

**SUBCHAPTER I. GENERAL PROVISIONS REGARDING [LICENSING] FEES, APPLICATIONS, AND RENEWALS.**  
**§§19.801 and 19.803 - 19.810**

**SUBCHAPTER K. CONTINUING EDUCATION, ADJUSTER PRELICENSING EDUCATION PROGRAMS, AND CERTIFICATION PROGRAMS**  
**§§19.1003, 19.1004, 19.1013, 19.1016, and 19.1019**

**SUBCHAPTER N. LICENSING AND REGULATION OF RISK MANAGERS**  
**§19.1310**

**INTRODUCTION.** The Texas Department of Insurance proposes amendments to 28 TAC §§19.801, 19.1003, 19.1004, 19.1013, 19.1016, 19.1019, and 19.1310, and new §§19.803 - 19.810, concerning licensing and continuing education requirements of insurance professionals, including agents, adjusters, public insurance adjusters, managing general agents, risk managers, and home office salaried employees. The amendments and new sections are necessary to implement Senate Bill 876, 84th Legislature, Regular Session (2015), which amends Insurance Code Title 13, relating to licensing and continuing education requirements; and SB 807, 84th Legislature, Regular Session (2015) and SB 1307, 84th Legislature, Regular Session (2015), which amend Occupations Code Chapter 55, relating to licensing of military service members, military veterans, and military spouses. Additionally, TDI has proposed amendments to §§19.801, 19.1003, 19.1004, 19.1013, 19.1016, 19.1019, and 19.1310 to reflect current TDI style guidelines.

**EXPLANATION.** Amendments to §§19.801, 19.1003, 19.1004, 19.1013, 19.1016, 19.1019, and 19.1310, and new §§19.804 - 19.810 implement changes made by SB 876 to the licensing and continuing education requirements of insurance professionals, including agents, adjusters, public insurance adjusters, managing general agents, risk managers, and home office salaried employees. Amendments to existing §§19.801, 19.1003, 19.1004, 19.1013, 19.1016, 19.1019, and 19.1310 also modernize existing requirements, including allowing for increased use of electronic payment transactions. The amendments also update statutory references resulting from the nonsubstantive revision of statutes enacted in SB 1324, 78th Legislature, Regular Session (2003).

New §19.803 implements changes made by SB 807 and SB 1307 to Occupations Code Chapter 55, relating to licensing of military service members, military veterans, and military spouses. In accordance with Chapter 55 of the Occupations Code, §19.803 provides for extensions of time to complete continuing education, reciprocal licensing, and waiver of the examination requirement.

### **Subchapter I. General Provisions Regarding Application Fees, License Application, and License Renewal.**

TDI proposes renaming this subchapter to better reflect the scope of the matters addressed in the proposed sections.

#### **§19.801**

TDI proposes renaming the section to better reflect the scope of the matters addressed. The section has also been amended to comply with TDI's style guidelines.

Section 19.801(a) is amended to address information related to the license application. Insurance Code §4001.102 requires the Commissioner to prescribe the requirements for a completed application. Section 19.801(a) implements this by requiring that an applicant provide all information required of the applicant under statute and rule. This replaces the existing requirement in §19.801(b)(1) that a "completed application" was "one that provides every piece of information required of the licensee by the application form." TDI allows multiple application forms for the applicant's convenience. TDI accepts license applications on TDI forms and from third parties, which currently include TDI's designated testing service, Texas.Gov, the National Insurance Producers Registry (NIPR), and Compliance Express. TDI works with these parties to ensure that an applicant completing an application acceptable to TDI will meet the completed application requirement.

Section 19.801(b) provides that an application for a license not currently held by the applicant is called an original application, which continues the terminology in the existing section. Section 19.801(b)(1) and (2) are added to list the requirements for individual and entity license applications, including information required under Insurance Code §4001.105 and §4001.106. Application filing processes are addressed in the application instructions in new §§19.804 - 19.810.

Section 19.801(c)(1) is added to clarify that appointments authorize an agent to represent and act as an agent for an insurer. It is unnecessary to separately list health maintenance organizations and nonprofit legal services corporations, because they are included in the definition of "insurer" in Insurance Code §4001.003(6). Insurance Code §4001.205 provides that a general lines agent, personal lines property and casualty agent, and life agent may appoint a subagent.

Section 19.801(c)(2) is amended to require a \$10 appointment fee for each notice of appointment submitted to TDI. The fee is the same as the fee for additional appointments in §19.802. This fee is required to fully implement Insurance Code §4001.006 that requires TDI to set a nonrefundable appointment fee for each appointment of the agent by an insurer. Insurance Code §4001.205 requires persons appointing subagents to also submit the nonrefundable appointment fee.

Section 19.801(c)(3) addresses subagent appointments and includes the existing requirements in §19.801(c)(2). Section 19.801(c)(3)(C) clarifies that only directly appointed agents may appoint subagents based on Insurance Code §4001.205(a), which provides a general lines agent, personal lines property and casualty agent, and life agent "appointed by an insurer" must notify TDI of the subagent's appointment. Section 19.801(c)(3)(D) is the redesignated existing provision §19.801(c)(3), which provides that agents may have multiple direct and subagent appointments.

Section 19.801(d) addresses Insurance Code §4001.109 and the authority to write business when the agent and subagent have different license types.

Section 19.801(e) is redesignated from §19.801(d). The subsection is amended to a list format to be easier to read. The requirement in this subsection continues to be that applicants must submit fees in accordance with the requirements for that transaction, which will be specified on the form or by the vendor.

Section 19.801(f) is redesignated from §19.801(e). The subsection is amended to remove references to the department and TDI's designated testing service, because these fees may be submitted to additional vendors. The subsection is also amended to remove the reference to prorated fees in the existing section, because the referenced section has been removed. Further, fees may be adjusted as authorized by statute or TDI rule, not just as referenced in this subsection.

Section 19.801(g) is redesignated from §19.801(f). This section is amended to discuss the contingency of TDI administered examinations in a single reference, rather than each time TDI's designated testing service is referenced. In addition, the subsection is amended to conform to TDI style guidelines.

### **§19.803**

Section 19.803 is added to address actions TDI has implemented to comply with Chapter 55 of the Occupations Code related to licensing requirements for military service members, military veterans, and military spouses. Section 19.803(a) incorporates the definitions in Occupations Code §55.001. Section 19.803(b) provides that the section controls in conflicts with other sections in Chapter 19, as required by statute.

Section 19.803(c) provides for license renewal extension and fee exemption for certain military service members, as required by Occupations Code §55.003. Section 19.803(c)(1) lists the information that the military service member must submit to TDI to request the license renewal extension and fee exemption. Section 19.803(c)(1) and (2) provide the two-year extension and fee exemption authorized under Occupations Code §55.002 and §55.003, respectively. Section 19.803(c)(4) addresses how the continuing education hours earned during the period of the extension will be applied.

Section 19.803(d) establishes the procedure for a military service member, military veteran, or military spouse to request the waiver of the original application fee or examination fee paid to TDI as required under Occupations Code §55.009. Waiver of the examination fee, however, will only apply at a future time, if TDI begins receiving examination fees directly. Currently all examination fees are paid to TDI's designated testing service.

Section 19.803(e) establishes an alternative licensing requirement for a military service member, military veteran, or military spouse by reciprocity or if the applicant held the license within the five years preceding the application date, as required under Occupations Code §55.004. Section 19.803(e)(1) establishes that reciprocal licensing under this section is subject to the qualifications and as provided in §19.803(c), which is based on the same standard and also provides that the applicant request waiver of the application fee.

Section 19.803(f) is added to incorporate the continuing education and licensing exemption and extension provisions for individuals called to active military under Insurance Code §36.109.

Adding this provision to §19.803 allows military service members to identify exemptions and extensions that may apply to them, without having to review multiple rule sections. TDI has also included a cross reference in §19.1004 to guide military service members to §19.803. In §19.803(f), TDI has used the term "military service member," because military service members are defined in Occupations Code §55.001 as being on active duty. This provides for consistent use of terminology.

#### **§19.804**

Section 19.804 addresses licensing requirements for a new entity license. Section 19.804(a) requires the entity to submit a completed original application. Section 19.804(b) addresses the licensed individual officer or active partner that is required for licensure of the entity under Insurance Code §4001.106(b)(2). TDI looks to this individual to represent the entity as a point of contact for TDI and to represent the entity in its communications with TDI. As the individual on whom the entity's insurance license is based, this individual must be able to direct the management and policies of the licensee. Further, as the individual on whom the entity's license is based, TDI will not allow the entity to have a greater license authority than this individual officer or active partner. Two examples are provided to clarify this requirement.

Section 19.804(c) addresses other persons acting as insurance agents on behalf of the entity. As required in Insurance Code §4001.106(b)(2), these persons must have a license separate from the entity's license. As similarly addressed in §19.801(c), these persons must be appointed and are limited to the lessor of the entity's authority or their own license authority when acting on behalf of the entity.

#### **§19.805**

Section 19.805 addresses original application requirements for new individual licenses.

Section 19.805(a) is necessary to clarify that this section does not apply to certain individual license types and licensing procedures that are addressed in other sections and subchapters.

Section 19.805(b) addresses the procedure for applying for a license when successful completion of an examination is required through TDI's examination vendor or an insurance carrier administered examination, including submission of the application, payment of fees, and the timeframe for successfully completing the licensing examination, including insurer administered

examinations. Section 19.805(b)(1)(B) requires the examination to be successfully completed before the application is submitted. This aligns with Insurance Code §4001.105(2) that the examination be completed within the 12 months before licensure and will facilitate the processing of applications by individuals that are complete and ready for immediate licensure.

Section 19.805(c) addresses the procedure when a licensing examination is not required.

Section 19.805(d) references that Insurance Code §4004.055(b) and §19.810 provide procedures and requirements for obtaining a new license if the applicant previously held a license authorized under Insurance Code Title 13 and issued or renewed on or after November 1, 2015. SB 876 added Insurance Code §4004.055(b) that prohibits TDI from issuing the new license if the licensee cannot provide evidence that the applicant completed the continuing education requirement and paid any applicable fine for the prior license.

#### **§19.806**

Section 19.806 addresses the procedure for submitting a provisional permit application. Section 19.806(a) states that the license type must be listed in Insurance Code §4001.353(a), because not all individual license types are authorized to obtain a provisional permit. Section 19.806(1) addresses licensing examinations. Unless exempt, the applicant must successfully complete the required licensing examination before the applicant is eligible for a provisional permit. Section 19.806(2) lists what the applicant must provide to TDI if the applicant is exempt from the examination or successfully completes the required licensing examination. Section 19.806(3) lists what the applicant must provide to TDI if the applicant successfully completes an insurer administered examination.

#### **§19.807**

Section 19.807 addresses the procedure for obtaining a temporary license and provides request and reporting standards for agents, insurers, and health maintenance organizations to appoint more than 500 temporary agents, under Insurance Code §4001.162(b). Section 19.807(a) addresses what the applicant must submit to TDI's designated testing service. Section 19.807(b) addresses that the applicant must take and successfully complete the required licensing examination to continue the license beyond the temporary license period.

Section 19.807(c)(1) establishes standards for agents, insurers, and health maintenance organizations requesting authority to appoint more than 500 temporary agents in a calendar year.

