

Subchapter D. Risk-Based Capital and Surplus

28 TAC §§7.401, 7.410

1. INTRODUCTION. The Texas Department of Insurance proposes the repeal of §7.401 and §7.410 concerning risk-based capital and surplus. The proposed repeal of the sections will facilitate the adoption of a new §7.401 which appears elsewhere in this issue of the Texas Register. The department is proposing §7.401 to consolidate the rules for risk-based capital and surplus for all insurers and HMOs in one section.
2. FISCAL NOTE. Betty Patterson, Senior Associate Commissioner, Financial Program has determined that, for the first five years the repeal of the sections will be in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the repeal, and there will be no effect on local employment or local economy as result of the proposal.
3. PUBLIC BENEFIT/COST NOTE. Ms. Patterson also has determined that, for each year of the first five years the repeal of the sections will be in effect, the public benefit anticipated as a result of the repeal of the sections will be the elimination of obsolete rules. There will be no economic cost to the general public, or small or micro business or individuals who are required to comply with the repeal as proposed.

4. REQUEST FOR PUBLIC COMMENT. To be considered, written comments on the proposal must be submitted no later than 5:00 p.m. on January 25, 2005 to Gene C. Jarmon, General Counsel and Chief Clerk, Mail Code 113-2A, Texas Department of Insurance, P.O. Box 149104, Austin, Texas 78714-9104. An additional copy of the comments should be submitted to Betty Patterson, Senior Associate Commissioner, Financial Program, Mail Code 305-2A, Texas Department of Insurance, P.O. Box 149099, Austin, Texas 78714-9099. A request for a public hearing should be submitted separately to the Office of the Chief Clerk.

5. STATUTORY AUTHORITY. The repeal of the sections is proposed under the Insurance Code §§822.210, 841.205, 884.206, 885.401 and 36.001. Sections 822.210, 841.205, 884.206 and 885.401 provide that the commissioner may adopt rules to require an insurer to maintain capital and surplus levels in excess of statutory levels to assure financial solvency of insurers for the protection of policyholders and insurers. Section 36.001 provides that the commissioner may adopt any rules necessary and appropriate to implement the powers and duties of the Texas Department of Insurance under the Insurance Code and other laws of this state.

6. CROSS REFERENCE TO STATUTE. Insurance Code §§822.210, 841.205, 884.206 and 885.401 will be affected by this proposal.

7. TEXT.

§7.401. Minimum Risk-Based Capital and Surplus Requirements for Life, Accident and Health Insurers and Fraternal Insurers.

§7.410. Minimum Risk-Based Capital and Surplus Requirements for Property/Casualty Insurers.

8. CERTIFICATION. This agency hereby certifies that the repeal of the sections as proposed has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas on \_\_\_\_\_, 2004.

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Gene C. Jarmon  
General Counsel and Chief Clerk  
Texas Department of Insurance