

SUBCHAPTER E. ADMISSION PROCEDURES FOR FOREIGN INSURANCE COMPANIES
28 TAC §7.508

SUBCHAPTER M. REGULATORY FEES
28 TAC §7.1301

INTRODUCTION. The Texas Department of Insurance (TDI) proposes new 28 TAC §7.508 and amendments to 28 TAC §7.1301, concerning a biographical affidavit form for foreign insurers and fees imposed on insurers regulated by TDI, respectively.

EXPLANATION. New §7.508 specifies that the biographical affidavit form for foreign insurers is only required on request from TDI. Currently, foreign insurers submit the biographical affidavit form, adopted in 28 TAC §7.507, for each officer and director on admission to Texas and any time there is a change in officer or director. Foreign insurers' domiciliary regulators evaluate and monitor officers and directors and any changes to them, making TDI's review duplicative.

Section 7.1301 is amended to reduce most of the fees imposed on insurers regulated by TDI to \$0. The costs incurred to process many of these fees is greater than the fees collected, so eliminating these fees will effectively reduce the cost on TDI for enforcing this section.

New proposed §7.508 and the amendments to §7.1301 are described in the following paragraphs.

Section 7.508. New §7.508 specifies that the biographical affidavit form for foreign insurers, adopted in 28 TAC §7.507, is only required on request from TDI.

Section 7.1301. Section 7.1301(a) is amended to delete the word "shall" and to replace "shall" with "will" in two places for consistency with agency rule drafting style. Section 7.1301(a) is also amended to add the parenthetical "(department)" to show that

that term means "Texas Department of Insurance" when used in the section; to update the reference to pre-codified Insurance Code Chapters 1–3, 6–20, 20A, and 23 to current Insurance Code Titles 2 and 6–12; and to replace a reference to the previous rule adoption's effective date with the amended rule's effective date.

Section 7.1301(b) is amended to update the reference to pre-codified Insurance Code Article 4.07 and "the article" with current Insurance Code §202.004 and "Insurance Code Chapter 202," respectively. Section 7.1301(b) is also amended to replace "shall be" with "is" for consistency with agency rule drafting style; and to replace "Texas Department of Insurance" with "department" for conciseness.

Section 7.1301(c) is amended to update the references to pre-codified Insurance Code Article 3.42 with current Insurance Code Chapter 1701 and to clarify the second sentence by adding "and governed by" before "Chapter 3" and deleting "and shall be governed thereby" at the end of that sentence.

Section 7.1301(d) is amended to update the references to pre-codified Insurance Code Chapters 1–3, 6–20, 20A, and 23 to current Insurance Code Titles 2 and 6–12, and to and replace "which" with "that" and "shall be" with "are" for consistency with agency grammar and rule drafting style. Subsections (d)(1)–(20) and (22)–(24) are amended to replace "shall be" with "is" for consistency with agency rule drafting style. The fees set in subsections (d)(2)–(24) are reduced to \$0. Subsection (d)(12) is amended to update the reference to pre-codified Insurance Code Article 22.19 with current Insurance Code Chapter 884, Subchapter K. Subsection (d)(13) is amended to update the reference to pre-codified Insurance Code Article 21.26 with current Insurance Code Chapter 828. Subsection (d)(14) is amended to update the reference to pre-codified Insurance Code Article 21.25 with current Insurance Code Chapter 824. Subsections (d)(15) and (16) are amended to update the references to pre-codified Insurance Code Article 3.16 with current Insurance Code §425.002. Subsection (d)(18) is amended to update the reference to pre-codified

Insurance Code Article 1.28 with current Insurance Code Chapter 803. Subsection (d)(20)–(21) are amended to update the references to pre-codified Insurance Code Article 21.49-1, §5, with current Insurance Code Chapter 823, Subchapters D and E. Subsection (d)(22) is amended to update the reference to pre-codified Insurance Code Article 21.49, §3, with current Insurance Code Chapter 823, Subchapter B. Subsection (d)(23) is amended to update the reference to pre-codified Insurance Code Article 21.49, §4, and Article 22.15 with current Insurance Code Chapter 823, Subchapter C, and Chapter 884, Subchapter L, respectively. Subsection (d)(24) is amended to update the reference to pre-codified Insurance Code Article 21.49, §5(e), with current Insurance Code Chapter 823.164.