Section 19.807(c)(3) provides that TDI will determine if the request will be granted based on its review of the request. Section 19.807(b)(3) establishes quarterly reporting standards for agents, insurers, and health maintenance organizations to demonstrate that they are in compliance with Insurance Code requirements related to temporary agents.

### **§19.808**

As required under Insurance Code §4003.001 and SB 876, TDI has aligned all entity and individual licenses to a single expiration date for each licensee. Section 19.808(a) addresses expiration dates for new licenses for licensees that have no other current license. Individual licenses will be extended to the end of the licensee's birth month.

Section 19.808(b) addresses alignment of expiration dates for licensees that have an existing license and obtain an additional license. Section 19.808(b)(2) provides that TDI will not issue a license with an original term of less than six months. This will reduce the administrative burden on TDI and applicants. Because this would only apply to an individual with an existing license, TDI will issue the new license with the expiration date of the existing license as if it were renewed for another two year term. The date will be fixed for the new license even if the licensee chooses not to renew the existing license. Section 19.808(c) provides that the original application fee will not be increased or reduced based on the initial term of the license.

### **§19.809**

Section 19.809 addresses issuing a Texas resident license to a nonresident licensee who relocates to Texas during the term of the license. The section requires the applicant to apply for the resident license within 30 days of relocating to Texas. The application must meet the requirements listed in Insurance Code §4056.059(b)(2). TDI will provide a form that applicants must use to comply with the requirement in this section.

### **§19.810**

Section 19.810 addresses procedures and requirements for renewing licenses. SB 876 added Insurance Code §4004.055 that prohibits TDI from renewing or reissuing a license issued or renewed on or after November 1, 2015, if the licensee fails to complete the continuing education requirement and pay any applicable fine. Compliance with Insurance Code §4004.055 is required before TDI may renew or reissue a license for agents, adjusters, or public insurance adjusters under Insurance Code §§4003.006, 4004.055, 4101.061, 4102.064, and 4102.065.

Because TDI currently licenses more than 300,000 Texas resident individuals subject to this requirement, implementation of this provision is a significant project. TDI will implement it on a going forward basis for individuals taking action to have a license renewed or issued after a date certain, listed in this proposal as June 1, 2018. TDI may extend the date on adoption of this proposal. Prior to that date, license renewal and reissuances will be processed as they are under current procedures. On that date, automatic fines under §19.1016 will also change, because TDI anticipates that implementation of this section coupled with the electronic tracking of continuing education hours of all licensees will further reduce the number of licensees failing to complete the continuing education requirement.

Section 19.810(a) addresses license types that are not subject to the requirements of this section. Section 19.810(a) provides that §19.803 relating to military service members, military veterans, and military spouses, controls over §19.810. Section 19.810(c) addresses the procedure for renewal of a license that has not expired. Section 19.810(d) provides that if the licensee fails to comply with subsection (c), the license will expire.

Section 19.810(e) addresses the procedure for renewing a license that has been expired for 90 days or less. Section 19.810(f) addresses the effect of renewal or nonrenewal of expired licenses. If the applicant renews the license before the expiration, or renews the license during the 90 day period after the license expires, the license will be renewed as of the expiration date without lapse. If the licensee does not renew the license prior to the end of the 90 day period, the license cannot be renewed, and will be considered to have expired as of the expiration date. These actions are required under Insurance Code §4003.007 and §4102.065, which provide that a license that has been expired for more than 90 days cannot be renewed.

Section 19.810(g) and (h) address the procedure for applying for a new license after the expiration of the 90 day period. These actions are also required under Insurance Code §§4003.007, 4101.061, and 4102.065.

## **Subchapter K. Continuing Education, Adjuster Prelicensing Education Programs, and Certification Programs.**

### **§19.1003**

Section 19.1003(a) is amended to reflect the SB 876 amendment of Insurance Code §4004.053 and §4102.109 to reduce the number of required continuing education hours for certain licensees as addressed by the section from 30 hours per reporting period to 24 hours per reporting period. This change does not affect licensees subject to the 10 hour continuing education requirement. However, the list of license types subject to the 10 hour continuing education requirement is revised to make the subsection easier to read.

Section 19.1003(a)(1) and (2) list requirements for completing continuing education and the application of certain hours. Most of these requirements have been drawn from existing provisions in §19.1003(a), (d) and (f) and listed here for convenience. The first sentence of §19.1003(a)(1)(A) is drawn from existing §19.1003(d). The second sentence is added because license alignment under Insurance Code §4003.001 has also aligned continuing education reporting periods.

Existing parts of §19.1003 have been relocated and redesignated within subsection (a) as part of the amendment. Proposed §19.1003(a)(1)(B) is from existing §19.1003(a). Proposed §19.1003(a)(1)(C) is from existing §19.1003(f). Proposed §19.1003(a)(1)(B) is from the last sentence of existing §19.1003(a). Proposed §19.1003(a)(2)(A) is drawn from existing §19.1003(d), but revised to add two exceptions. Proposed §19.1003(a)(2)(B) is also drawn from existing §19.1003(d). Proposed §19.1003(a)(2)(C) is new and addresses counting credit hours needed to comply with Insurance Code §4004.055.

Section 19.1003(b) is amended to reflect the requirement in Insurance Code §4004.051(a) that completion of continuing education is required as a condition of licensure and the requirements in Insurance Code §4004.053 and §4102.109 to complete the required number of continuing education hours. Section 19.1003(b) clarifies that the licensee must complete the required amount of continuing education required for the license because the licensee held the license during the reporting period. It is not an exception to completing continuing education that the licensee chose to cancel the license prior to its expiration or chose not to renew the license. Section 19.1003(b) also clarifies that reaching the maximum number of required continuing education hours is not an exception to completing continuing education required to maintain voluntary certifications under §§19.1022 - 19.1029.

Section 19.1003(c) is amended to conform to TDI style guidelines.

Existing §19.1003(d) has been redesignated in proposed §19.1003(a)(1) and (2), as previously discussed. Existing §19.1003(e) is redesignated as proposed §19.1003(d) and amended to revise the 30-hour requirement to 24, to clarify prorated continuing education requirements, and to conform to TDI style guidelines. Section 19.1003(d)(2) amends the proration formula for licensees subject to the 10-hour continuing education requirement as set forth in Figure 19.1003(d)(2). The proposal spreads the continuing education requirement more evenly over the entire 24 month licensing period compared to the existing requirement that prorates the 10 required continuing education hours at the rate of one hour for each month of licensure during the 24 month period.

Section 19.1003(e) establishes continuing education requirements for Texas home state adjusters. Section 19.1003(e) requires Texas home state adjusters to complete continuing education under the same requirements as Texas resident adjusters. Section 19.1003(e) further addresses the licensee's continuing education requirement if the Texas designated home state adjuster converts to a Texas resident adjuster during the reporting period.

Existing §19.1003(f) has been redesignated as proposed §19.1003(a)(1)(C), as previously discussed.

#### **§19.1004**

Section 19.1004(a) is amended to update a reference to include proposed new subsection (g) of the section and to conform to TDI style guidelines.

Section 19.1004(b) is amended to reflect that the current Insurance Code licensing provisions would not apply to licensees who qualify for this continuing education exemption. Section 19.1004(b) is also amended to conform to TDI style guidelines.

Section 19.1004(c) is amended to reflect that TDI now has electronic records that can identify licensees that qualify for this continuing education exemption. Licensees will no longer need to request the exemption from TDI; however, they can request that TDI evaluate their status. Licensees may not claim the exemption prior to receiving written notice from TDI or TDI's designee that they qualify. Section 19.1004(c) is also amended to conform to TDI style guidelines.

Section 19.1004(d) is amended to apply the exemption to designated home state adjusters. Section 19.1004(d) is also amended to remove a requirement related to nonresident agents relocating to Texas, because it is no longer required. Under Insurance Code §4056.059 and

§19.809, these individuals must obtain a Texas resident license that would result in them being required to complete Texas continuing education on a prorated basis under §19.1003(d).

Section 19.1004(e) is amended to clarify the requirement for requesting an exemption for illness, disability, or circumstances beyond the licensee's control, and to eliminate existing blanket requirements for medical and insurance records.

Section 19.1004(f) is amended to reference continuing education exemptions for military service members that are addressed in §19.803(c) and (f).

A new 19.1004(g) is added to incorporate into the section the exemption for risk managers under Insurance Code §4153.055. This exemption applies to other licenses that a risk manager might hold, because the risk manager license type does not have a direct continuing education requirement.

Existing §19.1004(g) is redesignated as subsection (h), and it is amended to establish the procedure for funeral prearrangement life insurance agents and life insurance not exceeding \$25,000 agents to claim the continuing education exemption under Insurance Code §4054.159 and §4054.207.

### **§19.1010**

Section 19.1010(a)(1),(2)(D),(3), and (4) are amended to change the allowed number of hours that TDI will approve for any one classroom course to 24 hours and for any one self study course to 12 hours, which is the maximum number of hours a licensee can apply during a reporting period for these types of courses. Section 19.1010 is also amended to conform to TDI style guidelines.

### **§19.1013**

Section 19.1013(c) is amended to provide that continuing education must be completed and documented as required under Insurance Code §4004.055 and §19.810. Section 19.1013 is also amended to conform to TDI style guidelines.

### **§19.1016**

Section 19.1016(a)(1) is amended to allow for electronic options in paying automatic fines assessed under this section. Section 19.1016(a)(2) is amended to incorporate disciplinary provisions related to public insurance adjusters that are similar to the existing listed disciplinary provisions that apply to agents and adjusters and to make the paragraph easier to read.

Existing § 19.1016(b) is split into subsections (b) and (c). Section 19.1016(b) is amended to address only automatic fines for licensees. The fine for failure to complete the continuing education requirement remains \$50 per credit hour not completed, but following the implementation of §19.810 will change to not exceed \$500 per license, per reporting period. Section 19.1016(c) is amended to address automatic fines for providers and renumbered, but is not substantively changed. Section 19.1016 is also amended to conform to TDI style guidelines.

#### **§19.1019**

Section 19.1019(a) is amended to provide that home office salaried employees must complete 15 hours of continuing education annually under Insurance Code §4051.302(a). Section 19.1019(a) is also amended to incorporate Insurance Code Chapter 4004 requirements which otherwise apply to home office salaried employees under Insurance Code §4004.302(c). In addition, §19.1019 is amended to conform to TDI style guidelines.

### **Subchapter N. Licensing and Regulation of Risk Managers.**

#### **§19.1310**

Section 19.1310(a) is amended to update the examination procedure. Section 19.1019(b) is amended to include the certified risk manager designation as an exemption from the examination requirement. Section 19.1310(h) is redesignated as subsection (c). In addition, §19.1310 is amended to conform to TDI style guidelines. The remainder of §19.1310 will be deleted because TDI has a designated testing service which administers these functions under Insurance Code §4002.051.

**FISCAL NOTE AND LOCAL EMPLOYMENT 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, that there will be no fiscal implications for state and local government as a result of enforcing or administering the sections, and there will be no effect on local employment or the local economy.

