

Subchapter B. Insurance Holding Company Systems
28 TAC §7.216

INTRODUCTION. The Texas Department of Insurance (TDI) proposes new 28 TAC §7.216, concerning a liquidity stress test framework for certain insurance companies. Section 7.216 implements House Bill 2839, 88th Legislature, 2023.

EXPLANATION. New §7.216 adopts a liquidity stress test framework and reporting requirements for certain insurers. HB 2839 adds new Insurance Code §823.0596, which requires the commissioner to adopt a liquidity stress test framework--including scope criteria and reporting templates--consistent with the framework published by the National Association of Insurance Commissioners (NAIC) and report it to the NAIC to facilitate the aggregation of results from the liquidity stress test filed with this and other states. HB 2839 was a biennial recommendation from TDI.

The liquidity stress test framework simulates large-scale asset sales in response to unexpected liquidity demands and assesses the potential impact of these sales on financial markets.

A secondary goal of the liquidity stress test implementation is to enhance monitoring of large life insurers that might be vulnerable to liquidity stress. Liquidity demands can be placed unexpectedly on an insurer that issues long-term cash-buildup products, particularly when cash and asset surrenders are experienced at greater-than-projected levels during widespread economic shifts. Elevated demand of cash payouts by customers can impact broader financial markets if those insurers are required to sell a significant amount of assets to meet demand.

New §7.216(a) provides the purpose of the section. New §7.216(b) provides that the liquidity stress test framework is adopted as published by the NAIC. New §7.216(c)

specifies the scope criteria and thresholds applicable to the liquidity stress test framework. New §7.216(d) specifies that the ultimate controlling person of an insurer must submit the liquidity stress test framework filing using the appropriate reporting template in an electronic format. New §7.216(e) describes the exemption process. After consultation with other state insurance commissioners, the commissioner can exempt from the filing requirement a data year that an insurer would otherwise be required to submit under subsection (d) of this section. New §7.216(f) states that if there was a conflict between the liquidity stress test framework adopted by NAIC and the Insurance Code or TDI rules, including new §7.216, the Insurance Code or TDI rule takes precedence and in all respects controls.

This proposal arises out of rules, regulations, directives, or standards adopted by the NAIC. Under Insurance Code §36.004, TDI must consider whether authority exists to enforce or adopt it. In addition, under Insurance Code §36.007, an agreement that infringes on the authority of this state to regulate the business of insurance in this state has no effect unless the agreement is approved by the Texas Legislature. TDI has determined that neither Insurance Code §36.004 nor §36.007 prohibits the proposed rule because of Insurance Code §823.0596, requiring the adoption by rule of a liquidity stress test framework consistent with the framework published by the NAIC.

FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT. Mike Arendall, assistant chief analyst of the Financial Analysis Section, Financial Regulation Division, has determined that during each year of the first five years the proposed new section is in effect, there will be no measurable fiscal impact on state and local governments as a result of enforcing or administering the new section, other than that imposed by the statute. Mr. Arendall made this determination because the proposed new section does not add to

or decrease state revenues or expenditures, and because local governments are not involved in enforcing or complying with the proposed new section.

Mr. Arendall does not anticipate any measurable effect on local employment or the local economy as a result of this proposal.

PUBLIC BENEFIT AND COST NOTE. For each year of the first five years the proposed new section is in effect, Mr. Arendall expects that enforcing the proposed new section will have the public benefit of ensuring that TDI's rules conform to Insurance Code §823.0596 and the rule meets anticipated NAIC accreditation standard requirements. Insurers that meet the liquidity stress test framework scope criteria may incur additional monitoring and reporting costs to comply. However, these costs are attributable to the statute, which requires TDI to adopt a liquidity stress test framework, including scope criteria and reporting templates that are consistent with the framework published by the NAIC.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS. TDI has determined that the proposed new section will not have an adverse economic effect on small or micro businesses, or on rural communities. This is because the amendment does not impose any requirements beyond those required by the statute. As a result, and in accordance with Government Code §2006.002(c), TDI is not required to prepare a regulatory flexibility analysis.

EXAMINATION OF COSTS UNDER GOVERNMENT CODE §2001.0045. TDI has determined that this proposal does not impose a possible cost on regulated persons. Any costs are attributable to the statute, which directs the commissioner to adopt the liquidity stress test framework. In addition, the proposed rule is necessary to implement Insurance Code §823.0596, as added by HB 2839.

