

Subchapter A. Examination and Financial Analysis
28 TAC §7.68

1. INTRODUCTION. The Texas Department of Insurance (Department) proposes new §7.68, concerning requirements for the filing of the annual statements, the quarterly statements, other reporting forms, and electronic data filings with the Department and the National Association of Insurance Commissioners (NAIC). The requirements are applicable to insurance companies, including limited purpose subsidiary life insurance companies established under the Insurance Code Chapter 841, Subchapter I; health maintenance organizations (HMOs); nonprofit legal service corporations; the Texas Health Insurance Pool; the Texas FAIR Plan Association; and the Texas Windstorm Insurance Association (TWIA). These insurance companies, HMOs, and other regulated entities are referred to collectively as “carriers” in this proposal.

The carriers will file the annual and quarterly statements and other reporting forms with the Department and the NAIC as directed in the proposed rules. The proposed new section adopts by reference the annual statement blanks, the quarterly statement blanks, the annual and quarterly supplemental reporting forms, and the related instruction manuals as adopted and published by the NAIC each year, as well as the Texas-specific reporting forms specified in this proposed section. The reporting forms and instructions include the (i) NAIC annual statement blanks; (ii) NAIC quarterly statement blanks; (iii) related NAIC annual statement and quarterly statement instruction manuals; (iv) NAIC separate accounts annual statement blank and instructions; (v) NAIC combined property/casualty annual statement blank and

instructions; (vi) various NAIC supplemental to the NAIC blanks, including, but not limited to Schedule SIS, management discussion and analysis, and supplemental compensation exhibit; (vii) Texas-specific annual statement form and instructions for farm mutual insurers not subject to proposed subsection (f); (viii) Texas specific annual statement forms and instructions for statewide mutual assessment associations, local mutual aid associations, mutual burial associations, and exempt associations, including an annual statement, a release of contributions, a 3-1/2 percent Chamberlain reserve table (reserve valuation), a reserve summary, an inventory of insurance in force by age of issue or reserving year, and a summary of inventory of insurance in force by age and calculation of net premiums; (ix) Texas-specific annual statement form and instructions for nonprofit legal service corporations; (x) Texas-specific overhead assessment exemption form for insurance company examination expenses; (xi) Texas-specific analysis of surplus form; (xii) Texas-specific supplemental forms and instructions for county mutual insurance companies and HMOs; and (xiii) Texas-specific annual statement forms and instructions for Mexican casualty companies.

The carriers will use these forms to report their calendar year financial condition and business operations and activities each year. The information provided by the completion of the forms is necessary to allow the Department to monitor the solvency, business activities, and statutory compliance of the carriers. The proposed new section will be applicable to annual filings with the Department and the NAIC, beginning with the year ending December 31, 2011, and each year thereafter; and to the quarterly

filings with the Department and the NAIC, beginning with the quarter ending on March 31, 2012, and each quarter thereafter.

Additionally, the proposed new section is necessary to outline a process for annual notice by the Department of the annual filing requirements, and the opportunity to petition for adoption of a rule amendment to this section. Specifically, the proposal states that the Department annually will publish the annual, quarterly, and supplemental filing checklists that reference the latest editions of the annual statement, quarterly statement, forms and instructions adopted by the NAIC and the Texas-specific filing forms and instructions. The proposed section further points out a process for any interested person to petition the Department for the adoption of a rule amendment to this section under §1.60 of this title (relating to Petition for Adoption of Rules), or its successor, for exceptions to the latest editions of the blanks, supplemental reporting forms, and instructions adopted by the NAIC or the Department.

Further, the proposed new section is necessary to implement HB 3161, 82nd Regular Session, by specifying the financial and actuarial filing requirements for limited purpose subsidiary life insurance companies established under the Insurance Code Chapter 841, Subchapter I.

The proposed new section also defines terms relevant to the statement blanks and reporting forms and provides the dates by which certain reports are to be filed. Proposed subsection (a) explains the purpose of the section. Proposed subsection (b) explains the scope and applicability of the section. Proposed subsection (c) provides that the term "Texas Edition" refers to the blanks and forms promulgated by the

Commissioner. Proposed subsection (d) adopts by reference the forms described in the section. Proposed subsection (e) specifies the hierarchy of laws in the event of a conflict between the Insurance Code, this new section, and other Department regulations and the NAIC instructions specified in the new section.

Proposed subsections (f) - (q) describe the forms, instructions and filing requirements for the various types of insurers and other regulated entities. Specifically, proposed subsection (f) specifies the filing requirements applicable to every domestic carrier described in proposed subsections (i) – (m). Proposed subsection (g) requires each foreign HMO and foreign insurer permitted or allowed to do the business of HMOs in Texas to make the filings specified in proposed subsection (f)(1) – (4) electronically with the NAIC and in paper copy with the Department. Proposed subsection (g) further requires each foreign HMO and foreign insurer permitted or allowed to do the business of HMOs in Texas to make the filings specified in proposed subsection (m) electronically and in paper copy with the Department. Proposed subsection (h) enumerates the filing requirements applicable to every foreign carrier described in proposed subsections (i) – (l).

Proposed subsection (i) requires each life; life and accident; life and health; accident; accident and health; mutual life; or life, accident and health insurance company; stipulated premium company; limited purpose subsidiary life insurance company; group hospital service corporation; and the Texas Health Insurance Pool to complete and file the blanks, forms, and electronic filings with the NAIC and the

Department, as directed in proposed subsections (f) and (h), with the exceptions or additional filings provided in this proposed subsection.

Proposed subsection (j) requires each fire; fire and marine; general casualty; fire and casualty; or U.S. branch of an alien insurer; county mutual insurance company; mutual insurance company other than life; Lloyd's plan; reciprocal or inter insurance exchange; domestic risk retention group; life insurance company that is licensed to write workers' compensation; any farm mutual insurance company that filed a property and casualty annual statement for the previous calendar year or had gross written premiums in excess of \$6 million for the current calendar year; domestic joint underwriting association; the Texas Mutual Insurance Company; the Texas Windstorm Insurance Association; and the Texas FAIR Plan Association, as directed in proposed subsections (f) and (h) and this proposed new subsection. Specifically, proposed subsection (j)(4) and (5) enumerates the filing requirements for TWIA and the FAIR Plan Association, respectively.

Proposed subsection (k) requires fraternal benefit societies to complete and file the blanks, forms, and electronic filings described in subsections (f) and (h) with the exceptions or additional filings provided in this subsection.

Proposed subsection (l) requires each title insurance company to complete and file the blanks, forms, and electronic filings described in proposed subsections (f) and (h).

Proposed subsection (m) requires each health maintenance organization licensed pursuant to the Insurance Code Chapter 843 and each insurer that is subject

to life insurance statutes and is permitted or allowed to do the business of health maintenance organizations to complete and file the blanks, forms, and electronic filings described in proposed subsections (f) and (g), and the additional filings specified in this subsection.

Proposed subsections (n) – (q) specify the Texas-specific filing requirements for certain types of insurers. Specifically, proposed subsection (n) enumerates the Texas-specific filing requirements for farm mutual insurance companies not subject to proposed subsection (f). Proposed subsection (o) enumerates the Texas-specific filing requirements for statewide mutual assessment associations, local mutual aid associations, mutual burial associations, and exempt associations. Proposed subsection (p) states the Texas-specific filing requirements for nonprofit legal service corporations. Proposed subsection (q) specifies the Texas-specific filing requirements for Mexican casualty insurance companies.