**PUBLIC BENEFIT AND COST NOTE.** Mr. Slape also has determined that for each year of the first five years the proposed sections are in effect, the public benefit expected as a result of

enforcing the proposed amendments will be the adoption of rules setting forth how TDI is implementing SB 876, SB 807, and SB 1307, increased compliance with continuing education requirements, and clarification and modernization of existing licensing and continuing education requirements.

Mr. Slape anticipates that insurers and licensee's required to comply with §§19.801(c)(2), 19.803, and 19.807(c) may incur additional costs.

Section 19.801(c)(2) requires a \$10 appointment fee for each notice of appointment submitted to TDI. The fee is the same as the fee for additional appointments in §19.802. This fee is required to fully implement Insurance Code §4001.006, which requires TDI to set a nonrefundable appointment fee for each appointment of an agent by an insurer. Insurance Code §4001.205 requires persons appointing subagents to also submit a nonrefundable appointment fee. The actual cost to any appointing person will depend on its business model and the number of appointments. The business model and number of appointments made are business decisions and not a requirement of this proposal.

Licenseses requesting a waiver, extension, or alternative licensing requirement under §19.803 may incur additional costs of compliance related to submitting the request. Costs of compliance with submission requirements under §19.803 will vary based on the resources available to the licensee. Cost components for a licensee required to comply with submission requirements in §19.803 include the cost to gather the information, prepare the information for submission, and complete and submit the required information. TDI believes that the information being requested should be available to the individual and that the individual should be able to submit the information. Costs may arise from copying the additional one to three additional pages of information or converting the additional information into an electronic document, and costs may arise from submitting the information to TDI by mail or electronically. While it is not feasible to determine the actual cost for every situation, TDI estimates the additional cost of an individual submission mailed to TDI would be less than \$5.

Compliance with the request and reporting standards in §19.807(c) may result in additional costs to an agent, insurer, or health maintenance organization that desires to appoint more than 500 temporary license holders during a calendar year. Incurring these costs will be a business decision of the agent, insurer, or health maintenance organization that intends to appoint more than 500

temporary licenses holders during a calendar year. Costs for training and monitoring appointed temporary license holders result from Insurance Code §§4001.151 - 4001.161, and not from the adoption and enforcement of these sections.

Costs of compliance with request and reporting requirements under §19.807(c) will vary based on the agent's, insurer's, or health maintenance organization's size, organization, domicile, and ability to adapt available information to the request and reporting purpose. Cost components required to comply with the requirements in this proposal include the cost to gather the information, prepare the reports, and complete and submit the required request and reports. This will involve one or more individuals familiar with agent training and records and the involvement of management. TDI prefers electronic delivery, which should have almost no identifiable cost. The actual means of delivery is a business decision and not a cost under these sections.

While it is not feasible to determine the actual cost of any employees needed to comply with the requirement, including non-United States jurisdictions, TDI estimates individual employee compensation at \$30.46 an hour for Training and Development Specialists at Insurance Agencies and Brokerages based on the national mean hourly wage for each classification as reported in the May 2016 National Industry-Specific Occupational Employment and Wage Estimates at [www.bls.gov/oes/current/oes131151.htm](http://www.bls.gov/oes/current/oes131151.htm). TDI estimates individual employee compensation at \$55.37 an hour for Training and Development Managers at Insurance Agencies and Brokerages based on the national mean hourly wage for each classification as reported in the May 2016 National Industry-Specific Occupational Employment and Wage Estimates at [www.bls.gov/oes/current/oes113131.htm](http://www.bls.gov/oes/current/oes113131.htm). The method of compliance is a business decision, including a decision to employ staff or contract for some of these services.

#### **ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS.**

As required by Government Code §2006.002(c), TDI has determined that the proposed §19.801(c)(2) and §19.803 will have an adverse economic effect economic impact on small or micro businesses and individual licensees. In accordance with Government Code §2006.002(c-1), the department considered other regulatory methods to accomplish the objectives of the proposal that will also minimize any adverse impact on small and micro businesses.

#### **§19.801(c)(2)**

The amendment to §19.801(c)(2) will require payment of an appointment fee when it is received with an original application. This may affect approximately 117 insurance companies and health maintenance organizations that are small or micro businesses; 11,000 Texas entity agent licensees, almost all of which are small or micro businesses; and 219,000 individual Texas resident agent licensees.

Currently TDI charges an appointment fee for additional appointments under Insurance Code §4001.202 and §4001.205. The fee is the same amount that is charged for additional appointments under §19.802, and which is reasonable and necessary to implement the appointment program.

TDI considered the following other regulatory methods to accomplish the objectives of §19.801(c)(2) while minimizing any adverse impact on small and micro businesses: (i) not proposing the amendment to §19.801(c)(2), (ii) proposing a different appointment fee for small and micro businesses, and (iii) exempting small and micro businesses from the appointment fee.

Not proposing the amendment to §19.801(c)(2). Insurance Code §4001.006 and §4001.205 require TDI to collect a nonrefundable fee for each agent appointment. This includes direct appointments by an insurer or a subagent appointment by another agent. The Insurance Code does not make an exception for an appointment that accompanies the agent's original application for license. In requiring the fee for subagent appointments under Insurance Code §4001.205, the legislature certainly was aware that the appointing agents are most likely small businesses or individuals. TDI rejects this option.

Proposing a different appointment fee for small and micro businesses. Insurance Code §4001.006 and §4001.205 require an appointment fee. They do not specifically authorize different fees based on business size or model. As previously noted, subagent appointments are made by appointing agents that are most likely small businesses or individuals. Costs associated implementing the appointment program, including maintaining the appointment records and allowing public access to those records, do not vary by business size. Varying the fee for small and micro businesses would result in either increasing the fee for other businesses or increasing the maintenance tax on all insurers, HMOs, and administrators. The current methodology is already the most equitable methodology the department can develop. TDI rejects this option.

Exempting small and micro businesses from the appointment fee. As previously noted, the current methodology is already the most equitable methodology the department can develop. An exemption would simply shift all of the costs to others. Further, this option is not consistent with Insurance Code §4001.006 and §4001.205 that requires TDI to collect the appointment fee. As previously noted, subagent appointments are made by appointing agents that are most likely small businesses or individuals. TDI rejects this option.

TDI, after considering the purpose of the authorizing statutes, does not believe it is legal or feasible to waive or modify the requirements of proposed §19.801(c)(2) for small and micro businesses.

### **§19.803**

The objective of proposed §19.803 is to implement SB 807 and SB 1307, and Insurance Code §36.109, related to licensing and continuing education requirements for military service members, military veterans, and military spouses. The exact number is unknown, however, each affected licensee is an individual. The costs associated with §19.803 arise from gathering information and submitting it with a request to TDI that the individual desires to take advantage of the licensing or continuing education exceptions, extensions, or waivers authorized in §19.803. No costs are paid to TDI.

TDI considered the following other regulatory methods to accomplish the objectives of §19.803 while minimizing any adverse impact on small and micro businesses: (i) not adopting §19.803, (ii) not requiring the submission of information or a request for individuals wanting to take advantage of the licensing or continuing education exceptions, extensions, or waivers authorized in §19.803, or (iii) adopting different requirements for individuals wanting to take advantage of the licensing or continuing education exceptions, extensions, or waivers authorized in §19.803.

Not proposing §19.803. Occupations Code Chapter 55 requires a state agency to adopt rules relating to licensing of military service members, military veterans, and military spouses that provide for extensions of time to complete continuing education, reciprocal licensing, and waiver of the examination requirement. Section 19.803 is TDI's proposed rule to comply with this requirement. Therefore, if TDI did not propose §19.803, it would not be in compliance with Occupations Code Chapter 55. In addition, without §19.803, military service members, military

veterans, and military spouses would have no guidance on how to take advantage of the opportunities provided by Occupations Code Chapter 55. For these reasons, TDI rejects this option.

Not requiring the submission of information or a request for individuals wanting to take advantage of the licensing or continuing education exceptions, extensions, or waivers authorized in §19.803. TDI rejects this option for the following reasons: (i) without the request, TDI will not know that the individual seeks to take advantage of §19.803; and (ii) without the information, TDI will not know that the individual qualifies under statute and rule.

Adopting different requirements for individuals wanting to take advantage of the licensing or continuing education exceptions, extensions, or waivers authorized in §19.803. It is necessary that TDI have sufficient information to verify that an individual is qualified take advantage of §19.803, and in drafting §19.803 TDI attempted to balance its need for information with the burden the requirement places on an individual in order to minimize costs for the individual. In addition, any changes to the required information would likely still result in the same costs to the individual. For these reasons, TDI rejects this option.

TDI, after considering the purpose of the authorizing statutes, does not believe it is legal or feasible to waive or modify the requirements of proposed §19.803 for individual licensees.

TDI does not anticipate that an agent, insurer, or health maintenance organization that will request the appointment of more than 500 temporary license holders under §19.807(c) will be a small or micro business. As a result, and in accordance with Government Code §2006.002(c), it is not necessary for the department to address amendments to §19.807(c) in its regulatory flexibility analysis.

The department has determined that the proposal will not have an adverse economic effect on rural communities. As a result, and in accordance with Government Code §2006.002(c), it is not necessary for the department to address rural communities in its regulatory flexibility analysis.

**EXAMINATION OF COSTS UNDER GOVERNMENT CODE §2001.0045.** TDI has determined that the proposed §19.801(c)(2) and §19.803 imposes a possible cost on regulated persons. However, no additional rule amendments or repeals are required under Government Code

§2001.0045 because proposed §19.801(c)(2) is necessary to implement SB 876 and proposed §19.803 is necessary to implement SB 807 and SB 1307.

**GOVERNMENT GROWTH IMPACT STATEMENT.** TDI had determined that each year of the first five years the proposed amendments are in effect:

- the proposed rule will not create or eliminate a government program;
- implementation of the proposed rule does not require the creation of new employee positions or the elimination of existing employee positions;
- implementation of the proposed rule does not require an increase or decrease in future legislative appropriations to TDI;
- the proposed amendment to §19.801(c) to implement Insurance Code §4001.006 and §4001.205 will require an appointment fee for an appointment submitted with the initial application, which will result in an increase in fees paid to TDI;
- the proposed rule creates new regulations to implement SB 876, SB 807, and SB 1307.
- the proposed rule provides additional guidance to existing regulations concerning TDI licensing and continuing education requirements under Insurance Code Title 13.
- the proposed rule does not increase or decrease the number of individuals subject to the rule's applicability; and
- the proposed rule does not positively or adversely affect this state's economy.

**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 so does not constitute a taking or require a takings impact assessment under Government Code §2007.043.

**REQUEST FOR PUBLIC COMMENT.** Submit any written comments on the proposal no later than 5:00 p.m., Central time, on April 9, 2018, by mail to the Texas Department of Insurance, Office of the Chief Clerk, Mail Code 113-2A, P.O. Box 149104, Austin, Texas 78714-9104; or by email to [chiefclerk@tdi.texas.gov](mailto:chiefclerk@tdi.texas.gov). Simultaneously submit an additional copy of the comments to Texas Department of Insurance, Doug Slape, Deputy Commissioner, Financial Regulation

Division, Mail Code 113-1F, P.O. Box 149104, Austin, Texas 78714-9104; or by email to [doug.slape@tdi.texas.gov](mailto:doug.slape@tdi.texas.gov). Separately, submit any request for a public hearing to the Texas Department of Insurance, Office of the Chief Clerk, Mail Code 113-2A, P.O. Box 149104, Austin, Texas 78714-9104, before the close of the public comment period. If TDI holds a hearing, TDI will consider written and oral comments presented at the hearing.

