

**SUBCHAPTER RR. Valuation Manual  
28 TAC §3.9901 and §3.9902**

**INTRODUCTION.** The Texas Department of Insurance proposes new 28 TAC Subchapter RR, consisting of §3.9901 and §3.9902, concerning the adoption of a valuation manual for reserving requirements. The new sections are necessary to implement the requirements of Insurance Code §425.073 and §425.077, enacted under SB1654, 84th Legislature, Regular Session (2015), effective September 1, 2015.

**EXPLANATION.** The proposed sections are necessary to implement the requirements of Insurance Code §425.073, which requires the commissioner to adopt a valuation manual that is substantially similar to the valuation manual approved by the National Association of Insurance Commissioners (NAIC). The NAIC Valuation Manual may be viewed through the following link:

[http://www.naic.org/documents/committees\\_a\\_latf\\_related\\_valuation\\_manual\\_noapf\\_160829.pdf](http://www.naic.org/documents/committees_a_latf_related_valuation_manual_noapf_160829.pdf).

Section 425.073(b) requires that the commissioner adopt a manual with an operative date of January 1 of the first calendar year immediately following a year in which, on or before July 1, the commissioner determines that the valuation manual has been adopted by at least 42 members, or three-fourths of the voting members, of the NAIC; and that the states representing 75 percent of the direct written premiums have adopted the NAIC valuation manual or legislation with substantially similar terms and provisions. On June 29, 2016, the commissioner issued Commissioner's Order No. 4551, making the determination that the §423.073(b) requirements had been met on or before July 1, 2016, and establishing January 1, 2017, as the operative date of the valuation manual for Texas.

The NAIC Valuation Manual proposed to be adopted by the commissioner provides a new reserving method which more accurately identifies the risks or true cost of liability or obligations of the insurer. The proposed valuation manual provides the new reserving requirements and sets out a number of exemptions which allow companies to continue to use current reserving methods if they meet an exemption's requirements

and standards. One of the primary exemptions is an optional three year transitional period exemption. If a company opts to use this exemption the company may continue to use current reserving requirements until January 1, 2020.

Currently, all companies must provide an actuarial opinion and memorandum supporting the current reserving methods. The proposed valuation manual also requires the actuarial opinion and memorandum. However, under the proposed new sections, if a company meets certain requirements, a company may apply to the commissioner for approval for an exemption from the asset adequacy analysis part of the actuarial opinion and memorandum.

The new sections also implement Insurance Code §425.077 which provides the commissioner with authority to exempt companies' specific product forms or product lines from the requirements of the proposed valuation manual if the company is licensed and only doing business in Texas. Section 425.077(2) provides rule making authority for the commissioner to address other requirements of the proposed valuation manual for these smaller companies.

**FISCAL NOTE AND LOCAL EMPLOYMENTS IMPACT STATEMENT.** Doug Slape, Deputy Commissioner, Financial Regulation Division, has determined that for each year of the first five years the proposed sections will be in effect, there will be no fiscal impact to state and local governments as a result of the enforcement or administration of the proposal.

**PUBLIC BENEFIT AND COST NOTE.** Mr. Slape has also determined that for each year of the first five years the proposed new sections are in effect, the public benefit will be the adoption of a new reserving method to address complex insurance products, replacing a formulaic approach which needs to be frequently updated. The new reserving method more accurately identifies the risks or true cost of liability or obligations of the insurer. Insurance Code §425.073 sets out the requirements for companies to use the valuation manual and for the commissioner to adopt the valuation

manual. There is no additional cost imposed by the proposed new section on subject entities.

**ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS FOR SMALL AND MICRO BUSINESSES.**

As required by Government Code §2006.002(c), TDI has determined that the proposal will not have an adverse economic effect on small or micro businesses. Insurance Code §425.077 provides the commissioner with authority to grant exemptions for specific products or product lines of a domestic company if certain conditions are met. TDI cannot consider other regulatory methods because the requirement to adopt the valuation manual and the requirement to use the valuation manual reserving methods are set out in statute. Therefore, in accordance with Government Code §2006.002(c), TDI has determined that a regulatory flexibility analysis is not required.