Proposed subsection (r) provides that nothing in this section prohibits the Department from requiring any insurer or other regulated entity from filing other financial reports with the Department or the NAIC.

Proposed subsection (s) outlines a process for annual notice of the annual, quarterly, and supplemental filing checklists that reference the latest editions of the annual statement, quarterly statement, forms and instructions adopted by the NAIC and the Texas-specific filing forms and instructions. Proposed subsection (s) further addresses a process for any interested person to petition the Department for the adoption of a rule amendment to this section under §1.60 of this title (relating to Petition

for Adoption of Rules), or its successor, for exceptions to the latest editions of the blanks, supplemental reporting forms, and instructions adopted by the NAIC or the Department.

The forms and instructions are available for inspection in the office of the Texas Department of Insurance, Financial Regulation Division, Financial Analysis, in the William P. Hobby Jr. State Office Building at 333 Guadalupe, Tower Number III, Third Floor, Austin, Texas. The NAIC forms and instructions may also be reviewed at www.naic.org. The new section will replace the existing §7.68, which is proposed for repeal and also published in this issue of the *Texas Register*. Existing §7.68 addresses the requirements for the filing of the 2004 quarterly statements and 2004 annual statements.

2. FISCAL NOTE. Danny Saenz, Deputy Commissioner, Financial Regulation Division, has determined that, for each year of the first five years the proposed section will be in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the section. There will be no effect on local employment or the local economy as a result of the proposal.

3. PUBLIC BENEFIT/COST NOTE. Mr. Saenz also has determined that for each year of the first five years the proposed section is in effect, the public benefits anticipated as a result of enforcing this section are the ability of the Department to provide financial information to the public and other regulatory bodies as requested, and to monitor the

financial condition of insurance companies, HMOs, and other regulated entities licensed in Texas to better assure financial solvency.

Existing §7.67 specifies the requirements for the filing of the 2010 annual statements, the 2011 quarterly statements, other reporting forms, and electronic data filings with the Department and the NAIC. Except for some new filing requirements for limited purpose subsidiary life insurance companies, substantially the same requirements in existing §7.67 for the filing of annual statements, quarterly statements, other reporting forms, and electronic data filings with the Department and the NAIC are also included in this proposal. Therefore, the same types of costs that were estimated for compliance with the §7.67 requirements are also estimated for compliance with the requirements in this proposal, with the addition of estimated costs for the new limited purpose subsidiary life insurance companies filing requirements. The Department does not anticipate any change in these estimated costs, except for the estimated costs for limited purpose subsidiary life insurance companies to prepare and submit any new filings required under proposed §7.68(f), (h), and (i) from those estimated for compliance with the §7.67 requirements. Therefore, except for the additional estimated costs to limited purpose subsidiary life insurance companies, the estimated costs described in this proposal are consistent with the estimated compliance costs for the §7.67 requirements, which are re-stated in the Public Benefit/Cost Note and Economic Impact Statement and Regulatory Flexibility Analysis For Small and Micro Businesses sections of this proposal.

Also, although not strictly required by the Government Code §2006.002(c), the

proposed section contains a number of accommodations that will mitigate the impact of proposed §7.68 for certain carriers that, because of their carrier type, are more likely to be small or micro business carriers. Specifically, proposed §7.68(i)(2) provides stipulated premium companies with one additional month to file their annual statements and an additional month to make certain other related filings. Proposed §7.68(n) authorizes a simplified financial statement form for farm mutual insurance companies that write less than \$6 million in premium. Proposed §7.68(n) also does not require farm mutual insurance companies that write less than \$6 million in premium to (i) pay NAIC filings fees, (ii) acquire software to prepare financial statement filings with the NAIC, or (iii) file quarterly financial statements with the Department. Proposed §7.68(o) authorizes a simplified annual financial statement form for statewide mutual assessment associations, local mutual aid associations, mutual burial associations, and exempt associations; and does not require these types of carriers to (i) acquire software to prepare financial statement filings with the NAIC; or (ii) file quarterly financial statements with the Department. Under proposed §7.68(p), nonprofit legal service corporations are not required to pay NAIC filings fees or to acquire software to prepare financial statement filings with the NAIC. Under proposed §7.68(q), Mexican casualty insurance companies are not required to pay NAIC filing fees or acquire software to prepare financial statement filings with the NAIC.

The probable economic cost to persons required to comply with the proposed section depends on several factors including the size, type and complexity of the carrier. Each carrier subject to proposed §7.68 is required by statute to provide the

Department with various annual reports on its operations. The Insurance Code §802.055 provides that an insurance company shall pay all costs of preparing and furnishing to the NAIC the information required under the Insurance Code §802.052, including any related filing fees. The reports and forms required by this proposal generally request information that is already captured or created by the carrier as necessary to its business operations. Therefore, the additional cost involved generally relates to the transfer of that information from the carrier's records to the required report or form. It is anticipated that a carrier, regardless of size, will utilize employees who are familiar with the records of the carrier and accounting practices in general. Based on information obtained by the Department, such individuals are estimated to be compensated from \$17 to \$50 per hour.

The Department anticipates that larger business carriers, because of the larger size and relatively more complex operations, will take more time to transfer the required information from their records to the financial forms and reports to be adopted by this proposal. The Department also anticipates that large business carriers will likely compensate staff at the higher end of the salary range. Therefore, based on the Department's experience, the overall labor costs for large business carriers to transfer the required information from their records to the required financial forms and reports will generally be more than the overall labor costs for small or micro business carriers. The overall costs to transfer the information from a carrier's records also may vary based upon factors such as the type of carrier (e.g., life, accident and health, or

property and casualty), the nature of the risks insured, and the type of software used by the carrier.

Beginning with the year-end 2010 financial reporting requirements, the TWIA was required by the proposed section to submit to the Department annual and quarterly financial statements prepared in accordance with GAAP, in addition to the prior requirements to submit financial statements prepared in accordance with SAP. The requirement for the TWIA to prepare and submit financial statements prepared in accordance with GAAP is necessary for the TWIA and the Department to comply with financial reporting requirements in the Government Code Chapter 2101, Subchapter, B, relating to a component unit of a statewide reporting entity, which are administered by the Comptroller. The Department anticipates that the TWIA will use existing staff to comply with these requirements, in which case no additional costs to the TWIA are required as a result of this proposal.

If the TWIA determines that it must hire additional staff resources to comply with the Government Code §2101.011(d) and this proposed section, the cost of compliance will relate to the cost of that additional staff's salary and related benefits times the amount of hours necessary to prepare the required GAAP financial statements. The Department anticipates that the number of hours necessary to produce the GAAP financial statements, and thus the TWIA's costs of compliance, will vary significantly depending upon a number of factors, including: (i) the adequacy and accuracy of the TWIA's books and records; (ii) the level of automation of the TWIA's financial reporting systems; (iii) the sufficiency of the TWIA's system of internal control over financial

reporting, including whether any unremediated material weaknesses exist; (iv) the number and qualifications of the TWIA's accounting personnel; and (v) whether the financial statements cover a period that includes one or more catastrophic loss events for the TWIA. Based upon these factors, the Department anticipates that the time and cost for the TWIA to prepare a set of GAAP financial statements could vary from 16 to 80 hours. Moreover, the Department anticipates that the TWIA could hire an accountant to prepare these GAAP financial statements at the mean salary rate of \$31.63 per hour, as set forth for similar accountant positions in the May 2009 State Occupational Employment and Wage Estimates for Texas published by the U.S. Department of Labor at http://www.bls.gov/oes/current/oes_tx.htm.