**SUBCHAPTER I. GENERAL PROVISIONS REGARDING [LICENSING] FEES, APPLICATIONS, AND RENEWALS.**

**§§19.801 and 19.803 - 19.810**

**STATUTORY AUTHORITY.** Amended §19.801 and new §§19.803 - 19.810 are proposed under Insurance Code §§4001.005, 4001.006, 4001.102, 4001.202, 4001.205, 4003.002, 4101.005, 4101.061, 4102.004, 4153.003, and 36.001; and Occupations Code §55.002 and §55.004.

Insurance Code §4001.005 provides that the Commissioner may adopt rules necessary to implement Insurance Code Title 13.

Insurance Code §4001.006 requires TDI to set a nonrefundable appointment fee for each appointment of an agent by an insurer.

Insurance Code §4001.102 provides that the Commissioner by rule prescribe the requirements for a properly completed application.

Insurance Code §4001.202 requires TDI to set a nonrefundable appointment fee for each additional appointment of an agent by an insurer.

Insurance Code §4001.205 requires TDI to set a nonrefundable appointment fee for each appointment of an agent as a subagent.

Insurance Code §4003.002 provides that the Commissioner may adopt by rule a system under which licenses expire on various dates during a licensing period.

Insurance Code §4101.005 provides that the Commissioner may adopt rules necessary to implement Insurance Code Chapter 4101.

Insurance Code §4101.061 provides that expiration and renewal of a license issued under Insurance Code Chapter 4101 are governed by rules adopted by the Commissioner.

Insurance Code §4102.004 provides that the Commissioner may adopt reasonable and necessary rules to implement Insurance Code Chapter 4102.

Insurance Code §4153.003 provides that the Commissioner may adopt rules necessary to carry out Insurance Code Chapter 4153 and to regulate risk managers.

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

Occupations Code §55.002 provides a state agency that issues a license shall adopt rules to exempt an individual who holds a license issued by the agency from any increased fee or other penalty imposed by the agency for failing to renew the license in a timely manner if the individual establishes to the satisfaction of the agency, that the individual failed to renew the license in a timely manner because the individual was serving as a military service member.

Occupations Code §55.004 provides that a state agency that issues a license shall adopt rules for the issuance of the license to an applicant who is a military service member, military veteran, or military spouse and holds a current license issued by another jurisdiction that has licensing requirements that are substantially equivalent to the requirements for the license in this state, or held the license in Texas within the five years preceding the application date.

#### **CROSS REFERENCE TO STATUTE.**

Amended §19.801 and new §§19.803 - 19.810 affect Insurance Code §§4001.003, 4001.005, 4001.006, 4001.102, 4001.105, 4001.106, 4001.109, 4001.151 - 4001.162, 4001.201, 4001.202, 4001.205, 4001.351 - 4001.353, 4003.001, 4003.002, 4003.004 - 4003.007, 4003.009, 4004.055, 4051.404, 4053.054, 4056.051, 4101.005, 4101.052, 4101.053, 4101.057, 4101.061, 4102.004, 4102.052, 4102.062, 4102.064, 4102.065, 4102.066, 4153.003, 4152.055, 4153.057 and 4153.060; and Occupations Code §§55.001 - 55.004 and 55.009.

#### **TEXT.**

### **SUBCHAPTER I. GENERAL PROVISIONS REGARDING [LICENSING] FEES, APPLICATIONS, AND RENEWALS.**

**§19.801. General Provisions [~~Regarding Licensing Fees and License Renewal~~].**

(a) Completed application. An applicant must provide all information required of the applicant by statute and TDI rule.

(b) Original application. In this subchapter, an original application is an application for any license type not currently held by the applicant.

(1) Individual application. An original application for an individual license must include the following information:

(A) the individual's:

(i) name;

(ii) date of birth;

(iii) social security number;

(iv) mailing address, physical address, and email address;

(v) phone number; and

(vi) professional background and criminal history information; and

(B) other applicable information required by statute or rule, including:

(i) a complete set of the applicant's fingerprints, using the procedures and requirements under Chapter 1, Subchapter D, of this title;

(ii) for adjuster applicants, documentation of the successful completion of the applicable adjuster examination or prelicensing course as required under Insurance Code §4101.054 and §4101.056; and

(iii) for public insurance adjuster applicants, evidence of financial responsibility and a sample contract as required under §§19.705 - 19.711 of this title.

(2) Entity application. An original application for an entity license must include the following information:

(A) the name of the entity;

(B) the entity's federal employer identification number;

(C) information regarding the location and means of contacting the entity;

(D) disclosures regarding regulatory actions, criminal actions, and litigation history;

(E) the amount and type of financial responsibility applicable to the license type;

(F) the name, license information, and a complete set of fingerprints, using the procedures under Chapter 1, Subchapter D, of this title, of at least one individual who is an officer or active partner of the entity and holds, or is applying for, the same license type sought by the entity;

(G) the biographical information of all individuals in control of the entity, including the individual's:

(i) name;

(ii) date of birth;

(iii) social security number;

(iv) mailing address, physical address, and email address;

(v) phone number;

(vi) professional background and criminal history information;

(vii) a complete set of each individual's fingerprints, using the procedures under Chapter 1, Subchapter D, of this title; and

(H) other applicable information required by statute or rule, including information required for public insurance adjusters under §§19.705 - 19.711, including the sample contract.

~~[(1) Applicants for an original license required to qualify for the license type by examination through the department's designated testing service, including temporary licenses, shall submit the required original application fee, the testing service's examination fee and, if applicable, the temporary license fee, at the time of filing an application for license and/or request for examination, to the department's designated testing service.]~~

~~[(2) Applicants for an original license not required to qualify for the license type by examination from the department's designated testing service, or all applicants in the event the department does not have a designated testing service, shall submit all required fees at the time of filing an application for license and/or request for examination to the department.]~~

~~[(3) Insurance carriers utilizing registered home office salaried employees will submit the registration fee to the department at the time of filing the registration application.]~~

~~[(b) Renewal of license.]~~

~~[(1) A "completed application" is one that provides every piece of information required of the licensee by the application form.]~~

~~[(2) An applicant for renewal of a license which has neither expired nor been suspended or revoked shall submit the required renewal fee and completed application for renewal.]~~

~~[(3) The department may designate one expiration date per licensee, to apply to all licenses held by that licensee. The designated date shall be the date on which one license would normally expire. For licenses which normally would expire after the newly designated expiration date, renewal fees shall be reduced pro rata on a monthly basis. The fee reduction shall be for the renewal immediately following the institution of the designated expiration date. On each subsequent renewal, the licensee shall pay the full renewal fee for each license.]~~

(c) Appointment.

(1) An appointment authorizes an agent to represent and act as an agent for an insurer, as defined in Insurance Code §4001.003(6). An agent must be appointed directly by an insurer, or as a subagent by a general lines agent, personal lines property and casualty agent, or life agent.

~~(2) An appointment fee of \$10 must accompany each notice of appointment. [The fee for appointment of a currently licensed general agent, personal lines property and casualty agent, or life agent as subagent by another general agent, personal lines property and casualty agent, or life agent, or for appointment of an agent to represent additional insurers, health maintenance organizations, or nonprofit legal services corporations, shall accompany the notice of appointment. An appointment fee is not required for the first appointment filed with the original license application.]~~

(3) [(2)] Subagent appointments must comply with the following requirements:

(A) only general lines agents, personal lines property and casualty agents, or life agents may appoint subagents;

(B) only general lines agents, personal lines property and casualty agents, or life agents may be appointed as subagents; ~~[and]~~

(C) the appointing agent must have a direct appointment from the insurer that the subagent is being appointed to represent and act as an agent for, as provided in Insurance Code §4001.205; and

(D) general lines agents, personal lines property and casualty agents, and life agents may simultaneously have multiple subagent and insurance company appointments.

(d) Subagents.

(1) As [as] provided in Insurance Code §4001.109, a subagent must be licensed to write each line of insurance that the subagent is employed to write, but is not required to hold each type [kind] of license issued to the agent for whom the subagent acts; and [; as required under Insurance Code §4001.109.]

(2) an agent may not allow a subagent to write a line of business that the agent is not licensed to write or that the subagent is not licensed to write.

~~[(3) General agents, personal lines property and casualty agents, and life agents may simultaneously have multiple subagent and insurance company appointments.]~~

(e) [(d)] Submission of fees. All fees must [shall] be submitted as directed by:

(1) the original or renewal application;

(2) the appointment form;

(3) TDI's designated testing service;

(4) Texas.gov; or

(5) other TDI designated service provider.

~~[check or money order made payable to the Texas Department of Insurance, except for applicants who must qualify by examination, where the application is to be submitted to the Department's designated testing service, as provided under Insurance Code Chapter 4002, or if the license is renewable over the internet, where the renewal application is to be submitted under the Texas OnLine Project, in which case fees shall be submitted as directed by the designated testing service or the Texas OnLine Authority. Should the Department authorize other online or electronic original applications or other transactions, persons shall submit fees with the transaction as directed by the Department, the Texas OnLine Authority, or the Department's designated service provider.]~~

(f) [(e)] Fees fully earned and not refundable or transferable. All fees are fully earned at the time the application, registration, or [and/or] appointment is submitted, [~~filed with the department, or the department's designated testing service,~~] and they are not refundable or transferable to another application, registration, or appointment [~~whether such fee is submitted to the department or the department's designated testing service~~]. These fees may [~~shall~~] not be reduced for any reason, except as authorized by statute or rule [~~when the term of the license is prorated as set forth under subsection (b)(3) of this section~~].

(g) [(f)] Examination and examination fees.

(1) TDI administers examinations through its designated testing service. If TDI should cease to use a designated testing service, TDI will directly administer the examinations and all references in this subchapter to TDI's designated testing service will apply to TDI.

(2) All examination fees [~~for examination~~] for any license type, whether administered by TDI [~~the department~~] or TDI's [~~the department's~~] designated testing service, are fully earned when the examination is scheduled and are not refundable or transferable to any other applicant or examination, except when [~~where~~] approved by TDI [~~the department~~] as provided under Insurance Code §4002.005(c). A separate fee is required for each [~~new~~] examination and reexamination. Examination fees may [~~shall~~] not be reduced for any reason, except as authorized by statute or rule.

### **§19.803 Military Service Member, Military Veteran, and Military Spouse.**

(a) Definitions. The definitions for terms defined in Occupations Code §55.001 are applicable to this section, including the terms "military service member," "military veteran," and "military spouse."

(b) Conflict. To the extent that provisions in this section conflict with provisions in any other section in this chapter, this section controls.

(c) License renewal extension and fee exemption. As specified in Occupations Code §55.003, a military service member who holds a license is entitled to two years of additional time to complete any requirements related to the renewal of the military service member's license as follows:

(1) A military service member who fails to renew a license in a timely manner because the individual was serving as a military service member must submit to TDI:

(A) the licensee's name, address, and license number;

(B) the licensee's military identification indicating that the individual is a military service member; and

(C) a statement requesting up to two years of additional time to complete the renewal, including continuing education.