GOVERNMENT GROWTH IMPACT STATEMENT. TDI has determined that for each year of the first five years that the proposed new section is in effect, the proposed rule:

- will not create or eliminate a government program;
- will not require the creation of new employee positions or the elimination of existing employee positions;
- will not require an increase or decrease in future legislative appropriations to the agency;
- will not require an increase or decrease in fees paid to the agency;
- will create a new regulation;
- will not expand, limit, or repeal an existing regulation;
- will increase or decrease the number of individuals subject to the rule's applicability; and
- may positively affect the Texas economy.

TAKINGS IMPACT ASSESSMENT. TDI has determined that no private real property interests are affected by this proposal and that this proposal does not restrict or limit an owner's right to property that would otherwise exist in the absence of government action. As a result, this proposal does not constitute a taking or require a takings impact assessment under Government Code §2007.043.

REQUEST FOR PUBLIC COMMENT. TDI will consider any written comments on the proposal that are received by TDI no later than 5:00 p.m., central time, on January 8, 2024. Send your comments to ChiefClerk@tdi.texas.gov or to the Office of the Chief Clerk, MC: GC-CCO, Texas Department of Insurance, P.O. Box 12030, Austin, Texas 78711-2030.

To request a public hearing on the proposal, submit a separate request before the end of the comment period to ChiefClerk@tdi.texas.gov or by mail to the Office of the Chief Clerk, MC: GC-CCO, Texas Department of Insurance, P.O. Box 12030, Austin, Texas 78711-2030.

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STATUTORY AUTHORITY. TDI proposes new §7.216 under Insurance Code §§823.012, 823.0596, and 36.001.

Insurance Code §823.012 states the commissioner may, after notice and opportunity for all interested persons to be heard, adopt rules and issue orders to implement Insurance Code Chapter 823, including the conducting of business and proceedings under Insurance Code Chapter 823.

Insurance Code §823.0596 requires the commissioner to adopt by rule a liquidity stress test framework, including scope criteria and reporting templates, consistent with the framework published by the NAIC to facilitate the aggregation of results from the liquidity stress test filed with this and other states.

Insurance Code §36.001 provides that the commissioner may adopt any rules necessary and appropriate to implement the powers and duties of TDI under the Insurance Code and other laws of this state.

CROSS-REFERENCE TO STATUTE. Section 7.216 implements Insurance Code §823.0596.

TEXT.

§7.216. Liquidity Stress Test Framework.

(a) Purpose. This section specifies the requirements for the ultimate controlling person of an insurance holding company system to submit a liquidity stress test framework necessary to report information as required by Insurance Code §823.0596.

(b) Liquidity stress test framework. The commissioner adopts by reference the liquidity stress test framework as adopted and published by the National Association of Insurance Commissioners (NAIC). The liquidity stress test framework is available on the department's website.

(c) Scope criteria. The scope criteria are the designated criteria and thresholds described in the liquidity stress test framework as adopted by reference in subsection (b) of this section.

(d) Reporting template. The reporting template an insurer must use is described in the liquidity stress test framework as adopted in subsection (b) of this section.

(e) Filing. Using the reporting template described in the liquidity stress test framework adopted by reference in subsection (b) of this section, the ultimate controlling person of an insurer must submit a liquidity stress test framework filing on or before June 30 of each year, using the appropriate reporting template in an electronic format acceptable to TDI. The electronic filing address is provided on TDI's website at www.tdi.texas.gov.

(f) Exemption. Only after consultation with other state insurance commissioners will the commissioner exempt from the filing requirement a data year that an insurer would otherwise be required to submit under subsection (e) of this section.

(g) Conflicts. In the event of a conflict between the liquidity stress test framework adopted and published by the NAIC and the Insurance Code, any TDI rule, or any specific requirement of this section, the Insurance Code, TDI rule, or specific requirement of this section takes precedence and in all respects controls. The requirements of this section do not repeal, modify, or amend any TDI rule or any Insurance Code provision.

CERTIFICATION. This agency certifies that legal counsel has reviewed the proposal and found it to be within the agency's legal authority to adopt.

Issued in Austin, Texas, on November 20, 2023.

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Jessica Barta
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Jessica Barta, General Counsel
Texas Department of Insurance