Section 7.1301(e) is amended to update the reference to pre-codified Insurance Code Article 4.07 with current Insurance Code Chapter 202 and to replace "shall be" with "is" for consistency with agency rule drafting style. Paragraphs (e)(1)–(3) are amended to replace "shall be" with "is" for consistency with agency rule drafting style and to reduce the fees set to \$0.

Section 7.1301(f)(1) is amended to replace "Texas Department of Insurance" with "department" for conciseness; to capitalize the word "subsection" for consistency with agency rule drafting style; to correct the reference to §7.1301(d)(11)–(15) with a reference to §7.1301(d)(10)–(14) to account for the renumbering of Subsection (d) when amendments to §7.1301 were adopted effective April 23, 1996 (21 TexReg 3190); and to clarify the sentence by adding "the appropriate fee will be determined based on" before "the ceding or merged company" and deleting "will be the company upon which the determination of the appropriate fee to be assessed will be based." Paragraph (f)(2) is amended to update the reference to pre-codified Insurance Code Article 21.49-1, §4, with current Insurance Code Chapter 823, Subchapter C; to capitalize the word "subsection" and replace "shall" with "will" for consistency with agency rule drafting style; to correct the reference to §7.1301(d)(24) with a reference to §7.1301(d)(23) to account for the

renumbering of Subsection (d) when amendments to §7.1301 were adopted effective April 23, 1996, (21 TexReg 3190); and to clarify the sentence by adding "based on" after "determined" and deleting "using" and "as a basis for such a fee." Paragraph (f)(3) is amended to replace "Texas Department of Insurance" with "department" for conciseness; capitalize the word "paragraph" for consistency with agency rule drafting style; and to clarify the sentence by adding "the appropriate fee will be based on" before "the ceding company" and deleting "will be the insurer upon which the determination of the appropriate fee to be charged will be based." Paragraph (f)(5) is amended to replace "shall" with "will" for consistency with agency rule drafting style. Paragraph (f)(6) is amended to update the reference to pre-codified Insurance Code Article 21.49-1, §5, with current Insurance Code Chapter 823, Subchapters D and E; to correct the reference to §7.1301(d)(21) and (22) with a reference to §7.1301(d)(20) and (21) to account for the renumbering of Subsection (d) when amendments to §7.1301 were adopted effective April 23, 1996 (21 TexReg 3190); and to replace "shall" with "will" for consistency with agency rule drafting style.

Section 7.1301(g) is amended to update the reference to pre-codified Texas Health Maintenance Organization Act, §32, with current Insurance Code §843.154, and to replace "shall be" with "are" for consistency with agency rule drafting style. Paragraph (g)(1) is amended to replace "shall be" with "is" for consistency with agency rule drafting style and to reduce the fee set to \$0. Paragraph (g)(2) is amended to replace "shall be" with "is" for consistency with agency rule drafting style. Paragraph (g)(3) is amended to replace "Texas Department of Insurance" with "department" for conciseness, and to replace "shall be in such amounts as" with "will be an amount" and "shall certify" with "certifies" for clarity and consistency with agency rule drafting style. Paragraph (g)(4) is amended to replace "shall be" with "is" for consistency with agency rule drafting style. Paragraph (g)(5) is

amended to replace "do" with "does" to correct the grammar of the sentence and to replace "shall be" with "is" for consistency with agency rule drafting style.

Existing §7.1301(h) is deleted because Senate Bill 1623, 86th Legislature, Regular Session (2019), repealed Insurance Code §961.212, which authorized the fees established by Subsection (h). Existing Subsections (i) and (j) are redesignated as Subsections (h) and (i), respectively, to account for the deletion of Subsection (h).

Existing §7.1301(i) is amended to update the references to pre-codified Insurance Code Article 3.53 with current Insurance Code Chapter 1153 and to clarify the second sentence by adding "and governed by" before "Chapter 3" and deleting "and shall be governed thereby."

Existing §7.1301(j) is amended to update the reference to pre-codified Insurance Code Chapter 3 with current Insurance Code Chapter 841. Existing Paragraphs (j)(1) and (2) are deleted because House Bill 1849, 80th Legislature, Regular Session (2007), repealed the fee for valuing life insurance policies in Insurance Code §202.052(a)(1). The existing fee set for the filing of an annual statement in existing Paragraph (j)(2) is added as the second sentence in Subsection (j) and the word "fees" is replace with "fee for filing an annual statement" in the first sentence.

In addition to the amendments previously noted, amendments are made throughout the section to remove the word "the" before "Insurance Code" where appropriate for consistency with agency rule drafting style.

FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT. Jamie Walker, deputy commissioner of the Financial Regulation Division, has determined that during each year of the first five years the proposed new section and amendments are in effect, there will be no measurable fiscal impact on state and local governments as a result of enforcing or administering the sections, other than that imposed by the statute. This determination

was made because the proposed amendments do not add to or decrease state revenues or expenditures, and because local governments are not involved in enforcing or complying with the proposed amendments.

Ms. Walker does not anticipate any measurable effect on local employment or the local economy as a result of this proposal.

PUBLIC BENEFIT AND COST NOTE. For each year of the first five years the proposed new section and amendments are in effect, Ms. Walker expects that administering the proposed new section and amendments will have the public benefits of reducing the regulatory burden and costs on regulated persons and promoting administrative efficiency and reducing costs for TDI.

Ms. Walker expects that the proposed new section and amendments will reduce the cost of compliance with Insurance Code §§202.051, 801.056, 801.101, and 843.154.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS. TDI has determined that the proposed new section and amendments will not have an adverse economic effect on small or micro businesses, or on rural communities. The proposed new section and amendments will reduce the regulatory burden and costs on regulated persons and promote administrative efficiency and reduce costs for TDI. As a result, and in accordance with Government Code §2006.002(c), TDI is not required to prepare a regulatory flexibility analysis.

EXAMINATION OF COSTS UNDER GOVERNMENT CODE §2001.0045. TDI has determined that this proposal does not impose a possible cost on regulated persons.

GOVERNMENT GROWTH IMPACT STATEMENT. TDI has determined that for each year of the first five years that the proposed amendments are in effect, the proposed rule:

- will not create or eliminate a government program;
- will not require the creation of new employee positions or the elimination of existing employee positions;
- will not require an increase or decrease in future legislative appropriations to the agency;
- will result in a decrease in fees paid to the agency;
- will create a new regulation;
- will limit an existing regulation;
- will not increase or decrease the number of individuals subject to the rule's applicability; and
- will not positively or adversely affect the Texas 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. As a result, this proposal does not constitute a taking or require a takings impact assessment under Government Code §2007.043.

REQUEST FOR PUBLIC COMMENT. TDI will consider any written comments on the proposal that are received by TDI no later than 5:00 p.m. central time, on December 7, 2020. Send your comments to ChiefClerk@tdi.texas.gov; or to the Office of the Chief Clerk, MC 112-2A, Texas Department of Insurance, P.O. Box 149104, Austin, Texas 78714-9104.

To request a public hearing on the proposal, submit a request before the end of the comment period to ChiefClerk@tdi.texas.gov; or to the Office of the Chief Clerk, MC 112-2A, Texas Department of Insurance, P.O. Box 149104, Austin, Texas 78714-9104. The request for public hearing must be separate from any comments and received by the department no later than 5:00 p.m. central time, on December 7, 2020. If TDI holds a public hearing, TDI will consider written and oral comments presented at the hearing.

SUBCHAPTER E. ADMISSION PROCEDURES FOR FOREIGN INSURANCE COMPANIES
28 TAC §7.508

STATUTORY AUTHORITY. TDI proposes new §7.508 under Insurance Code §§801.056, 801.101, and 36.001.

Insurance Code §801.056 allows TDI to request fingerprints from an applicant, or corporate officer of an applicant, for an authorization issued by the department under Chapter 801.

Insurance Code §801.101 allows TDI to inquire into the competence, fitness, or reputation of an officer or director of an insurer or a person having control of an insurer.

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

CROSS-REFERENCE TO STATUTE. New §7.508 affects Insurance Code §801.056 and §801.101 and Insurance Code Chapter 982.

TEXT.

§7.508. Biographical Affidavit Requirements.

Form Number FIN354, Biographical Affidavit and Fingerprint Requirements, adopted in §7.507 of this title (relating to Forms Incorporated by Reference), is only required on request from the Texas Department of Insurance.

**SUBCHAPTER M. ADMISSION PROCEDURES FOR FOREIGN INSURANCE
COMPANIES
28 TAC §7.1301**

STATUTORY AUTHORITY. TDI proposes §7.1301 under Insurance Code §§202.002, 202.051, 843.154, and 36.001.

Insurance Code §202.002 authorizes TDI to set the amount of the fees imposed under Insurance Code Chapter 202, subject to certain limits.

Insurance Code §202.051 authorizes TDI to impose 26 specified fees from each authorized insurer writing insurance in Texas, subject to certain limits.