(2) A military service member specified in paragraph (1) of this subsection is exempt from additional fees required under §19.810 of this title as required in Occupations Code §55.002.

(3) A military service member specified in paragraph (1) of this subsection is entitled to two additional years to complete the continuing education and submit a renewal as specified in Occupations Code §55.003.

(4) A military service member specified in paragraph (1) must satisfy the continuing education requirement that has been extended prior to satisfying the continuing education requirement for any other period.

(d) Alternative and nonresident reciprocal licensing. As specified in Occupations Code §55.009:

(1) a military service member or military veteran whose military service, training, or education substantially meets all of the requirements for the license; or

(2) a military service member, military veteran, or military spouse who holds a current license issued by another jurisdiction that has licensing requirements that are substantially equivalent to the requirements for the license is not required to pay any applicable application fee or examination fee that is paid to TDI. This exemption does not apply to license renewal application fees. To qualify for this exemption the applicant must submit as applicable:

(1) the required original license application, with a request for waiver of the application fee and examination fee paid to TDI;

(2) identification indicating that the applicant is a military service member; military veteran; or military dependent, if a military spouse;

(3) marriage certificate or documentation, if a military spouse and marriage is not otherwise documented in the documentation provided under paragraph (2) of this subsection; and

(4) documentation that the applicant's military service, training, or education substantially meets all of the requirements for the license.

(e) Alternative licensing requirements. For the purpose of Occupations Code §55.004, an applicant for a license who is a military service member, military veteran, or military spouse may complete the following alternative procedures for licensing.

(1) Requirements for licensing by reciprocity. A nonresident license applicant may apply for a nonresident license subject to the qualifications and as provided in subsection (c) of this section.

(2) Requirements for an applicant whose Texas resident license has expired for more than one year. A license applicant whose Texas resident license has expired for more than one year but less than five years preceding the application date may request that TDI waive the examination requirement. An applicant requesting this waiver must submit to TDI:

(i) the required original license application;

(ii) identification indicating that the applicant is a military service member; military veteran; or military dependent, if a military spouse;

(iii) a marriage certificate or documentation, if a military spouse and marriage is not otherwise documented in the documentation provided under paragraph (ii) of this subsection;

(iii) evidence that the applicant has completed all required continuing education for the periods the applicant was licensed, and paid all required fines, as required under §19.810 of this title; and

(iv) a request for waiver demonstrating the applicant's credentials that justify waiver of the licensing examination.

(f) Service in a combat theater. A military service member serving in a combat theater, as provided for in Insurance Code §36.109, may apply to TDI for an exemption from or an extension of time for meeting the continuing education requirements or extending their license renewal. The licensee must request the exemption or extension prior to the end of the reporting period for which it applies and must include:

(1) a copy of the order to active duty status, service in a combat theater, or other positive documentation of military service that will prevent the licensee from compliance;

(2) a clear request for either an extension or exemption, or both;

(3) the expected duration of the assignment; and

(4) any other information the licensee believes may assist TDI or that TDI requests, on a case by case basis.

#### **§19.804. Application for a New Entity License.**

(a) An entity applicant for new license must submit a completed original application to TDI.

(b) The licensed individual officer or active partner required for an entity license is responsible for administering the applicant entity's insurance operations in Texas, including filings with TDI and responses to inquiries. For purposes of this section, that individual is the responsible agent. The responsible agent must:

(1) have and exercise the right or ability to control the entity as the term control is defined in Insurance Code §4001.003(2); and

(2) hold the same or greater license authority as the entity, based on lines the responsible agent and entity are authorized to write. For example:

(A) A county mutual agent may only be the responsible agent for a county mutual insurance agency; and

(B) A general lines property and casualty agent may be the responsible agent for a county mutual insurance agency, or any other type of property and casualty insurance agency.

(c) Each person acting on behalf of the licensed entity:

(1) may act for the entity only within the authority of the entity's license;

(2) must be appointed directly by an insurer or as a subagent as provided in §19.801(c) of this title; and

(3) must hold a license authority qualifying that person to act that is separate from the entity's licensed authority. The agent may not exceed the agent's licensed authority even if the agency has a greater license authority.

**§19.805. Application for a New Individual License.**

(a) This section does not apply to:

(1) a provisional permit issued under Insurance Code Chapter 4001, Subchapter H, and §19.806 of this title;

(2) a temporary license issued under Insurance Code Chapter 4001, Subchapter D, and §19.807 of this title;

(3) home office salaried employees operating under Insurance Code Chapter 4051, Subchapter G, and §§19.3001 - 19.3005 of this title; or

(4) specialty agent licenses issued under Insurance Code Chapter 4054 and §§19.1901 - 19.1910 of this title.

(b) Examination required. Unless exempt by applicable statute or rule, all license applicants must successfully complete the applicable license examination to be eligible for licensure.

(1) Except as provided in paragraph (2) of this subsection:

(A) an applicant must submit:

(i) the required examination fee to TDI's designated testing service when the examination is requested; and

(ii) a complete original application, the original application fee, and all required fees, to TDI, or TDI's designated testing service, when the application is submitted; and

(B) TDI must receive the score report from TDI's designated testing service showing successful completion of the applicable examination within the 12 month period preceding the completed application being received by TDI.

(2) An applicant qualifying for a license through an insurance carrier administered examination under Insurance Code Chapter 4051 Subchapter E or Chapter 4054 Subchapters D or E, must submit to TDI:

(A) all required fees at the time of filing an original application for license; and

(B) a completed original application with an appointment from the insurance carrier administering the examination indicating successful completion of the applicable

examination within the 12 month period preceding the completed application being received by TDI.

(c) Examination not required. An applicant who is not required to qualify for a license by examination must submit to TDI the original application fee and all required fees at the time of submitting to TDI a completed original application.

(d) Continuing education requirement. On and after June 1, 2018, an applicant for a new license who previously held a license under Insurance Code Title 13 that was issued or renewed on or after November 1, 2015, must provide to TDI evidence of completion of the prior license continuing education requirements or payment of the applicable fines for failure to complete the continuing education, as required under Insurance Code §4004.055 and §19.810 of this title.

#### **§19.806. Application for a Provisional Permit.**

An applicant for a provisional permit must be an individual Texas resident and must apply for a license type listed in Insurance Code §4001.353(a).

(1) An applicant must submit the required examination fee to TDI's designated testing service when the examination is requested, unless:

(A) the applicant is exempt from the examination; or

(B) the application is for a license listed under Insurance Code §4001.353(a) that is administered by the insurance carrier; and

(2) Except as provided in paragraph (3) of this section, if the applicant is exempt from the examination, or after successfully completing the required licensing examination within the preceding 12 month period, the applicant must submit to TDI a completed original application, including a request for a provisional permit, and all required fees, including the original application fee and provisional permit fee.

(3) Applicants for a license listed under Insurance Code §4001.353(a) that is administered by the insurance carrier must also submit with the application an appointment from the insurance carrier administering the licensing examination indicating successful completion of the applicable examination within the preceding 12 month period.

#### **§19.807. Application for a Temporary License.**

(a) An applicant for a temporary license must be an individual Texas resident and must submit to TDI's designated testing service:

(1) the fully completed temporary license application and original application for license; and

(2) all required fees, including the original application fee, and the temporary license fee, when the completed temporary license application is submitted to TDI's designated testing service.

(b) To obtain the license beyond the temporary license period, the applicant must:

(1) submit the required examination fee when the examination is scheduled with TDI's designated testing service; and

(2) successfully complete the license examination within the temporary license period.

(c) As required under Insurance Code §4001.162(b), an agent, insurer, or health maintenance organization must comply with the following request and reporting standards to appoint more than 500 temporary license holders during a calendar year.

(1) The agent, insurer, or health maintenance organization must annually submit a written request to TDI:

(A) stating the number of additional temporary license appointments requested;

(B) stating the reason for the additional number of temporary license appointments;

(C) providing evidence of the compliance with Insurance Code §4001.161; and

(D) documenting the procedures and ability to train and monitor the additional temporary license appointments.

(2) TDI will approve all or part of the number of additional temporary license appointments if TDI determines that the agent, insurer, or health maintenance organization has provided evidence demonstrating the need for the additional temporary license appointments, evidence of its past compliance with Insurance Code §4001.161, and procedures and ability to train and monitor the additional temporary license appointments.

(3) If approved, an agent, insurer, or health maintenance organization must submit reports to TDI within 30 days of the end of each calendar quarter, documenting:

(A) the total number of temporary agents appointed during the calendar quarter and for the calendar year; and

(B) compliance with Insurance Code §§4001.151 - 4001.161 for all appointed temporary agents.

**§19.808. The Initial Term of a New License and Renewal License Expiration.**

(a) License expiration dates will be determined as provided in Insurance Code §4003.001. Individual licenses will expire at the end of the individual's birth month.

(b) If the applicant has an existing license and obtains another new license, the initial license period of the new license will be aligned:

(1) to the existing license's expiration date; or

(2) if the initial license period of the new license is less than six months based on the alignment of the license expiration date to the existing license expiration date, TDI will use the next expected renewal date of the existing license as the expiration date for the initial period of the new license.

(c) The original application fee for the new license under this section will not be reduced or increased based on the length of the initial license period.

**§19.809. Nonresident Licensees Relocating to Texas.**

To continue to be licensed, including as an agent, adjuster, or public insurance adjuster, a nonresident individual licensee who relocates to Texas during the existing license term must, within 30 days of relocating to Texas, submit to TDI a completed application that meets the requirements of Insurance Code §4056.059. TDI will make available on its website a form that the individual may use to comply with this requirement.

**§19.810. License Renewal and Application for an Expired License.**

(a) Applicability. This section becomes applicable to licensees and applicants on June 1, 2018. Prior to June 1, 2018, license renewal and reissuances will be processed under the regulations

in effect prior to the adoption of this section. This section applies to the renewal of a license and application for an expired license under Insurance Code Title 13 that was issued or renewed on or after November 1, 2015.

(b) Conflicts with other sections. To the extent that this section conflicts with §19.803 of this title in the application of this section and §19.803 to military service members, military veterans, and military spouses, §19.803 controls.

(c) Unexpired license. A licensee may apply for renewal of a license that has neither expired nor been suspended or revoked by:

(1) submitting to TDI the required renewal application fee and renewal application;

and

(2) completing the applicable continuing education requirement within the reporting period and prior to the expiration of the license, as required under Insurance Code §4004.055.

(d) Noncompliance with subsection (c) of this section. If the licensee does not comply with subsection (c) of this section, the license will not be renewed and will expire on the expiration date.

(e) Renewal of a license that has been expired for 90 days or less. A licensee may renew a license that has been expired for 90 days or less. The licensee must submit to TDI within 90 days after the license expiration date:

(1) the required renewal application fee;

(2) an additional fee equal to one-half of the required renewal application fee;

(3) a completed renewal application; and

(4) evidence demonstrating that the licensee has:

(A) completed the applicable continuing education requirement before the license expired; or

(B) completed continuing education after the license expired and paid all applicable fines as required under Insurance Code §4004.055.

