

SUBCHAPTER A. Examination and Financial Analysis
28 TAC §7.84

1. INTRODUCTION. The Texas Department of Insurance proposes the repeal of §7.84 concerning the frequency of financial examinations of insurance carriers that have been organized or incorporated for more than three years. Section 7.84 provides a deferment of up to two years for regular examinations for carriers meeting certain requirements (i.e., some carriers, other than HMOs, could qualify for a five-year examination frequency). The repeal is necessary to effectuate the changes to the Insurance Code §401.052, added pursuant to Senate Bill (SB) 1253, 80th Legislature, Regular Session. Changes to the Insurance Code §401.052 require the Department to examine a carrier as frequently as necessary and at least once every five years, and require the Commissioner to adopt rules governing the frequency of the examination of a carrier that has been organized or incorporated for less than five years. Simultaneously with this repeal, the Department is proposing adoption of new §7.84, also published in this issue of the *Texas Register*, which will consolidate examination frequency for all carriers that have been organized or incorporated for less than five years. Therefore, the Insurance Code §401.052 and proposed new §7.84 render the provisions of current §7.84 obsolete.

2. FISCAL NOTE. Danny Saenz, Senior Associate Commissioner, Financial Program, has determined that, for each year of the first five years the repeal of the section 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 anticipated effect on local employment or local economy as result of the proposal.

3. PUBLIC BENEFIT/COST NOTE. Mr. Saenz also has determined that, for each year of the first five years the repeal of the section will be in effect, the public benefit anticipated as a result of the repeal will be the elimination of obsolete regulations. There will be no anticipated economic costs to any individuals, or insurers or other Department regulated entities, regardless of size, as a result of the proposed repeal.

4. ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS FOR SMALL AND MICRO BUSINESSES. In accordance with the Government Code §2006.002(c), the Department has determined that this proposed repeal will not have an adverse economic effect on small or micro business carriers. The repeal is necessary to effectuate the Insurance Code §401.052(b), which requires the Commissioner to adopt rules governing the frequency of examinations of carriers that have been organized or incorporated for less than five years. Under existing §7.84, carriers are subject to examination each of the first three years after organization. Under proposed new §7.84, the department is required to conduct examinations of domestic carriers organized for less than five years in the carrier's first, third, and fifth years. Therefore, proposed §7.84 and the simultaneous repeal of old §7.84 will result in a reduction of costs for carriers organized less than five years compared to previous statutory requirements. Therefore, in accordance with the Government Code §2006.002(c), the Department is not required to prepare a regulatory flexibility analysis.

5. TAKINGS IMPACT ASSESSMENT. The Department 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 and, therefore, does not constitute a taking or require a takings impact assessment under the Government Code §2007.043.

6. REQUEST FOR PUBLIC COMMENT. To be considered, written comments on the proposal must be submitted no later than 5:00 p.m. on July 26, 2010, 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 simultaneously submitted to Danny Saenz, Senior Associate Commissioner, Financial Program, Mail Code 305-2A, Texas Department of Insurance, P.O. Box 149104, Austin, Texas 78714-9104. Any request for a public hearing should be submitted separately to the Office of the Chief Clerk before the close of the public comment period. If a hearing is held, oral and written comments presented at the hearing will be considered.

7. STATUTORY AUTHORITY. The repeal of the section is proposed under the Insurance Code §401.052 and §36.001. Section 401.052(a) governs the minimum frequency of financial examinations by the Department, permitting the Department to examine carriers as often as the Department considers necessary, but not less frequently than once every five years. Section 401.052(b) requires the Commissioner to

adopt rules governing the frequency of examinations of carriers that have been organized or incorporated for less than five years. Section 36.001 provides that the Commissioner of Insurance 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.

8. CROSS REFERENCE TO STATUTE. The following statute is affected by this repeal proposal: the Insurance Code §401.052.

9. TEXT.

§7.84. Examination Frequency.