The Department believes that the TWIA has the information necessary to estimate its own compliance costs. Further, the Government Code §2101.011(d) requires the reporting of the financial information for any entity that the Comptroller determines is a component unit of a statewide reporting entity in accordance with GAAP as prescribed or modified by the GASB or its successor. Since the TWIA has been deemed a component unit of a statewide reporting entity under §2101.011(d), any costs to the TWIA for preparing and filing the annual GAAP financial statements with the Department, results from statutory requirements and not as a result of the adoption, enforcement, or administration of this proposal.

Most carriers are required under proposed §7.68 to file actuarial opinions on the reasonableness of their reserves with the company's annual statement, and to obtain a corresponding Actuarial Opinion Summary prepared in accordance with §7.9 of this

subchapter. Beginning with the 2010 Property and Casualty Annual Statement, the TWIA was similarly required, under existing §7.67(e)(1)(N) and proposed §7.68(j)(2) and (4), to obtain an actuarial opinion on its reserves and a corresponding Actuarial Opinion Summary. In order to obtain the actuarial opinion and Actuarial Opinion Summary in accordance with the proposed section, the TWIA, like other carriers, will need to obtain the services of an actuary who will perform the necessary analysis and prepare the necessary work papers to support expressing an opinion on the reasonableness of the reserves held by the TWIA. The corresponding cost for the TWIA to obtain this actuarial opinion will vary depending on a number of factors, including whether a current employee of the TWIA or an outside consulting firm is utilized to prepare the required actuarial opinion and Actuarial Opinion Summary, the adequacy and accuracy of the books and records maintained by the TWIA, the complexity of the actuarial techniques that are necessary to perform this analysis, the level of legal proceedings related to unresolved claims, and recent storm activity. The Department anticipates that the TWIA will elect to use the services of an existing staff actuary, in which case no additional costs to the TWIA are required as a result of this proposal. If the TWIA elects to use the services of an outside consulting actuary, it will incur actuarial costs to prepare the actuarial opinion and the Actuarial Opinion Summary. The proposed section requires the appointed actuary to prepare an actuarial opinion in accordance with the Annual Statement Instructions, Property and Casualty. The proposed section also requires the appointed actuary to prepare the Actuarial Opinion Summary in accordance with §7.9. Based upon the factors listed previously,

the Department anticipates that the time for a consulting actuary to prepare an actuarial opinion and Actuarial Opinion Summary could vary from 50 - 75 hours. The Department further anticipates that the TWIA could hire an outside consulting actuary to prepare an actuarial opinion and Actuarial Opinion Summary at the mean salary rate of \$50.33 per hour, as set forth for similar accountant positions in the May 2009 State Occupational Employment and Wage Estimates for Texas published by the U.S. Department of Labor at http://www.bls.gov/oes/current/oes_tx.htm. While the TWIA may elect, at its discretion, to incur additional costs, the TWIA controls that decision and the Department believes that such additional costs are not required by the proposed section.

Most carriers are required under proposed §7.68 to file electronic copies of the company's annual statement and quarterly statements with the NAIC. Beginning with the 2010 Property and Casualty Annual Statement and the 2011 Property and Casualty Quarterly Statements, the TWIA and the Texas FAIR Plan Association were required, under existing §7.67(e)(4) and proposed §7.68(f) and (j)(4) and (5), respectively, to prepare and file electronic filings with the NAIC, in addition to preparing and filing paper copies of these carriers' annual statements and quarterly statements. The TWIA and the Texas FAIR Plan Association must complete and file the NAIC electronic filings in accordance with the NAIC's annual statement and quarterly statement instructions for property and casualty, and the NAIC data specifications and instructions and shall include PDF format filing. In order to prepare and file the financial statements with the NAIC in accordance with the proposed section, the Department anticipates that the

TWIA and the Texas FAIR Plan Association, like other carriers, will need to purchase software. The cost of software used to prepare the financial statements is approximately \$2,280 for a single carrier. The cost of software may be greater or less depending on the amount charged by the vendor and any extra services that are agreed to between the carrier and the vendor.

The fees associated with each carrier to file electronically with the NAIC database are estimated to range from \$247, for carriers with the smallest premium volume, to \$69,428, for carriers with the largest premium volume with a limit for insurer groups of \$208,284. The Insurance Code §802.055 requires an insurance company to pay all costs of preparing and furnishing to the NAIC the information required under the Insurance Code §802.052. Therefore, any costs to an insurance company for preparing and filing the annual statement with the NAIC, including software and filing fee costs, results from statutory requirements and not as a result of the adoption, enforcement, or administration of this proposal.

The Department anticipates that the cost of compliance as detailed in this Public Benefit/Cost Note will be relatively more significant for carriers licensed in Texas for less than one year. This is due to the additional time required for carrier staff to become familiar with the requirements of this proposal, initial software acquisitions costs, and the need to implement systems to capture the information required to be reflected in the financial statements filed with the Department and the NAIC. Because the Department for many years has routinely required the preparation and filing of

substantially similar financial statements, which are also required by this proposal, most of these costs for carriers licensed for one year or more have already been incurred.

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 proposed §7.68 will not have an adverse economic effect on small or micro businesses. As previously stated in the Public Benefit/Cost Note part of this proposal, except for some new filing requirements for limited purpose subsidiary life insurance companies, substantially all of the requirements in existing §7.67, that apply to the most recent annual and quarterly statement filings, are also proposed in this proposal for the filing of the annual statements, the quarterly statements, other reporting forms, and electronic data filings with the Department and the NAIC. Therefore, with the exception of the new filing requirements for limited purpose subsidiary life insurance companies, the same types of costs that were identified for compliance by small and micro business carriers for the filings under §7.67 are also identified for small and micro business carriers for compliance with the requirements in this proposal.

Further, the Department does not anticipate any change in the estimated costs for this proposal from those estimated for compliance with the §7.67 filing requirements, except for the estimated cost to limited purpose subsidiary life insurance companies to prepare and file any new paper copy filings with the Commissioner and/or electronic copies of their financial statements with the NAIC under proposed §7.68(i). The

Department also does not anticipate any difference in the economic impact on small and micro business carriers from that determined for compliance with the §7.67 filing requirements. Therefore, the Department's economic impact statement and regulatory flexibility analysis for compliance by small and micro businesses with the requirements in this proposal is consistent with the economic impact statement and regulatory flexibility analysis for §7.67.

The Department has determined that this proposal, like the proposal for existing §7.67, contains several requirements that must be analyzed in order to determine costs to small and micro business carriers required to comply with this proposal. First, proposed §7.68(b) and (f) - (q) require that each carrier provide the Department with financial reports and related information. Second, proposed §7.68(b) and (f) - (m) require that each carrier make concurrent filings of their financial statement with the NAIC that results in related filing fees. Third, proposed §7.68(b) and (f) - (m) essentially require that each carrier purchase software to prepare its financial statements and make the related filings with the NAIC. Each carrier is required by statute to provide the Department with various annual reports on its operations. As noted in the Public Benefit/Cost Note portion of this proposal, the Insurance Code §802.055 provides that an insurance company shall pay all costs of preparing and furnishing to the NAIC the information required under the Insurance Code §802.052, including any related filing fees. Therefore, any costs to an insurance company for preparing and filing the annual statement with the NAIC, including costs of software and filing fees, results from

statutory requirements and not as a result of the adoption, enforcement, or administration of this proposal.