(f) Effect of renewal or nonrenewal of expired license. If the licensee completes each item listed in subsection (d) of this section for an unexpired license as described, or completes each item listed in subsection (e) of this section within 90 days after the license expiration date, and the

license is renewed, the license will be renewed effective as of the license expiration date. If the licensee fails to complete each item listed in subsection (c) of this section prior to the expiration date, or subsection (d) of this section within 90 days after the license expiration date, as applicable, the license cannot be renewed, and the individual cannot engage in the business of insurance in the capacity granted by that license effective as of the license's expiration date and continuing until the individual obtains a new license.

(g) License expired for more than 90 days. If an individual's license has been expired for more than 90 days, but less than one year, the individual may apply for the expired license without an examination. The individual must submit to TDI within one year after the date the license expired:

- (1) a new original application;
- (2) the required application fee;
- (3) an additional fee equal to one-half of the required application fee; and;
- (4) evidence demonstrating that the licensee has:

(A) completed the applicable continuing education requirement before the license expired; or

(B) completed continuing education after the license expired and paid all applicable fines as required under Insurance Code §4004.055.

(h) License expired for one year or more. If an individual's license has been expired for one year or more, to obtain the expired license the individual must:

(1) complete the requirements for a new license described in §§19.805 - 19.807 of this title, including reexamination, if applicable; and

(2) for a license that expired, was canceled, revoked, or not renewed on or after November 1, 2015, evidence demonstrating that the licensee:

(A) completed the applicable continuing education requirement before the license expired; or

(B) completed continuing education after the license expired and paid all applicable fines as required under Insurance Code §4004.055.

**SUBCHAPTER K. CONTINUING EDUCATION, ADJUSTER PRELICENSING EDUCATION PROGRAMS, AND CERTIFICATION PROGRAMS.**

**§§19.1003, 19.1004, 19.1013, 19.1016, and 19.1019**

**STATUTORY AUTHORITY.** Amended §§19.1003, 19.1004, 19.1013, 19.1016, and 19.1019 are proposed under Insurance Code §§4001.005, 4001.102, 4003.002, 4004.052, 4005.109, 4101.005, 4101.061, 4102.004, 4153.003, and 36.001; and Occupations Code §55.002 and §55.004.

Insurance Code §4001.005 provides that the Commissioner may adopt rules necessary to implement Insurance Code Title 13.

Insurance Code §4001.102 provides that the Commissioner by rule prescribe the requirements for a properly completed application.

Insurance Code §4003.002 provides that the Commissioner by rule may adopt a system under which licenses expire on various dates during a licensing period, and that the Commissioner adopt a system under which a person who holds more than one license may renew all the licenses held in a single process.

Insurance Code §4004.052 provides that the Commissioner may by rule provide for continuing education exemptions and extensions under §4004.052 and for other reasonable exemptions from the continuing education requirements of Insurance Code Chapter 4004.

Insurance Code §4005.109 provides that to expedite TDI's processing of certain violations of the Insurance Code, the Commissioner may by rule establish fines for certain violations.

Insurance Code §4101.005 provides that the Commissioner may adopt rules necessary to implement Insurance Code Chapter 4101.

Insurance Code §4101.060 provides that the Commissioner by rule establish the criteria for a continuing education extension or exemption.

Insurance Code §4101.061 provides that expiration and renewal of a license issued under Insurance Code Chapter 4101 are governed by Insurance Code §4003.001 and §4004.055, rules adopted by the Commissioner, and any applicable provision of the Insurance Code or another insurance law of this state.

Insurance Code §4102.004 provides that the Commissioner may adopt reasonable and necessary rules to implement Insurance Code Chapter 4102.

Insurance Code §4153.003 provides that the Commissioner may adopt rules necessary to carry out Insurance Code Chapter 4153 and to regulate risk managers.

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

Occupations Code §55.002 provides that a state agency that issues a license adopt rules to exempt an individual who holds a license issued by the agency from any increased fee or other penalty imposed by the agency for failing to renew the license in a timely manner if the individual establishes to the satisfaction of the agency that the individual failed to renew the license in a timely manner because the individual was serving as a military service member.

Occupations Code §55.004 provides that a state agency that issues a license adopt rules for the issuance of the license to an applicant who is a military service member, military veteran, or military spouse and holds a current license issued by another jurisdiction that has licensing requirements that are substantially equivalent to the requirements for the license in this state or held the license in Texas within the five years preceding the application date.

**CROSS REFERENCE TO STATUTE.** Amended §§19.1003, 19.1004, 19.1013, 19.1016, and 19.1019 affect Insurance Code §§4001.005, 4003.002, 4004.051 - 4004.053, 4004.054, 4004.055, 4101.005, 4101.059, 4101.060, 4101.061, 4102.064, 4102.065, 4102.004, 4102.109, 4153.003, and 4153.055; and Occupations Code §§55.001 - 55.004 and 55.009.

**TEXT.**

**SUBCHAPTER K. CONTINUING EDUCATION, ADJUSTER PRELICENSING EDUCATION PROGRAMS, AND CERTIFICATION PROGRAMS.**

**§19.1003. Licensee Hour and Completion Requirements.**

(a) Continuing education hour requirement. Except as provided in subsections (c) - (e) of this section, for each license and reporting period that the individual is licensed, each licensee must

~~[Licensees shall] complete 24 [30] hours of continuing education [within each reporting period], except that licensees holding only a license issued under [the] Insurance Code §4051.101 and §4051.102 (limited lines agent); §§4051.201 - 4051.206 (county mutual agent); §§4054.101 - 4054.103 (limited lines agent); and §§4054.201 - 4054.208 (life insurance not exceeding \$25,000 agent) must [Chapter 4054, Subchapter C, §§4054.101 - 4054.103, and Chapter 4054, Subchapter E, §§4054.201 - 4054.208 (limited lines and life insurance not exceeding \$25,000) and Chapter 4051, Subchapter C, §§4051.101 - 4051.102, and Chapter 4051, Subchapter E, §§4051.201 - 4051.206 (limited lines and county mutual agent) shall] complete 10 hours of continuing education [during each reporting period]. The following requirements apply:~~

(1) licensees must:

(A) complete all required continuing education hours during the reporting period to avoid fines and be eligible to renew the license. A licensee who obtains a new license during the reporting period for an existing license held by the licensee may count all prior continuing education credits earned in the reporting period for the active license towards the new license if the licenses have the same expiration date;

(B) ~~[Licensees shall]~~ complete at least two hours of the licensee's continuing education requirement in certified ethics or ~~[and/or]~~ consumer protection courses;[-]

(C) complete at least 50 percent of the licensee's required continuing education hours in certified classroom or classroom equivalent courses; and

(D) complete ~~[Licensees may satisfy]~~ the remainder of the continuing education requirement by completing certified courses applicable to any license type.

(2) Continuing education credit will not be granted for:

(A) any continuing education course credit received before the date the license is issued by TDI, including course credit earned while acting under a temporary license or a provisional permit, towards complying with the licensee's applicable continuing education requirement, except as provided in §19.1021 of this title and subsection (e) of this section;

(B) carry forward excess hours completed in one reporting period to a subsequent reporting period; or

(C) the current reporting period for any credit hours completed under Insurance Code §4004.055 to correct a shortage of hours in a previous reporting period.

(b) Maximum hour requirement. Licensees holding more than one license issued under the Insurance Code ~~are~~ ~~[shall]~~ not ~~[be]~~ required to complete more than the number of continuing education hours required under their greatest single license requirement for a license held by the licensee during the reporting period, ~~[30 hours of continuing education courses,]~~ two hours of which must be in certified ethics or consumer protection courses, within each reporting period. This requirement applies even if the licensee chooses to cancel or nonrenew the license with the requirement. If the licensee is required to complete certain continuing education courses or course hours to maintain a voluntary certification, including certifications under §§19.1022 - 19.1029 of this title, the licensee must complete the requirement to maintain the certification even if the total number of hours would exceed the limit specified in this subsection.

(c) Adjuster prelicensing education. Adjuster applicants seeking an examination exemption under ~~the~~ Insurance Code §4101.056(a)(4) must ~~[shall]~~ complete both a certified adjuster prelicensing education course of not less than 40 hours, and pass the course examination testing the applicant's knowledge and qualifications set forth in this subchapter. Adjuster applicants must ~~[shall]~~ complete at least 30 hours of the course requirement through classroom or classroom equivalent course work.

(d) Prorated requirement. ~~[Licensees shall not count any education course credit they receive before the date the permanent license is issued by the department as complying with applicable continuing education requirements. Licensees must complete all continuing education hours during the reporting period. A licensee may not carry forward excess hours completed in one reporting period to a subsequent reporting period and a licensee may not complete hours in any subsequent period to correct a shortage of hours in a previous reporting period.]~~

~~[(e)]~~ Licensees holding a license that was issued with a term of less than two years ~~[subject to continuing education which is prorated by the department to coincide with the renewal of another license]~~ and those licensees who convert from nonresident to resident licenses during a reporting period, excluding adjusters with a license under which Texas is the designated home state, must ~~[that are resident licensees of other states or jurisdictions but become residents of Texas between renewals of the Texas license shall]~~ complete continuing education hours based on a prorated schedule, as follows:

(1) for license types with a 24 hour requirement, [-The total credit hours required shall be determined at the rate of] one hour for each whole month between the issue or last renewal date of the license, or the date of Texas residency, to the end of the license period [~~next actual renewal date of the license~~] up to the maximum number of hours required for the license type [~~licensee~~] during the reporting period; and[-]

(2) for license types with a 10 hour requirement, the number of hours required in Figure: 28 TAC §19.1003(d)(2) for the license period between the issue date or last renewal date of the license, or the date of Texas residency, to the end of the license period up to the maximum number of hours required for the license type during the reporting period.

Figure: 28 TAC §19.1003(d)(2):

<u>License Period</u>	<u>Total Required Hours</u>	<u>Ethics</u>
<u>Less than 6 months</u>	<u>0</u>	<u>0</u>
<u>6 months up to and including 7 months</u>	<u>2</u>	<u>2</u>
<u>8 months up to and including 9 months</u>	<u>3</u>	<u>2</u>
<u>10 months up to and including 11 months</u>	<u>4</u>	<u>2</u>
<u>12 months up to and including 14 months</u>	<u>5</u>	<u>2</u>
<u>15 months up to and including 16 months</u>	<u>6</u>	<u>2</u>
<u>17 months up to and including 19 months</u>	<u>7</u>	<u>2</u>
<u>20 months up to and including 21 months</u>	<u>8</u>	<u>2</u>
<u>22 months up to and including 23 months</u>	<u>9</u>	<u>2</u>

(3) Notwithstanding paragraphs (1) and (2) of this subsection, a [A] licensee is [~~shall~~] not [~~be~~] required to complete continuing education for the reporting period [~~on a prorated~~

basis] if the prorated reporting period is [dates between which the prorated schedule would begin and end are] less than six [complete] months; and

(4) a licensee may not apply hours completed prior to becoming a Texas resident licensee towards compliance with the continuing education requirement. [Licensees completing prorated schedules must complete at least two of the required hours in certified ethics or consumer protection courses.]

