

**SUBCHAPTER E. Examinations and Annual Reports**  
**28 TAC §25.88**

**1. INTRODUCTION.** The Texas Department of Insurance adopts amendments to 28 Texas Administrative Code §25.88, concerning an assessment which will be used to cover the general administrative expenses of the department's regulation of insurance premium finance companies. The amendments are adopted without changes to the proposed text published in the November 15, 2013, issue of the *Texas Register* (38 TexReg 8130).

Under Government Code §2001.033(a)(1), the department's reasoned justification for these amendments is set out in this order, which includes the preamble and rules.

**2. REASONED JUSTIFICATION.** The amendments are necessary to adjust the rate of assessment to ensure that there are sufficient funds to meet the expenses of performing the department's statutory responsibilities for examining, investigating, and regulating insurance premium finance companies. Under §25.88, the department levies an assessment to cover the department's general administrative expenses for fiscal year 2014.

The department has determined that the estimated revenue need requires the collection of the minimum assessment amount of \$250 from each insurance premium finance company for calendar year 2014.

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The following paragraphs explain the methodology the department used to determine its assessments for insurance premium finance companies for 2014.

In general, the department's 2014 revenue need (the amount that must be funded by maintenance taxes or fees; examination overhead assessments; the department's self-directed budget account, as established under Insurance Code §401.252; and premium finance exam assessments) is determined by calculating the department's total cost need, and subtracting from that number funds resulting from fee revenue and funds remaining from fiscal year 2013.

To determine its total cost need, the department combined costs from the following: (i) appropriations set out in Chapter 1411 (Senate Bill 1), Acts of the 83rd Legislature, Regular Session, 2013 (the General Appropriations Act), which come from two funds, the General Revenue Dedicated - Texas Department of Insurance Operating Account No. 0036 (Account No. 0036) and the General Revenue Fund - Insurance Companies Maintenance Tax and Insurance Department Fees; (ii) funds allowed by Insurance Code Subchapters D and F of Chapter 401 as approved by the commissioner of insurance for the self-directed budget account in the Treasury Safekeeping Trust Company to be used exclusively to pay examination costs associated with salary, travel, or other personnel expenses; (iii) an estimate of other costs statutorily required to be paid from those two funds and the self-directed budget account, such as fringe benefits and statewide allocated costs; and (iv) an estimate of the cash amount necessary to finance both funds and the self-directed budget account from the end of the 2014 fiscal year until the next assessment collection period in 2015. From these combined costs,

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the department subtracted costs attributable to the Division of Workers' Compensation and the workers' compensation research and evaluation group.

The department determined how to allocate the revenue need attributed to each funding source using the following method:

For each section within the department that provides services directly to the public or the insurance industry, the department allocated the costs for providing those direct services on a percentage basis to each funding source, such as the maintenance tax or fee line, the premium finance assessment, the examination assessment, the self-directed budget account as limited by Insurance Code §401.252, or another funding source.

The department applied these percentages to each section's annual budget to determine the total direct cost to each funding source. The department calculated a percentage for each funding source by dividing the total directly allocated to each funding source by the total of the direct cost. The department used this percentage to allocate administrative support costs to each funding source. Examples of administrative support costs include services provided by human resources, accounting, budget, the commissioner's administration, and information technology. The department calculated the total of direct costs and administrative support costs for each funding source.

In regard to premium finance company examinations, the department's examination division based its current allocation on the number of hours market conduct staff performs examinations on the premium finance companies.

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To complete the calculation of the revenue need, the department combined the costs allocated to the premium finance assessment source and the self-directed source attributable to regulation of premium finance insurance companies. The department subtracted the fiscal year 2014 estimated amount of premium finance fee revenue and the estimated combined 2013 ending funding balance of the premium finance assessment source and the self-directed budget account attributable to premium finance from the amount of the combined costs for regulation of premium finance insurance companies. The resulting balance was the amount of revenue need for the purpose of calculating the premium finance assessment rate. The department divided the revenue need by the estimated loan dollar volume to determine the proposed rate of assessment for premium finance insurance companies. Based on this, the department determined that the estimated revenue need requires the collection of the minimum assessment amount of \$250 from each insurance premium finance company.

The following paragraphs provide a brief summary and analysis of the reasons for the adopted amendments.

The department amends the first sentence of the section to update the reference to the year in the section to 2014.

The department amends the first and second sentences of the section with nonsubstantive changes to conform with the department's writing style guides and to correct an address. In the first sentence, the department deletes the word "the" before the Insurance Code citation. In the second sentence of the section, the department

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updates the address and replaces “TPA/Premium Finance” with “Market Conduct” as the recipient, and adds the proper mail code.

**3. HOW THE SECTION WILL FUNCTION.** Under §25.88, the department levies an assessment to cover the department’s general administrative expenses for fiscal year 2014.

The first sentence of §25.88 as amended specifies that no later than April 1, 2014, each insurance premium finance company holding a license issued by the department under Insurance Code Chapter 651 must pay an assessment to cover the general administrative expenses attributable to the regulation of insurance premium finance companies. The second sentence of §25.88 provides that insurance premium finance companies must send payment to the department at the address shown in the section. The third sentence of §25.88 indicates that the assessment to cover general administrative expenses is \$250.

**4. SUMMARY OF COMMENTS AND AGENCY RESPONSE.** The department did not receive any comments on the published proposal.

**5. STATUTORY AUTHORITY.** The amendments are adopted under Insurance Code §§201.001(a)(1), (b), and (c); 651.003; 651.005(b); 651.006(a); and 36.001.

Insurance Code §201.001(a)(1) states that the Texas Department of Insurance operating account is an account in the general revenue fund, and that the account

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includes taxes and fees received by the commissioner or comptroller that are required by the Insurance Code to be deposited to the credit of the account. Section 201.001(b) states that the commissioner must administer money in the Texas Department of Insurance operating account and may spend money from the account in accord with state law, rules adopted by the commissioner, and the General Appropriations Act. Section 201.001(c) states that money deposited to the credit of the Texas Department of Insurance operating account may be used for any purpose for which money in the account is authorized to be used by law.

Insurance Code §651.003 authorizes the commissioner to adopt and enforce rules necessary to administer Insurance Code Chapter 651.

Insurance Code §651.005(b) requires that the department deposit an assessment or fee associated with examination costs, as defined by §401.251, to the account described by §401.156(a).

Insurance Code §651.006(a) requires each insurance premium finance company licensed by the department to pay an amount imposed by the department to cover the direct and indirect costs of examinations and investigations and a proportionate share of general administrative expenses attributable to regulation of insurance premium finance companies.

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

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## 6. TEXT.

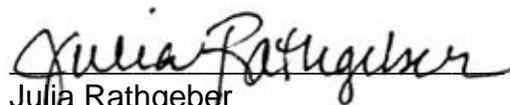
**§25.88. General Administrative Expense Assessment.** No later than April 1, 2014, each insurance premium finance company holding a license issued by the department under Insurance Code Chapter 651 must pay an assessment to cover the general administrative expenses attributable to the regulation of insurance premium finance companies. An insurance premium finance company must send payment to the Texas Department of Insurance, Financial - Market Conduct, Mail Code 9999, 333 Guadalupe, P.O. Box 149104, Austin, Texas 78701-9104. The assessment to cover general administrative expenses is \$250.

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

Issued at Austin, Texas, on December 17, 2013.

  
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Sara Waitt  
General Counsel  
Texas Department of Insurance

The commissioner adopts §25.88.

  
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Julia Rathgeber  
Commissioner of Insurance

Commissioner's Order No. **2909**