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

**REQUEST FOR PUBLIC COMMENT.** TDI invites the public and affected persons to comment on this proposal. Submit your written comments on the proposal no later than 5 p.m., on December 19, 2016. Send written comments by mail to the Texas Department of Insurance, Office of the Chief Clerk, Mail Code 113-2A, Texas Department of Insurance, PO Box 149104, Austin, Texas 78714-9104; or by email to [chiefclerk@tdi.texas.gov](mailto:chiefclerk@tdi.texas.gov). You must simultaneously submit an additional copy of the comment by mail to Doug Slape, Deputy Commissioner, Financial Regulation Division, Mail Code 113-1F, Texas Department of Insurance, PO Box 149104, Austin, Texas 78714-9104; or by email to Doug Slape, [fin-gm@tdi.texas.gov](mailto:fin-gm@tdi.texas.gov). You must submit any request for a public hearing separately to the Office of Chief Clerk, Mail Code 113-2A,

Texas Department of Insurance, PO Box 149104, Austin, Texas 78714-9104 before the close of the public comment period. If a hearing is held, written comments and public testimony presented at the hearing will be considered.

**STATUTORY AUTHORITY.** TDI proposes the new subchapter and sections under Insurance Code §§425.073, 425.077, and 36.001.

Insurance Code §425.073 requires the commissioner to adopt a valuation manual that is substantially similar to the valuation manual approved by the NAIC.

Insurance Code §425.077 provides the commissioner with authority to allow an exemption to the valuation manual for specific products forms or product lines of a domestic company.

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

**CROSS REFERENCE TO STATUTE.** The proposed new sections implement Insurance Code §475.073 and §425.077 and affect Insurance Code Chapter 1105.

**TEXT.**

### **SUBCHAPTER RR. Valuation Manual**

#### **§3.9901. Purpose and Operative Date.**

(a) The purpose of this subchapter is to adopt by reference the National Association of Insurance Commissioners (NAIC) Valuation Manual, as required by Insurance Code §425.073, and to implement Insurance Code §425.077.

(b) The commissioner adopts by reference the NAIC Valuation Manual.

(c) The operative date of the NAIC Valuation Manual in Texas is January 1, 2017.

#### **§3.9902. Single State Company Exemptions.**

(a) Single state company. A single state company is a domestic company that is licensed and doing business only in this state. A domestic company is doing business

only in this state if the company does not have direct or assumed risks for policies issued outside of this state.

(b) Single state exemption. The commissioner may grant a single state company a single state exemption from the NAIC Valuation Manual principle-based valuation requirements for specific product forms or product lines. This exemption is a single state exemption.

(1) To request approval for a single state exemption, a company must submit a written request to TDI and include detailed information regarding the request for the exemption. The request should identify the product forms or product lines proposed for the single state exemption. An exemption is not considered approved until written approval is issued by the commissioner or his designee.

(2) A single state company granted a single state exemption must compute reserves using the assumptions and methods that it used before January 1, 2017. Single state company business exempted by the commissioner with a single state exemption must be reserved with assumptions and methods required by the NAIC Valuation Manual other than the principle-based valuation requirements.

(3) A single state company granted a single state exemption must comply with all other requirements of the NAIC Valuation Manual, including the actuarial opinion and memorandum requirements of the NAIC Valuation Manual.

(4) The commissioner may revoke a single state exemption by revoking the exemption in writing if the reserving methods and assumptions do not adequately reflect the company's risks or if the company no longer qualifies for the exemption under Insurance Code §425.077. A single state exemption may also be revoked if the commissioner determines that the NAIC Valuation Manual principle-based reserving would be more appropriate for protection of Texas policyholders and industry.

(c) Adequacy analysis requirement exemption. A single state company may be granted an exemption by the commissioner from the asset adequacy analysis requirement for the actuarial opinion in the NAIC Valuation Manual. This exemption is an asset adequacy analysis exemption.

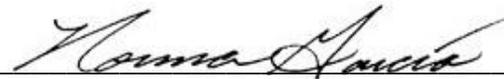
(1) A single state company must request an asset adequacy analysis exemption in writing to the commissioner and provide support as to why an asset adequacy analysis is not needed for its business. An exemption is not considered approved until written approval is issued by the commissioner or his designee.

(2) A single state company granted an asset adequacy analysis exemption must comply with other requirements for the actuarial opinion in the NAIC Valuation Manual.

(3) The commissioner may revoke an asset adequacy analysis exemption by revoking the exemption in writing if the asset adequacy analysis is needed to assess risks or if it is needed for the protection of Texas policyholders and industry. The commissioner may also revoke an asset adequacy analysis exemption if the company no longer qualifies as a single state company.

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

Issued at Austin, Texas, on October 31, 2016



Norma Garcia  
General Counsel  
Texas Department of Insurance