Proposed §7.68(b) and (f) - (g); Preparation of Financial Statements. As required by the Government Code §2006.002(c), the Department has determined that approximately 75 to 150 of the carriers specified in proposed §7.68(b) are small or micro business carriers that will be required to comply with the requirements in proposed §7.68(f) – (g) to prepare financial statements that reflect the carriers' condition and to file these statements with the Department and the NAIC. These small or micro business carriers will incur routine costs associated with completing the financial statements.

Also, as required by the Government Code §2006.002(c), the Department has determined that these routine costs will not have an adverse economic effect on the approximately 75 to 150 small or micro business carriers. These routine costs of compliance will vary between large business carriers and small or micro business carriers based upon the carrier's type and size and other factors, including the (i) character of the carrier's assets; (ii) kinds and nature of the risks insured; (iii) type of software used by the carrier to complete its annual statement; and (iv) employee compensation expenses. The Department's cost analysis and resulting estimated routine costs for carriers in the Public Benefit/Cost Note portion of this proposal are equally applicable to small and micro business carriers. As indicated in the Public Benefit/Cost Note analysis, these routine costs will likely be less for small or micro business carriers, primarily because small or micro business carriers will incur less

overall labor costs in transferring information from their records to the required financial forms and reports. This results from their smaller size and relatively less complex operations, which will generally require less time to transfer the information from their records to the financial forms and reports required in this proposal. Small or micro business carriers may also incur relatively lower labor costs on a per hour basis because small or micro business carriers will often compensate staff at the lower end of the salary range.

Under the Government Code §2006.002(c), before adopting a rule that may have an adverse economic effect on small or micro businesses, an agency is required to prepare in addition to an economic impact statement a regulatory flexibility analysis that includes the agency's consideration of alternative methods of achieving the purpose of the proposed rule. Because the Department has determined that the routine costs to comply with this proposal, i.e., preparing the financial forms and reports, will not have an adverse economic effect on small or micro business carriers, the Department is not required to consider alternative methods of achieving the purpose of these requirements in the proposed rule.

Nevertheless and although not strictly required by the Government Code §2006.002(c), the proposal contains several provisions that will mitigate the impact of proposed §7.68 for certain carriers that, because of their carrier type, are more likely to be small or micro business carriers. Specifically, proposed §7.68(i)(2) provides stipulated premium companies with one additional month to file their annual statements and related filings than the time required for large business carriers. Section 7.68(i)(2)

further exempts stipulated premium companies from the requirement that applies to most other life carriers to file quarterly financial statements with the Department, if certain conditions are met. Proposed §7.68(n) authorize a simplified financial statement form for farm mutual insurance companies that write less than \$6 million in premium. Unlike the requirements that apply to all other property and casualty carriers, proposed §7.68(n) do not require that farm mutual insurance companies that write less than \$6 million in premium to file quarterly financial statements with the Department. Proposed §7.68(o) authorizes a simplified financial statement form for statewide mutual assessment associations, local mutual aid associations, mutual burial associations, and exempt associations. Unlike the requirements that apply to other life carriers, proposed §7.68(o) does not require that quarterly financial statements be filed with the Department by statewide mutual assessment associations, local mutual aid associations, mutual burial associations or exempt associations.

The Department anticipates that the cost of compliance as detailed in the Public Benefit/Cost Note will be relatively more significant for carriers licensed in Texas for less than one year. This is because of the additional time required for the carrier's staff to become familiar with the requirements of the proposal and the need to implement systems to capture the information required to be reflected in the financial statements filed with the Department and the NAIC. Because the Department for many years has routinely required the preparation and filing of substantially similar financial statements, which are also required by the proposal, most of these costs for carriers licensed for one year or more have already been incurred.

Proposed §7.68(b) and (f) - (m); NAIC Filing Fee. As required by the Government Code §2006.002(c), the Department has determined that approximately 50 to 100 of the carriers specified in proposed §7.68(b) are small or micro business carriers that will be required to comply with the requirements in proposed §7.68(f) - (m) to make concurrent financial statement filings with the NAIC. These small or micro business carriers will incur routine costs associated with related filing fees.

Also, as required by the Government Code §2006.002(c), the Department has determined that these routine costs will not have an adverse economic effect on the approximately 50 to 100 small or micro business carriers. The Department's cost analysis and resulting estimated costs for carriers to make concurrent financial statement filings with the NAIC in the Public Benefit/Cost Note portion of this proposal are equally applicable to small or micro business carriers. As indicated in the Public Benefit/Cost Note analysis, these costs of compliance will vary between large business carriers and small or micro business carriers based upon the carrier's premium volume. These fees are on a sliding scale basis and will be less for small or micro business carriers that write smaller amounts of premium and greater for large carriers that write larger amounts of premium. These fees are estimated to range from \$247 for carriers with the smallest premium volume, to progressively greater amounts for carriers with the largest premium volume. As examples, a carrier with \$100,000 in premium will incur a filing fee of \$247; a carrier with \$6 million in premium will incur a filing fee of \$1,444; and a carrier with \$4 billion in premium will incur a filing fee of \$69,428. These fees range from .002 of the premium for carriers with the smallest premium volume up

to .00002 of the premium for carriers with the highest premium volume. In each instance, the Department believes that costs correspond to a nominal and routine cost of business. Accordingly, these routine costs will be less for small or micro business carriers because of their relatively smaller premium base.

Under the Government Code §2006.002(c), before adopting a rule that may have an adverse economic effect on small or micro businesses, an agency is required to prepare in addition to an economic impact statement a regulatory flexibility analysis that includes the agency's consideration of alternative methods of achieving the purpose of the proposed rule. Because the Department has determined that the routine costs to comply with this proposal, i.e., making concurrent filings with the NAIC, will not have an adverse economic effect on small or micro businesses, the Department is not required to consider alternative methods of achieving the purpose of these requirements in the proposed rule. Moreover, the Insurance Code §802.055 requires an insurance company to pay all costs of preparing and furnishing to the NAIC the information required under the Insurance Code §802.052, including any related filing fees. Accordingly, the cost to insurance companies of preparing and filing the annual statement with the NAIC results from statutory requirements and not as a result of the adoption, enforcement, or administration of this proposal.

Nevertheless and although not strictly required by the Government Code §2006.002(c), the proposed section contains a number of provisions that will mitigate the impact of proposed §7.68 for certain carriers that, because of their carrier type, are more likely to be small or micro business carriers. Specifically, proposed §7.68(n) does

not require farm mutual insurance companies that write less than \$6 million in premium to pay these filing fees. Proposed §7.68(o) does not require statewide mutual assessment associations, local mutual aid associations, mutual burial associations, and exempt associations to pay these filing fees. Proposed §7.68(p) does not require nonprofit legal service corporations to pay these filing fees. Proposed §7.68(q) does not require Mexican casualty insurance companies to pay these filing fees.