(e) Texas designated home state adjuster requirement. A designated home state adjuster licensee under which Texas is the designated home state must complete continuing educations under the same requirements as a Texas resident adjuster. A licensee that converts from the Texas designated home state adjuster license to a Texas resident adjuster license during the reporting period:

(1) must complete continuing education in the same manner as a Texas resident adjuster for the combined period the individual held the Texas designated home state adjuster license and the Texas resident adjuster license; and

(2) does not qualify for completing continuing education on a prorated basis if the licensee becomes a Texas resident between renewals of the Texas designated home state adjuster license.

[(f) Licensees must complete at least 50% of their required continuing education hours in certified classroom or classroom equivalent courses, regardless of any other license type held by the licensee].

#### **§19.1004. Licensee Exemption from and Extension of Time for Continuing Education.**

(a) Any exemption or extension granted to a licensee under subsections (b) - (g) ~~[(f)]~~ of this section applies [shall apply] to all license types held by the licensee. Nothing within this subchapter may [shall] be construed as preventing TDI ~~[the department]~~ from auditing a licensee to confirm the continued existence of circumstances supporting the exemption or extension.

(b) An agent who held [Agents holding] a Texas resident license issued under ~~[the]~~ Insurance Code Article 21.07-1 [Chapter 4054], as Group I, legal reserve life insurance agent or [agents and] general lines - life, accident and health insurance agent [agents]; Article 21.07-3 [Chapter 4053], as managing general agent [agents]; or Article 21.14 [and/or Chapter 4051], as

local recording agent [~~agents~~], solicitor [~~solicitors~~], general lines - property and casualty agent, or [~~agents, and~~] insurance service representative [~~representatives~~], for at least 20 years or more as of December 31, 2002, is [~~are~~] exempt from completing the required number of continuing education hours in §19.1003 of this title [~~requirements of this subchapter~~]. Agents must [~~shall register and~~] confirm that they qualify for this exemption by submitting a written request to TDI [~~the department~~] indicating that they have met the longevity requirement. TDI or TDI's designee will provide written notice that an agent qualifies for this exemption. [~~Agents must satisfy the continuing education requirements through the end of the 20th year of licensure. The number of credit hours for the final reporting period is calculated at the rate of one hour for each whole month between the last renewal date and the effective date of the exemption.~~] Agents that [~~have previously~~] qualified for the longevity exemption authorized under the Insurance Code [~~as in effect~~] prior to September 1, 2001, [~~shall~~] remain qualified and do not have to reapply for this exemption.

(c) A licensee [~~Licenseses~~] who on or after January 1, 2003, has [~~have~~] been continuously licensed by TDI [~~the department~~] for at least 20 years is exempt from completing the required number of continuing education hours in §19.1003 of this title. [~~may apply for an exemption from the requirements of this subchapter.~~] For purposes of this subsection "continuously licensed" means that the licensee has held a TDI [~~department~~]-issued license for the entire period of time without any lapse in excess of 90 days in which the licensee was not licensed or failed to renew a license. The exemption will apply beginning with the reporting period in which the licensee reaches the 20th year of licensure. TDI or TDI's designee will provide written notice to the licensee that a licensee qualifies for this exemption. Licensees may not claim the exemption prior to receiving written notice that they qualify for the exemption. Licensees may submit a written request to TDI to evaluate their longevity status. [~~Licenseses shall apply for this exemption by submitting a written request to the department indicating that they have met the longevity requirement. Licensees must satisfy the continuing education requirements through the end of the 20th year of licensure. The number of credit hours for the final reporting period is calculated at the rate of one hour for each whole month between the last renewal date and the effective date of the exemption.~~]

(d) Nonresident licensees, are subject to the following requirements:

(1) A nonresident licensee, including an adjuster with a designated home state adjuster license issued by a state other than Texas, who is [are] in compliance with the licensee's [their] resident state's or adjuster's designated home state's continuing education requirements are not required to complete the continuing education requirement under [shall be exempt from] this subchapter. A licensee may [Licensees shall] qualify for this exemption based on the following:

(A) the licensee's state of residence, or adjuster's designated home state, claimed in the licensee's original [initial] application; [or]

(B) by sending written notification to TDI [the department] or its designee stating that the licensee is a resident of another state, or the adjuster has a designated home state other than Texas, with a certificate of good standing; [;] or

(C) by sending any other document acceptable to TDI [the department], showing that the licensee has a resident license or an adjuster's designated home state adjuster license in good standing in that state.

(2) A designated home state adjuster licensee who designates Texas as the licensee's home state is not exempt under this subsection and must complete continuing educations under the same requirements as a Texas resident adjuster as required under §19.1003(e) of this title. [A nonresident licensee that becomes a resident of Texas between renewals of the Texas license shall:]

[(1) be immediately subject to the continuing education requirements set forth in this subchapter;]

[(2) complete a prorated continuing education schedule as required in §19.1003(e) of this title [(relating to Licensee Requirements); and]

[(3) not count hours completed prior to becoming a Texas resident towards completion of the prorated continuing education requirement.]

(e) Licensees who meet the criteria of illness, medical disability, or circumstances beyond the control of the licensee may apply for an exemption or extension of time to complete their continuing education requirement without incurring a fine or a waiver, in whole or in part, of the continuing education requirement. Business reasons do not constitute circumstances beyond the control of the licensee. TDI will [The department shall] establish the duration of the extension when it is granted. If the circumstances supporting the extension continue beyond the granted extension period, the licensee may reapply for an exemption or extension. The licensee's

application [~~licensee must request the extension prior to the end of the reporting period for which it applies and~~] must include [~~at least~~] the information set forth in paragraphs (1) - (6) of this subsection:

(1) a written statement [~~Statement~~] of the exact nature of the illness, medical disability or other extenuating circumstances beyond the control of the licensee that have prevented or will prevent the licensee from completing the required hours within the [~~two-year~~] reporting period; [-]

(2) evidence [~~Evidence in the form of medical reports from attending physician(s) and insurance claims~~] regarding the illness or medical disability of the licensee and [~~or evidence through insurance claims and/or other documentation as determined regarding~~] circumstances beyond the control of the licensee; [-]

(3) a written assessment of [~~Assessment of the condition of the licensee~~] whether the condition [~~it~~] is temporary, permanent, or unknown; [-]

(4) a written statement [~~Statement~~] as to whether the licensee will [~~or will not~~] be able to perform activities including any acts of an agent or adjuster during the exemption or extension period being requested; [-]

(5) the estimated [~~Estimated~~] date when the licensee will be able to perform any activities including any acts of an agent or adjuster in accordance with the medical reports or other documents pertaining to circumstances beyond the control of the licensee; and [-]

(6) any [~~Any~~] other information that may be of assistance in evaluating the request [~~requested by the department~~].

(f) A military service member may request an exemption or extension as follows:

(1) a military service member is entitled to two additional years to complete the continuing education requirements specified in this subchapter and may request the extension under §19.803(c) of this title; and

(2) a military service member serving [~~Licensees called to active military service~~] in a combat theater, as provided for in [~~the~~] Insurance Code §36.109, may apply to TDI [~~the department~~] for an exemption from or an extension of time for meeting the continuing education requirements or extending the licensee's [~~their~~] license renewal under §19.803(f) of this title. [~~The~~

~~licensee must request the exemption or extension prior to the end of the reporting period for which it applies and must include:]~~

~~[(1) a copy of the order to active duty status, service in a combat theater, or other positive documentation of military service that shall prevent the licensee from compliance;]~~

~~[(2) a clear request for either an extension or exemption, or both;]~~

~~[(3) the expected duration of the assignment;]~~

~~[(4) and any other information the licensee believes may assist the department or that the department requests on a case by case basis.]~~

(g) An individual holding a risk manager license is exempt from the continuing education requirements under this subchapter for any license held by the individual, if the individual demonstrates in writing to TDI that the individual has held one of the following designations listed in Insurance Code §4153.055 for a period of not less than 30 years:

(1) certified insurance counselor,

(2) associate in risk management, or

(3) certified risk manager.

(h) A licensee holding only a funeral prearrangement life insurance agent license or a life insurance not exceeding \$25,000 agent license and meeting the requirements [Any individual who qualifies as] specified in [the] Insurance Code §4054.159 or Insurance Code §4054.207 is exempt from completing the continuing education requirements in this subchapter. A licensee claiming this exemption must attest to meeting this requirement during each reporting period with the licensee's license renewal.

### **§19.1010 Hours of Credit.**

(a) Credit hours for courses are determined by the methods set forth in paragraphs (1) - (7) of this subsection:

(1) TDI will [The department shall] award credit for certified classroom courses at the rate of one hour for every 50 [fifty] minutes of actual instruction contact time. All classroom courses must be at least one hour of credit in length. TDI will [The department shall] award credit for additional partial hours of instruction contact time in half-hour increments with all periods of less than 25 minutes being awarded no additional credit and periods of less than 50 minutes being

awarded one half-hour of additional credit. Instruction contact time is considered the amount of time devoted to the actual course instruction and does not include breaks, lunch, dinner, introductions of speakers, explanatory or preparatory instructions, or evaluation of the course. TDI will [~~The department shall~~] not certify more than 24 [~~30~~] credit hours for any one classroom course.

(2) TDI will [~~The department shall~~] award credit for certified classroom equivalent and self study courses as set forth in subparagraphs (A) - (D) of this paragraph:

(A) The provider must [~~shall~~] determine the number of course hours by using either of the methods set forth in clauses (i) or (ii) of this subparagraph.

(i) The provider may [~~shall~~] determine the number of course hours by calculating the average completion time of the individual course completion times of at least five licensees. If the provider uses this method to determine the number of credit hours, the provider must retain the names, current insurance license numbers, and completion times of all licensees that were used by the provider. A provider using this method may, at its discretion, issue certificates of completion in the number of hours certified by TDI [~~the department~~] to the licensees involved in the process and who completed the entire course.

(ii) The provider may [~~shall~~] determine the number of course hours by calculating the average number of hours of the credit hours assigned by all other states in which the course is certified or approved. A provider may not use this method to determine the number of credit hours unless the course is approved in at least three other states. Providers may not include any hours allowed by other states for sales and marketing topics in calculating the average.

(B) All classroom equivalent and self study courses must be at least one hour of credit, 50 [~~fifty~~] minutes, in length. TDI will [~~The department shall~~] award additional partial credit hours in half-hour increments with all periods of less than 25 minutes being awarded no additional credit and periods of less than 50 minutes being awarded one half-hour of additional credit.

(C) Providers may not use the final examination and pre-tests for determining course hours or calculating an average.

(D) TDI will [~~The department shall~~] not certify more than 24 [~~30~~] credit hours for any one classroom equivalent course or 12 [~~15~~] credit hours for any one self study course.

(3) TDI will [~~The department shall~~] grant continuing education classroom credit to licensees successfully completing qualifying college, law school, and university insurance classroom courses, as determined by the college, law school, or university. The number of classroom hours of continuing education credit for college, law school, and university insurance courses is the number of classroom instruction contact hours not including examinations, which may [~~shall~~] be no more than 24 [~~30~~] credit hours per course.

(4) TDI will [~~The department shall~~] grant 12 [~~15~~] self study credit hours to licensees successfully passing qualifying national designation certification program examinations. Should the licensee also participate in and successfully complete a certified or qualifying classroom or classroom equivalent course in preparation for the national designation certification program examination, the licensee must choose either the classroom presentation or the national designation certification program examination to count as credit towards the licensee's continuing education requirement.

