on the assets and premium receipts, including direct written and assumed premiums, reported in the annual statements. For the purpose of applying the overhead assessment, the term "gross premium receipts" does not include insurance premiums for insurance contracted for by a state or federal government entity to provide welfare benefits to designated welfare recipients or contracted for in

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accordance with or in furtherance of the Human Resources Code, Title 2, or the federal Social Security Act (42 U.S.C. §§ 301 et seq.).

Order

It is ordered that the examination rates assessed in this order are adopted.

The Commissioner further orders that domestic insurance companies, foreign insurance companies, and workers' compensation self-insurance groups must pay any invoices or itemized bills for overhead assessments and examination expenses sent by the Texas Department of Insurance within 30 days from the date of the invoice or itemized bill.

The Commissioner further orders that the assessments in this order are in addition to any other charges that may be made under the Insurance Code and Labor Code.

Commissioner of Insurance

DocuSigned by:
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By: C77A87C8C21B435...
Doug Slape
Chief Deputy Commissioner
Tex. Gov't Code § 601.002
Commissioner's Order No. 2018-5528

Recommended by:

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