Proposed §7.68(b) and (f) - (m); Software Expenses. As required by the Government Code §2006.002(c), the Department has determined that approximately 50 to 100 of the carriers specified in proposed §7.68(b) are small or micro business carriers that will essentially be required by proposed §7.68(f) - (m) to purchase software to prepare their financial statements and make the related filings with the NAIC. These small or micro business carriers will incur routine costs associated with purchasing this software.

Also, as required by the Government Code §2006.002(c), the Department has determined that these routine costs will not have an adverse economic effect on the approximately 50 to 100 small or micro business carriers. The Department's cost analysis and resulting estimated costs for carriers to purchase this software contained in the Public Benefit/Cost Note portion of this proposal are equally applicable to small or micro business carriers. As indicated in the Public Benefit/Cost Note analysis, these costs of compliance may vary based upon a number of factors. The cost of software to prepare the financial statements is approximately \$2,280 for a single company. The cost of software may be greater or less depending on the amount charged by the

vendor, the type of software needed and any extra services that are agreed to between the company and the vendor.

Under the Government Code §2006.002(c), before adopting a rule that may have an adverse economic effect on small or micro businesses, an agency is required to prepare in addition to an economic impact statement a regulatory flexibility analysis that includes the agency's consideration of alternative methods of achieving the purpose of the proposed rule. Because the Department has determined that the routine costs to comply with this proposal, i.e., the purchase of software, will not have an adverse economic effect on small or micro business carriers, the Department is not required to consider alternative methods of achieving the purpose of these requirements in the proposed rule. Moreover, the Insurance Code §802.055 requires an insurance company to pay all costs of preparing and furnishing to the NAIC the information required under the Insurance Code §802.052, including any related filing fees. Accordingly, the cost to an insurance company of preparing and filing the annual statement with the NAIC results from statutory requirements and not as a result of the adoption, enforcement, or administration of this proposal. Furthermore, each carrier subject to this proposal is required by statute to provide the Department with various annual reports on its operations, and therefore, the related costs result from statutory requirements and not as a result of the adoption, enforcement, or administration of this proposal.

Nevertheless and although not strictly required by the Government Code §2006.002(c), the proposed section contains several provisions that will mitigate the

impact of proposed §7.68 for certain carriers that, because of their carrier type, are more likely to be small or micro business carriers. Specifically, proposed §7.68(i)(2) exempts stipulated premium companies from the requirement that applies to most other life carriers to file quarterly interim financial statements with the Department, if certain conditions are met. This exemption will lessen the software needs of stipulated premium companies. Proposed §7.68(n) does not require that farm mutual insurance companies that write less than \$6 million in premium to acquire this software and thereby incur the related expense. Proposed §7.68(o) does not require statewide mutual assessment associations, local mutual aid associations, mutual burial associations, and exempt associations to acquire this software and thereby incur the related expense. Proposed §7.68(p) does not require that nonprofit legal service corporations to acquire this software and incur the related expense. Proposed §7.68(q) does not require Mexican casualty insurance companies to acquire this software and incur the related expense.

Additionally, the Department anticipates that the cost of compliance as detailed in this Public Benefit/Cost Note part of the proposal will be relatively more significant for carriers licensed in Texas for less than one year because of initial software acquisitions costs. Because the Department for many years has routinely required the preparation and filing of substantially similar financial statements, which are also required by the proposal, most of these software costs for carriers licensed for one year or more have already been incurred.

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 February 6, 2012, to Sara Waitt, Acting General Counsel, 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 simultaneously to Danny Saenz, Deputy Commissioner, Financial Regulation Division, Mail Code 305-2A, Texas Department of Insurance, P. O. Box 149104, Austin, Texas 78714-9104. Any request for a public hearing on the proposal should be submitted separately to the Office of the Chief Clerk, Mail Code 113-2A, Texas Department of Insurance, P. O. Box 149104, Austin, Texas 78714-9104, 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 new section is proposed under the following provisions of the Insurance Code. Sections 802.001 - 802.003 and 802.051 - 802.056 authorize the Commissioner to make changes in the forms of the annual statements required of insurance companies of any kind, as shall seem best adapted to elicit a true

exhibit of their condition and methods of transacting business, and require certain insurers to make filings with the National Association of Insurance Commissioners. Chapters 2201, 2210, and 2211 and §§841.255, 842.003, 842.201, 842.202, 843.151, 843.155, 861.254, 861.255, 862.001, 862.003, 882.001, 882.003, 883.002, 883.204, 884.256, 885.401, 885.403 - 885.406, 886.107, 887.009, 887.060, 887.401 - 887.407, 911.001, 911.304, 912.002, 912.201 - 912.203, 912.301, 941.252, 942.201, 961.002, 961.003, 961.052, 961.202, 982.004, 982.251 - 982.254, 982.101, 982.103, 984.101 - 984.103, 984.153, 984.201, 984.202, 1301.009, 1506.057, 1506.058, 2210.008, 2210.101, 2210.102, 2210.152, 2211.058, 2551.001, and 2551.152 require the filing of financial reports and other information by insurers and other regulated entities and provide specific rulemaking or regulatory authority to the Commissioner relating to those insurers and other regulated entities.

Sections 982.001, 982.002, 982.004, 982.052, 982.102 - 982.104, 982.106, 982.108, 982.110 - 982.112, 982.201 - 982.204, 982.251 - 982.255, and 982.302 - 982.306 provide the conditions under which foreign and alien insurers are permitted to do business in this state and require foreign and alien insurers to comply with the provisions of the Insurance Code. Sections 844.001-844.005, 844.051-844.054, and 844.101 specify statutory requirements relating to nonprofit health corporations and authorize the Commissioner to adopt rules to implement the regulation of nonprofit health corporations holding a certificate of authority under the Insurance Code, Title 2, Chapter 844.

Section 2210.008 authorizes the Commissioner to adopt rules in the manner prescribed in the Insurance Code, Chapter 36, Subchapter A, as reasonable and necessary to implement Chapter 2210. Section 2210.101 provides that the board of directors of the Texas Windstorm Insurance Association is responsible and accountable to the Commissioner. Section 2210.102 requires the Commissioner to appoint the board of directors of the Texas Windstorm Insurance Association. Section 2210.152 requires the plan of operation for the Texas Windstorm Insurance Association to provide for the efficient, economical, fair, and nondiscriminatory administration of the Association, and to include provisions as considered necessary by the Department to implement the purposes of Chapter 2210.

Section 2211.057 charges the Commissioner with the authority to supervise the Texas FAIR Plan Association and the inspection bureau. Section 2211.057(1) grants the Commissioner the power to examine the operations of the Texas FAIR Plan Association and the inspection bureau through free access to all books, records, files, papers, and documents related to the operation of the Texas FAIR Plan Association and the inspection bureau. Section 2210.057(4) grants the Commissioner the power to require reports from the Texas FAIR Plan Association concerning the risks the Texas FAIR Plan Association insurers under Chapter 2211 as the Commissioner considers necessary.