(5) Licensees who teach any portion of a certified continuing education classroom course may receive hour for hour classroom credit up to the maximum number of credit hours for the course. Licensees who teach courses may [~~shall~~] also be awarded an equal number of self study hours as credit for course preparation.

(6) TDI will [~~The department shall~~] grant continuing education classroom credit to licensees successfully completing qualifying courses certified or approved for classroom, classroom equivalent, or participatory credit by the continuing education authority of a state bar association or state board of public accountancy on an hour for hour basis equal to the credit hours assigned to the course by the certifying state bar association or state board of public accountancy. The state bar association or state board of public accountancy must [~~shall~~] determine what constitutes successful completion of the course. TDI will [~~The department shall~~] not grant licensees self study credit for any course accepted by a state bar association or state board of public accountancy unless the self study course is offered through a registered provider in accordance with this subchapter.

(7) TDI will [~~The department shall~~] grant licensees continuing education credit for successfully completing courses certified or approved by the Federal Farm Credit Insurance Corporation on an hour for hour basis as assigned by the Farm Credit Insurance Corporation. The

Farm Credit Insurance Corporation must [~~shall~~] determine what constitutes successful completion of the course.

(b) A provider must [~~shall~~] not issue certificates of completion to a licensee for partial credit of any course, except to an instructor teaching a portion of the course and who does not attend the full course.

(c) A licensee may not receive credit for teaching or completing the same continuing education course more than once within the same reporting period for compliance with the continuing education requirement.

(d) Providers may advertise and link courses as parts of a whole curriculum, but providers may not require a licensee to purchase more than one continuing education course to receive the credit hours approved for a single course.

### **§19.1013. Licensee Record Maintenance.**

(a) Licensees and adjuster applicants must [~~shall~~] provide evidence of completion of courses to TDI [~~the department~~] or its designee upon request. Each licensee must [~~shall~~] maintain evidence of each course completed for a period of at least four years from the date of completion of the course for the purpose of investigation or audit. Licensees must [~~shall~~] continue to maintain evidence of compliance during any period in which the licensee has been notified by TDI [~~the department~~] or its designee that the records or [~~and/or~~] the licensee's compliance is the subject of an investigation or audit.

(b) Types of course completion evidence of compliance may include:

- (1) a certificate of completion from a provider;
- (2) a college transcript;
- (3) a passing grade report from a national designation program;
- (4) a certificate or report of completed continuing education hours issued by a professional licensing authority or a provider of a course certified by a professional licensing authority; or
- (5) a letter from the program sponsor's representative stating the number of hours the licensee taught.

(c) Absent written notification from TDI that the applicant is exempt from the continuing education requirement or ~~[The department shall consider the filing of a properly completed renewal application with the department in the form prescribed by the department as a licensee's certification that all required continuing education hours for the reporting period have been completed, absent]~~ a timely written request or notice for extension or exemption as required under ~~[the]~~ Insurance Code §4004.052(a) and §19.1004(b) - (h) ~~[(g)]~~ of this title, ~~[(relating to Licensee Exemption from and Extension of Time for Continuing Education)]~~ a renewal applicant or individual applying for an expired license must complete and document all continuing education as required under this section, Insurance Code §4004.055 and §19.810 of this title. TDI's ~~[the department's]~~ renewal of any license does not relieve a licensee from compliance with the continuing education requirements for any reporting period and failure to obtain required continuing education hours without obtaining a prior exemption or extension shall subject the licensee to administrative action.

(d) It is the licensee's responsibility to comply with this subchapter and submit and maintain evidence that the licensee has completed the required continuing education hours. A licensee should immediately report to TDI ~~[the department]~~ or its designee any discrepancy the licensee discovers between a course taken by a licensee and the credit hours certified to the licensee by the provider.

#### **§19.1016. Automatic Fines.**

(a) Pursuant to ~~[the]~~ Insurance Code §4005.109, TDI ~~[the department]~~ establishes the following procedure for automatic fines:

(1) All automatic fines must be paid as directed in the notice of fine ~~[by check or money order made payable to the Texas Department of Insurance]~~ within 30 calendar days after the date of issuance of the automatic fine under this section unless the fined party disputes the assessment of the automatic fine and files a written request for contested case hearing under Chapter 2001 of the Government Code within the 30-day period.

(2) If the assessment of the fine is disputed, TDI ~~[the department]~~ may, in its discretion, assert other matters and claims against the fined party at such hearing and also seek any disciplinary action available under ~~[the]~~ Insurance Code~~;~~ Chapter 82~~;~~ Insurance Code~~[Chapter~~

~~4005, Subchapter C,] §§4005.101 - 4005.108, 4101.201, and 4102.201 - 4102.204; [Chapter 4101, Subchapter E, §4101.201,]~~ and this subchapter, including additional fine amounts in excess of the automatic fine amount.

(b) TDI [The department] adopts the following automatic fines for a licensee who fails:

(1) ~~[Failure by a licensee]~~ to obtain the required number of continuing education hours and prior to June 1, 2018, attempts to renew a license, applies for an expired license, or applies for a new license — \$50 per credit hour not completed; or

(2) to obtain the required number of continuing education hours and on or after June 1, 2018, attempts to renew a license, applies for an expired license, or applies for a new license — \$50 per credit hour not completed, not to exceed \$500 per license, per reporting period. [;]

(c) TDI adopts the following automatic fines for providers:

(1) failing ~~[(2) Failing]~~ to issue a properly completed certificate of completion within 30 days following completion of course — \$100 per certificate;

(2) providing ~~[(3) Providing]~~ a course to students prior to course certification — \$200 per student, per instance;

(3) providing ~~[(4) Providing]~~ a course to students after course certification has expired — \$200 per student, per instance;

(4) providing ~~[(5) Providing]~~ an assigned course to students prior to approval of the assignment — \$200 per student, per instance; and

(5) providing ~~[(6) Providing]~~ an assigned course to students after the assignment has expired — \$200 per student, per instance.

### **§19.1019. Full-Time Home Office Salaried Employees.**

(a) Full-time home office salaried employees registered under ~~[the]~~ Insurance Code §4051.301 and §19.3003 of this title must complete 15 hours of continuing education annually, including at least two hours in certified ethics or consumer protection courses [shall comply with the hourly continuing education requirement set forth in §19.1003(a) and (f) of this title (relating to Licensee Requirements)]. Insurers employing full-time home office salaried employees must provide the employees with instruction regarding the disclosure required by ~~[the]~~ Insurance Code §4051.301(c) and those subjects listed in Insurance Code §4051.302(d). Registered employees

must complete at least 50 percent of their required continuing education hours in certified classroom or classroom equivalent courses.

(b) An insurer employing full-time home office salaried employees may provide its employees with continuing education internally if [~~provided~~] the insurer registers as a provider and complies with all requirements set forth in this subchapter affecting providers and course certification, including payment of all provider and course fees.

(c) Insurers must [~~shall~~] maintain all continuing education records and rosters documenting each employee's compliance with this subchapter for at least four years.

(d) TDI [~~the department~~] or its designee may at any time investigate or audit an insurer's continuing education records and [~~and/or~~] compliance with this subchapter. The Commissioner [~~commissioner~~] may, after notice and opportunity for hearing, discipline an insurer or full-time home office salaried employee under [~~the~~] Insurance Code[;] Chapter 82; Insurance Code [; ~~Chapter 4005, Subchapter C;~~] §§4005.101 - 4005.108[;] and this subchapter, if the Commissioner [~~commissioner~~] determines that the insurer or full-time home office salaried employee is in violation of, or has failed to comply with, the Insurance Code or this subchapter.

## **SUBCHAPTER N. LICENSING AND REGULATION OF RISK MANAGERS.**

### **§19.1310**

**STATUTORY AUTHORITY.** Amended §19.1310 is proposed under Insurance Code §§4153.003, 4153.054, and 36.001.

Insurance Code §4153.003 provides that the Commissioner may adopt rules necessary to carry out Chapter 4153 and to regulate risk managers.

Insurance Code §4153.054 provides that a risk manager applicant must personally take and pass an examination to the satisfaction of the Commissioner under Insurance Code Chapter 4153 and TDI rules.

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

**CROSS REFERENCE TO STATUTE.** Amended §19.1310 affects Insurance Code §§4153.003, 4153.054, 4153.055 and 4153.056.

**TEXT.**

**SUBCHAPTER N. LICENSING AND REGULATION OF RISK MANAGERS.**

**§19.1310. Examination.**

(a) Except as provided in subsection (b) of this section, qualified applicants must pass the risk manager license examination administered by TDI's designated testing service before TDI will issue a license to the applicant. Applicants must contact TDI's designated testing service to schedule the examination. [~~The commissioner is authorized to issue a license to a qualified applicant after the applicant has personally taken and passed a written examination to the satisfaction of the commissioner, unless the applicant is exempt from examination requirements.~~]

(b) Applicants [Persons] not required to take the examination as a prerequisite to obtaining a license are those who hold the designations of chartered property and casualty underwriter [~~Chartered Property and Casualty Underwriter (CPCU)~~], certified insurance counselor [~~Certified Insurance Counselor (CIC)~~], associate in risk management, or certified risk manager [~~and Associate in Risk Management (ARM)~~].

~~[(e) Minimum recommended study materials are suggested for review by all applicants preparing for the qualifying examination. This material is not meant to be a comprehensive study of risk management, but includes the basic concepts and techniques which will be included in the examination. A bibliography of supplemental material will be provided with the examination request form. The minimum recommended study material is available through Risk Management Society Publishing, Inc., 205 East 42nd Street, New York, New York 10017 and is The Risk Management Process by Dr. George Head (also available in Spanish).]~~

~~[(d) The examination shall be designed to test the qualifications and competency of each applicant to be a risk manager and shall be of sufficient scope to reasonably test each applicant's knowledge of risk management and the duties and responsibilities of a risk manager under the laws of this state and rules of the board.]~~

~~[(e) The board shall determine the times and places for licensing examinations and shall give reasonable public notice of the examinations in the manner provided in this subchapter.]~~

~~[(1) Each applicant will be mailed a schedule showing places and dates on which examinations are conducted and an examination request form.]~~

~~[(2) At least 20 days prior to the desired examination date, the examination request form must be received by Risk Manager's Licensing, Licensing Group, State Board of Insurance, 1110 San Jacinto Boulevard, Austin, Texas 78701-1998.]~~

~~[(f) The board will notify, in writing, each examinee of the results of the examination not later than 30 days after the examination date or not later than 30 days after the board receives the results from a national testing service. If the results will be delayed for more than 90 days after the examination date, the board will notify each examinee of the reason for the delay.]~~

~~[(g) If requested in writing by a person who fails an examination administered under the Insurance Code, Article 21.14-1, the board will furnish the person with an analysis of the person's performance on the examination.]~~

~~(c) [(h)] An applicant who fails an examination may retake the examination on payment of an additional examination fee [and filing an examination request form as prescribed by subsection (e)(2) of this section].~~

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

Issued at Austin, Texas on February 23, 2018.

/s/ Norma Garcia  
Norma Garcia  
General Counsel  
Texas Department of Insurance