

Subchapter C. Maintenance Taxes and Fees

28 TAC §1.414

1. INTRODUCTION. The Commissioner of Insurance adopts an amendment to §1.414 concerning assessment of maintenance taxes and fees for payment in the year 2005. The amended section is adopted without changes to the text as proposed in the November 19, 2004, issue of the *Texas Register* (29 TexReg 10682).

2. REASONED JUSTIFICATION. The amendment is necessary to adjust the rates of assessment for maintenance taxes and fees for 2005 which will provide the revenue necessary to fund appropriations made by the Legislature to fund regulation of the insurance industry in Texas by the department.

3. HOW THE SECTION WILL FUNCTION. Section 1.414 sets rates of assessment and applies those rates to the gross premium receipts for the calendar year 2004, or some other basis designated by statute, to life, accident, and health insurance; motor vehicle insurance; casualty insurance, and fidelity, guaranty and surety bonds; fire insurance and allied lines, including inland marine; workers' compensation insurance; title insurance; health maintenance organizations; third party administrators; and corporations issuing prepaid legal services contracts. The department anticipates the adopted rates will produce revenue of \$34,124,137 to the state's general revenue fund.

4. SUMMARY OF COMMENTS. No comments were received regarding adoption of the amendment.

5. STATUTORY AUTHORITY. The amendment is adopted under the Insurance Code Articles 4.17, 5.12, 5.24, 5.49, 5.68, 9.46, 20A.33, 21.07-6 §21 and 23.08A, and §36.001. These articles provide authorization for the Texas Department of Insurance to assess maintenance taxes and fees for the lines of insurance and related activities specified in §1.414. Article 4.17 establishes a maintenance tax based on insurance premiums for life, accident, and health coverage and the gross considerations for annuity and endowment contracts. Article 5.12 establishes a maintenance tax based on insurance premiums for motor vehicle coverage. Article 5.24 establishes a maintenance tax based on insurance premiums for casualty insurance and fidelity, guaranty and surety bonds coverage. Article 5.49 establishes a maintenance tax based on insurance premiums for fire and allied lines coverage, including inland marine. Article 5.68 establishes a maintenance tax based on insurance premiums for workers' compensation coverage. Article 9.46 establishes a maintenance fee based on insurance premiums for title coverage. Article 20A.33 establishes an annual tax based on the gross amounts of revenues collected for the issuance of health maintenance certificates or contracts. Article 21.07-6 §21 establishes a maintenance tax based on the gross amount of administrative or service fees for third party administrators. Article 23.08A establishes a maintenance tax based on gross revenue of corporations issuing prepaid legal service contracts. 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. TEXT.

§1.414. Assessment of Maintenance Taxes and Fees, 2005.

(a) The following rates for maintenance taxes and fees are assessed on gross premiums of insurers for calendar year 2004 for the lines of insurance specified in paragraphs (1) - (5) of this subsection:

(1) for motor vehicle insurance, pursuant to the Insurance Code Article 5.12, the rate is .036 of 1.0%;

(2) for casualty insurance, and fidelity, guaranty and surety bonds, pursuant to the Insurance Code Article 5.24, the rate is .073 of 1.0%;

(3) for fire insurance and allied lines, including inland marine, pursuant to the Insurance Code Article 5.49, the rate is .184 of 1.0%;

(4) for workers' compensation insurance, pursuant to the Insurance Code Article 5.68, the rate is .027 of 1.0%;

(5) for title insurance, pursuant to the Insurance Code Article 9.46, the rate is .037 of 1.0%.

(b) The rate for the maintenance tax to be assessed on gross premiums for calendar year 2004 for life, health, and accident insurance and the gross considerations for annuity and endowment contracts, pursuant to the Insurance Code Article 4.17, is .026 of 1.0%.

(c) Rates for maintenance taxes are assessed for calendar year 2004 for the following entities:

(1) pursuant to the Insurance Code Article 20A.33, the rate is \$.34 per enrollee for single service health maintenance organizations, \$1.02 per enrollee for multi-service health maintenance organizations and \$.34 per enrollee for limited service health maintenance organizations;

(2) pursuant to the Insurance Code Article 21.07-6, §21, the rate is .125 of 1.0% of the correctly reported gross amount of administrative or service fees for third party administrators; and

(3) pursuant to the Insurance Code Article 23.08A, the rate is .022 of 1.0% of correctly reported gross revenues for corporations issuing prepaid legal service contracts.

(d) The enactment of Senate Bill 14, 78th Legislature, Regular Session, relating to certain insurance rates, forms, and practices, did not affect the calculation of the maintenance tax rates or the assessment of the taxes.

(e) The taxes assessed under subsections (a), (b), and (c) of this section shall be payable and due to the Comptroller of Public Accounts, Austin, TX 78774-0100 on March 1, 2005.

CERTIFICATION. This agency hereby certifies that the section as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on _____, 2004.

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

IT IS THEREFORE THE ORDER of the Commissioner of Insurance that the amendment to §1.414, concerning the assessment of maintenance taxes and fees, is adopted.

JOSÉ MONTEMAYOR
COMMISSIONER OF INSURANCE

By: _____
David Durden
Temporary Acting Commissioner
Per Commissioner Order No. 04-1189

ATTEST:

Gene C. Jarmon
General Counsel and Chief Clerk

COMMISSIONER'S ORDER NO. _____