Section 421.001 requires insurers to establish adequate reserves and provides for the adoption of each current formula for establishing reserves applicable to each line of insurance. Section 32.041 requires the Department to furnish the statement blanks

and other reporting forms necessary for companies to comply with the filing requirements. 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 statutes are affected by this proposal: The Insurance Code Chapters 2201, 2210, and 2211 and §§32.041, 421.001, 802.001 - 802.003, 802.051 - 802.056, 841.255, 842.003, 842.201, 842.202, 843.151, 843.155, 844.001 - 844.005, 844.051 - 844.054, 844.101, 861.254, 861.255, 862.001, 862.003, 882.001, 882.003, 883.002, 883.204, 884.256, 885.401, 885.403 - 885.406, 886.107, 887.009, 887.060, 887.401 - 887.407, 911.001, 911.304, 912.002, 912.201 - 912.203, 912.301, 941.252, 942.201, 961.002, 961.003, 961.052, 961.202, 982.001, 982.002, 982.004, 982.052, 982.101 - 982.104, 982.106, 982.108, 982.110 - 982.112, 982.251 - 982.255, 982.302 - 982.306, 984.153, 984.201, 984.202, 1301.009, 1506.057, 1506.058, 2210.008, 2210.101, 2210.102, 2210.152, 2211.058, 2551.001, and 2551.152.

9. TEXT.

§7.68. Requirements for Filing the Annual Statements, the Quarterly Statements, Other Reporting Forms, and Electronic Filings with the Texas Department of Insurance and the NAIC.

(a) Purpose. This section specifies the requirements for insurers and other regulated entities to file the annual statements, the quarterly statements, other reporting forms, and electronic data filings with the department and the National Association of Insurance Commissioners (NAIC) necessary to report information concerning the financial condition and business operations and activities of insurers.

(b) Scope and Applicability. This section applies to all insurers and certain other regulated entities authorized to do the business of insurance in this state and includes, but is not limited to, life insurers; accident insurers; life and accident insurers; life and health insurers; accident and health insurers; life, accident and health insurers; mutual life insurers; stipulated premium insurers; limited purpose subsidiary life insurance companies under the Insurance Code Chapter 841, Subchapter I; group hospital service corporations; fire insurers; fire and marine insurers; U.S. branches of alien insurers; Mexican casualty insurers; general casualty insurers; fire and casualty insurers; mutual insurers other than life; statewide mutual assessment companies; local mutual aid associations; mutual burial associations; exempt associations; county mutual insurers; Lloyd's plans; reciprocal and inter-insurance exchanges; domestic risk retention groups; domestic joint underwriting associations; title insurers; fraternal benefit societies; farm mutual insurers; health maintenance organizations; nonprofit health corporations; nonprofit legal services corporations; the Texas Health Insurance Pool; the Texas Mutual Insurance Company; the Texas Windstorm Insurance Association; and the Texas FAIR Plan Association. Insurers and other regulated entities must properly report each calendar year to the department and the NAIC by completing, in

accordance with applicable instructions, the appropriate paper copy annual and quarterly statement blanks, other reporting forms, and electronic filings specified in this section. This section shall be applicable to annual filings with the department and the NAIC, beginning with the year ending December 31, 2011, and each year thereafter; and to the quarterly filings with the department and the NAIC, beginning with the quarter ending on March 31, 2012, and each quarter thereafter.

(c) Definition. In this section, "Texas Edition" refers to the blanks and forms promulgated by the commissioner.

(d) NAIC and TDI Specific Forms and Instructions. The commissioner adopts by reference the annual statement blanks, the quarterly statement blanks, the annual and quarterly supplemental reporting forms, and the related instruction manuals as adopted and published by the NAIC each year; and the Texas-specific reporting forms specified in this section. The Texas-specific forms are available from the Texas Department of Insurance, Financial Regulation Division, Financial Analysis, Mail Code 303-1A, P. O. Box 149104, Austin, Texas 78714-9104. Copies of the latest editions of the blanks, supplemental reporting forms, and related instruction manuals adopted and published by the NAIC may be obtained from the NAIC, and can be filed electronically using software available from vendors.

(e) Conflicts with Other Laws. In the event of a conflict between the Insurance Code, any currently existing department rule, form, instructions, or any specific requirement of this section and the NAIC instructions listed in this section, the Insurance Code, the department rule, form, instruction, or the specific requirements of

this section shall take precedence and in all respects control.

(f) General Filing Requirements for Domestic Insurers and Other Domestic Regulated Entities. Every domestic insurer and other domestic regulated entity must complete and file the following reports and forms using the latest editions of the annual and quarterly statement blanks, forms, and related instruction manuals adopted by the NAIC that are appropriate for the type of business written by the insurer or regulated entity:

(1) an annual statement, in paper copy with the department and electronically with the NAIC, due on or before March 1 for the preceding year ending December 31;

(2) quarterly statements, in paper copy with the department and electronically with the NAIC, due on or before May 15, August 15, and November 15;

(3) all the annual and quarterly supplements adopted by the NAIC including, but not limited to, the Management's Discussion and Analysis, in paper copies with the department and electronically with the NAIC, prepared and filed in accordance with and on or before dates specified in the latest editions of the forms, instructions, and guidelines adopted by the NAIC;

(4) a Statement of Actuarial Opinion, in paper copy with the department and electronically with the NAIC, due on or before March 1 for the preceding year ending December 31;

(5) a Schedule SIS, in paper copy only with the department, due on or before March 1 for the preceding year ending December 31;

(6) a Supplemental Compensation Exhibit, in paper copy only with the department, due on or before March 1 for the preceding year ending December 31;

(7) a Texas Overhead Assessment Exemption Form (Texas Edition), in paper copy only with the department, due on or before March 1 for the preceding year ending December 31. This form is to be filed only by domestic insurance companies that have qualified pension contracts under the Insurance Code §401.151; otherwise, this form should not be filed;

(8) an Analysis of Surplus (Texas Edition), in paper copy only with the department, due on or before March 1 for the preceding year ending December 31; and

(9) an advertising certificate of compliance with its annual statement filing, in paper copy only with the department, prepared and filed in accordance with §21.116 of this title (relating to Special Enforcement Procedures for Rules Governing Advertising and Solicitation of Insurance).

(g) General Filing Requirements for Foreign Health Maintenance Organizations and Foreign Insurers Doing Health Maintenance Organization Business or Capitation. Every foreign health maintenance organization and foreign insurer permitted or allowed to do the business of health maintenance organizations must file the filings specified in subsection (f)(1) - (4) of this section electronically with the NAIC and in paper copy with the department; and the filings specified in subsection (m) of this section electronically and in paper copy with the department.

(h) General Filing Requirements for Foreign Insurers and Other Foreign Regulated Entities. Each foreign insurer or other foreign regulated entity described in

subsections (i) – (l) of this section:

(1) must prepare and file electronically with the NAIC the filings specified in subsection (f)(1) – (4) of this section on or before the due dates required under those provisions;

(2) if filing only electronically with the NAIC and not filing a paper copy with the department, must file with the department, in paper copy, a signed annual statement jurat page, along with the advertising certificate of compliance required under §21.116 of this title, on or before March 1; and a signed jurat page for each quarter on or before May 15, August 15, and November 15, respectively, in lieu of filing the entire paper filings;

(3) the commissioner reserves the right to request paper copies of any paper or electronic filings made by foreign companies in their state of domicile or the NAIC; and

(4) a foreign insurer that is classified as a commercially domiciled insurer under the Insurance Code §823.004 annually must file an Analysis of Surplus (Texas Edition) in paper copy with the department, on or before March 1 for the prior year ending December 31.

(i) Filing Requirements for Life, Accident and Health Insurers. Each life; life and accident; life and health; accident; accident and health; mutual life; or life, accident and health insurance company; stipulated premium company; limited purpose subsidiary life insurance company; group hospital service corporation; and the Texas Health Insurance Pool must complete and file the blanks, forms, and electronic filings as

directed in subsections (f) and (h) of this section and this subsection. The electronic filings of these forms or reports with the NAIC must be completed and filed in accordance with the NAIC data specifications and instructions for electronic filing and must include PDF format filing. Insurers and other regulated entities specified in this subsection and engaged in business authorized under the Insurance Code Chapters 843 or 848 may have additional reporting requirements under subsections (g) and (m) of this section. Domestic and foreign insurers or other regulated entities described in this subsection must prepare and file the reports and forms specified in subsections (f) and (h) of this section, with the following exceptions or additional filings:

(1) a separate accounts annual statement (required of companies maintaining separate accounts), in paper copy with the department and electronically with the NAIC, due on or before March 1 for the preceding year ending December 31.

(2) for stipulated premium companies not subject to the Insurance Code §884.406, all filings with due dates of March 1 under subsection (f) or (h) of this section, are due on or before April 1. Additionally, a stipulated premium company, unless specifically requested to do so by the department, is not required to file quarterly data filings with the department or with the NAIC, if it meets all three of the following conditions:

(A) it is authorized to write only life insurance on its certificate of authority;

(B) it collected premiums in the prior calendar year of less than \$1 million; and

(C) it had a profit from operations in the prior two calendar years.

(3) The Statement of Actuarial Opinion required under subsections (f)(4) and (h)(1) of this section must be prepared and filed in accordance with the following:

(A) Companies filing the NAIC Life, Accident and Health Annual Statement and the Statement of Actuarial Opinion, attached to the NAIC Life, Accident and Health Annual Statement must follow the applicable provisions of Chapter 3, Subchapter Q, of this title (relating to Actuarial Opinion and Memorandum Regulation), except for companies exempted from the asset adequacy analysis pursuant to §3.1608 of this title (relating to Asset Adequacy Analysis Exemption). Notwithstanding §3.1608 of this title, limited purpose subsidiary life insurance companies annually must prepare and file the asset adequacy analysis required under Chapter 3, Subchapter Q of this title. For those companies exempted from the asset adequacy analysis pursuant to §3.1608 of this title, the format provided by instructions 1 – 12 of the NAIC Annual Statement Instructions, Life, Accident and Health, must be followed.

(B) Companies filing the NAIC Health Annual Statement and the Statement of Actuarial Opinion attached to the NAIC Health Annual Statement must follow the NAIC Annual Statement Instructions, Health. In addition, for those companies not exempted from the asset adequacy analysis pursuant to §3.1608 of this title, the Statement of Actuarial Opinion must follow the applicable provisions of §§3.1601 - 3.1608 of this title that are not covered in the NAIC Annual Statement Instructions, Health, including those provisions relating to asset adequacy analysis.

(C) Any company required by §3.4505(b)(3)(G) of this title (relating

to General Calculation Requirements for Basic Reserves and Premium Deficiency Reserves) to opine on the application of X factors, must attach this opinion to the NAIC Life, Accident and Health Annual Statement or the NAIC Health Annual Statement, as applicable.

(4) The Texas Health Insurance Pool must prepare and file the following, in paper copies only with the department:

(A) the NAIC Health Annual Statement with only pages 1 - 6, and Schedule E Part 1, Part 2, and Part 3 to be completed and filed on or before March 1 for the preceding year ending December 31; and

(B) the NAIC Health Quarterly Statements, with only pages 1 - 6, Schedule E, Part 1 - Cash, and Part 2 – Cash Equivalents to be completed and filed on or before May 15, August 15, and November 15;

(5) Each limited purpose subsidiary life insurance company must complete and file:

(A) the paper copy filings with the department and the electronic filings with the NAIC specified under subsection (f)(1) – (9) of this section;

(B) an actuarial memorandum and a regulatory asset adequacy issues summary, in paper copy only with the department, in accordance with and on or before the due dates provided in Chapter 3, Subchapter Q, of this title; and

(C) the actuarial certification required under the Insurance Code §841.419, in paper copy only with the department, due on or before March 1 for the preceding year ending December 31.

(j) Requirements for Certain Property and Casualty Insurers. Each fire; fire and marine; general casualty; fire and casualty; or U.S. branch of an alien insurer; county mutual insurance company; mutual insurance company other than life; Lloyd's plan; reciprocal or inter insurance exchange; domestic risk retention group; life insurance company that is licensed to write workers' compensation; any farm mutual insurance company that filed a property and casualty annual statement for the previous calendar year or had gross written premiums in excess of \$6 million for the current calendar year; domestic joint underwriting association; the Texas Mutual Insurance Company; the Texas Windstorm Insurance Association; and the Texas FAIR Plan Association must complete and file the blanks, forms, and electronic filings as described in subsections (f) and (h) of this section and this subsection. The electronic filings with the NAIC must be completed and filed in accordance with the NAIC data specifications and instructions and must include PDF format filing, as applicable. Domestic and foreign insurers or other regulated entities described in this subsection annually must prepare and file the reports and forms specified in subsections (f) and (h) of this section with the following exceptions or additional filings:

(1) a combined property/casualty annual statement, if required, due on or before May 1, for the preceding year ending December 31, in paper copy with the department and electronically with the NAIC. The combined property/casualty annual statement is required only for those affiliated insurers that wrote more than \$35 million in direct premiums as a group in the previous calendar year, as disclosed in Schedule T of the NAIC annual statement(s).

(2) an Actuarial Opinion Summary prepared and filed in accordance with §7.9 of this subchapter (relating to Examination of Actuarial Opinion for Property and Casualty Insurers).

(3) for Texas county mutual insurance companies, a Texas Supplement for County Mutuals (Texas Edition) and a Texas Supplemental "A" for County Mutuals (Texas Edition), in paper copy only with the department, due on or before March 1. Texas county mutual insurance companies are not required to file an Analysis of Surplus (Texas Edition) as described in subsection (f)(8) of this section.

(4) The Texas Windstorm Insurance Association must complete and file in paper copy with the department and electronically with the NAIC the filings specified under subsection (f) of this section and paragraph (2) of this subsection, on or before the due dates required under those provisions. Additionally, the Texas Windstorm Insurance Association must prepare and file in paper copy with the department only:

(A) annual financial statements for each year ending December 31, due on or before March 1, in accordance with the Insurance Code Chapter 2210, prepared in accordance with generally accepted accounting principles as prescribed or modified by the Governmental Accounting Standards Board or its successor, and in compliance with the Government Code §2101.011(d) and any related regulations, guidelines, procedures, or reporting requirements prescribed by the Comptroller of Public Accounts; and

(B) quarterly financial statements for the first three quarters of each calendar year, due on or before May 15, August 15, and November 15, prepared

in accordance with generally accepted accounting principles as prescribed or modified by the Governmental Accounting Standards Board or its successor.

(5) Notwithstanding §5.9927 of this title (relating to Annual and Quarterly Financial Statements), the Texas FAIR Plan Association must complete and file in paper copy with the department and electronically with the NAIC the filings specified under subsection (f) of this section and paragraph (2) of this subsection, except that the annual statements, the Statement of Actuarial Opinions, and all annual supplements due on or before March 1 under the NAIC instructions are due on or before March 31; and the Actuarial Opinion Summary is due on or before April 15.

(6) An insurer that files an application with the department for approval of a policyholder dividend must file an Analysis of Surplus (Texas Edition) for property and casualty insurers with the application.

(k) Requirements for Fraternal Benefit Societies. Each fraternal benefit society must complete and file the blanks, forms, and electronic filings as described in subsections (f) and (h) and this subsection. The electronic data filings with the NAIC must be completed and filed in accordance with the NAIC data specifications and instructions and must include PDF format filing. Domestic and foreign insurers or other regulated entities described in this subsection must prepare and file the reports and forms specified in subsections (f) and (h), of this section with the following exceptions or additional filings:

(1) a separate accounts annual statement (required of companies maintaining separate accounts), in paper copy with the department and electronically

with the NAIC, due on or before March 1 for the preceding year ending December 31.

(2) The Statement of Actuarial Opinion required under subsections (f)(4) and (h)(1) of this section must be prepared in accordance with the following:

(A) The Statement of Actuarial Opinion, attached to the Fraternal Annual Statement, must follow the applicable provisions of §§3.1601 - 3.1608 of this title, except for companies exempted from the asset adequacy analysis pursuant to §3.1608 of this title. For those companies exempted from the asset adequacy analysis pursuant to §3.1608 of this title, the format provided by instructions 1 – 12 of the NAIC Fraternal Annual Statement Instructions must be followed; and

(B) Any company required by §3.4505(b)(3)(G) of this title to opine on the application of X factors, shall attach this opinion to the NAIC Fraternal Annual Statement, as applicable.

(l) Requirements for Title Insurers. Each title insurance company must complete and file the blanks, forms, and electronic filings as described in subsections (f) and (h) and this subsection. The electronic filings with the NAIC must be completed and filed in accordance with the NAIC data specifications and instructions and must include PDF format filing.

(m) Requirements for Health Maintenance Organizations. Each health maintenance organization licensed pursuant to the Insurance Code Chapter 843 and each insurer that is subject to life insurance statutes and is permitted or allowed to do the business of health maintenance organizations must complete and file the following blanks, forms, and electronic filings as described in subsections (f) and (g) of this

section and this subsection. The electronic filings with the NAIC must be completed and filed in accordance with NAIC data specifications and instructions and must include PDF format filing. The Texas specific electronic filings regarding HMO data requested by the department must be completed and filed in accordance with the instructions provided by the department. Domestic and foreign health maintenance organizations and insurers described in this section must prepare and file the reports and forms specified in subsections (f) and (g) of this section, with the following additional filings:

(1) with each quarterly statement filing with the department and the NAIC, include an up-to-date and completed Schedule E, Part 3 – Special Deposits, utilizing the format from the Health Annual Statement;

(2) a Texas HMO Supplement Annual (Texas Edition), in paper copy and electronically only with the department, due on or before March 1, containing annual data for the preceding year ending December 31, to be completed according to the instructions provided by the department; and

(3) a Texas HMO Supplement Quarterly (Texas Edition), due on or before May 15, August 15, and November 15, in paper copy and electronically only with the department, containing quarterly statement data, to be completed according to the instructions provided by the department.

(n) Requirements for Farm Mutual Insurers not Subject to the Provisions of subsection (f) of this section. Farm mutual insurance companies not subject to subsection (f) of this section annually must complete and file the following blanks and forms with the department only, on or before March 1 for the preceding year ending

December 31:

(1) Annual Statement (Texas Edition);

(2) Texas Overhead Assessment Exemption Form (Texas Edition). This form is to be filed only by domestic insurance companies that have qualified pension contracts under the Insurance Code §401.151; otherwise, this form should not be filed;
and

(3) Statement of Actuarial Opinion, unless exempted under §7.31 of this subchapter (relating to Annual Statement Instructions for Farm Mutual Insurance Companies).

(o) Requirements for Statewide Mutual Assessment Associations, Local Mutual Aid Associations, Mutual Burial Associations, and Exempt Associations. Each statewide mutual assessment association, local mutual aid association, mutual burial association, and exempt association must complete and file the following blanks and forms with the department only, on or before April 1 for the preceding year ending
December 31:

(1) Annual Statement (Texas Edition) (exempt companies are required to complete all pages except lines 22, 23, 24, 25, and 26 on page 3, the special instructions at the bottom of page 3, and pages 4 - 7);

(2) Texas Overhead Assessment Exemption Form (Texas Edition). This form is to be filed only by domestic insurance companies that have qualified pension contracts under the Insurance Code §401.151; otherwise, this form should not be filed;

(3) Release of Contributions Form (Texas Edition);

(4) 3-1/2 Percent Chamberlain Reserve Table (Reserve Valuation)

(Texas Edition);

(5) Reserve Summary (1956 Chamberlain Table 3-1/2 Percent) (Texas

Edition);

(6) Inventory of Insurance in Force by Age of Issue or Reserving Year

(Texas Edition); and

(7) Summary of Inventory of Insurance in Force by Age and Calculation

of Net Premiums (Texas Edition).

(p) Requirements for Nonprofit Legal Service Corporations. Each nonprofit legal service corporation doing business as authorized by a certificate of authority issued under the Insurance Code Chapter 961 annually must complete and file with the department only the following blanks and forms for the preceding year ending December 31. An actuarial opinion is not required. The following forms are to be filed on or before March 1:

(1) Annual Statement (Texas Edition); and

(2) Texas Overhead Assessment Exemption Form (Texas Edition). This form is to be filed only by domestic insurance companies that have qualified pension contracts under the Insurance Code §401.151; otherwise, this form should not be filed.

(q) Requirements for Mexican Casualty Insurance Companies. Each Mexican casualty insurance company doing business as authorized by a certificate of authority issued under the Insurance Code Chapter 984, annually must complete and file the following blanks and forms with the department only for the preceding year ending

December 31. All submissions must be printed or typed in English and all monetary values must be clearly designated in United States dollars. The form identified in paragraph (1) of this subsection must be completed to the extent specified in paragraph (1) of this subsection and in accordance with the latest edition of the property and casualty annual statement instructions adopted by the NAIC. An actuarial opinion is not required. It is the express intent of this subsection that it shall not repeal or otherwise modify or amend any department rule or the Insurance Code. The following blanks or forms are to be filed on or before March 1:

(1) an annual statement using the latest edition of the property and casualty annual statement blank adopted by the NAIC; provided, however, only pages 1 - 4, and 104 (Schedule T) are required to be completed;

(2) a copy of the balance sheet and the statement of profit and loss from the Mexican financial statement (printed or typed in English);

(3) a copy of the official documents issued by the Comisión Nacional de Seguros y Fianzas approving the annual statement for the preceding year ending December 31; and

(4) a copy of the current license to operate in the Republic of Mexico.

(r) Other Financial Reports. Nothing in this section prohibits the department from requiring any insurer or other regulated entity from filing other financial reports with the department or the NAIC.

(s) Annual notice and opportunity to petition for adoption of a rule amendment to this section. The department annually will publish notice of the annual, quarterly, and

supplemental filing checklists that reference the latest editions of the annual statement, quarterly statement, forms and instructions adopted by the NAIC and the Texas-specific filing forms and instructions. On or before 30 days after the department publishes its notice, any interested person may petition the department for the adoption of a rule amendment to this section under §1.60 of this title (relating to Petition for Adoption of Rules), or its successor, for exceptions to the latest editions of the blanks, supplemental reporting forms, and instructions adopted by the NAIC or the department.