Insurance Code §843.154 authorizes the Commissioner to impose certain fees on health maintenance organizations.

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

CROSS-REFERENCE TO STATUTE. New §7.508 affects Insurance Code §§202.002, 202.051, and 843.154.

TEXT.

§7.1301. Regulatory Fees.

(a) Regulated entities subject to fees. The regulated entities subject to the fees imposed by this section ~~shall~~ include all authorized insurers writing any class of insurance

in this state which are regulated by ~~[the]~~ Insurance Code Titles 2 and 6-12 ~~[, Chapters 1-3, 6-20, 20A, 22, and 23]~~. For filings and other actions received by the department on and after the effective date of this section ~~[June 1, 2003]~~, the Texas Department of Insurance (department) will ~~[shall]~~ charge these entities fees in amounts in accordance with the provisions of this section. Filings or other actions received by the department ~~[on or]~~ before the effective date of this section ~~[June 1, 2003]~~, will ~~[shall]~~ be governed by this subchapter as it existed immediately prior to that date ~~[June 1, 2003]~~.

(b) Fees for insurers with annual gross premium receipts less than \$450,000. As provided in ~~[the]~~ Insurance Code §202.004, ~~[Article 4.07,]~~ any insurer to which Insurance Code Chapter 202 ~~[the article]~~ applies and whose gross premium receipts are less than \$450,000 according to its annual statement for the preceding year ending December 31, is ~~[shall be]~~ required to pay only one-half the amount of the fees required to be paid under subsection (d) or subsection (e) of this section. The fees will be collected at the higher rate unless the applicant can provide the department ~~[Texas Department of Insurance]~~ with satisfactory documentation that gross premium receipts were less than \$450,000.

(c) Fees for specified filings pursuant to ~~[the]~~ Insurance Code Chapter 1701 ~~[, Article 3.42]~~. Fees for specified filings pursuant to ~~[the]~~ Insurance Code Chapter 1701 ~~[, Article 3.42]~~ are set forth in and governed by Chapter 3, Subchapter A of this title (relating to Submission Requirements for Filings and Departmental Actions Related to Such Filings) ~~[and shall be governed thereby]~~.

(d) Fees for authorized insurers writing classes of insurance in this state that ~~[which]~~ are regulated by ~~[the]~~ Insurance Code Titles 2 and 6-12 ~~[, Chapters 1-3, 6-20, 20A, 22, and 23]~~. For the following filings and actions, the fees are ~~[shall be]~~ as follows.

(1) For classes of insurance for which statutory authority exists for collecting annual statement fees, the fee for filing annual statements is \$0 ~~is [shall be]~~ \$250 unless otherwise specified.

(2) For filing amendments to certificate of authority if charter is not amended, the fee is \$0 ~~[shall be \$50]~~.

(3) For reservation of name, the fee is \$0 ~~[shall be \$100]~~.

(4) For renewal of reservation of name, the fee is \$0 ~~[shall be \$25]~~.

(5) For filing application for admission of a foreign or alien insurance company, including issuance of certificate of authority, the fee is \$0 ~~[shall be \$2,000]~~.

(6) For filing original charter, including issuance of certificate of authority, the fee is \$0 ~~[shall be \$1,500]~~.

(7) For filing amendment to charter, including issuance of certificate of authority, if a hearing is held, the fee is \$0 ~~[shall be \$250]~~.

(8) For filing amendment to charter, including issuance of certificate of authority, if a hearing is not held, the fee is \$0 ~~[shall be \$125]~~.

(9) For filing designation of attorney for service of process or amendment thereto, the fee is \$0 ~~[shall be \$25]~~.

(10) For filing a total reinsurance agreement, the fee is \$0 ~~[shall be \$750]~~.

(11) For filing a partial reinsurance agreement, the fee is \$0 ~~[shall be \$150]~~.

(12) For filing a direct reinsurance agreement pursuant to ~~[the]~~ Insurance Code Chapter 884, Subchapter K, ~~[Article 22.19,]~~ the fee is \$0 ~~[shall be \$150]~~.

(13) For filing for approval of reinsurance agreement pursuant to ~~[the]~~ Insurance Code Chapter 828, ~~[Article 21.26,]~~ the fee is \$0 ~~[shall be \$750]~~.

(14) For filing for approval of merger pursuant to ~~[the]~~ Insurance Code Chapter 824, ~~[Article 21.25,]~~ the fee is \$0 ~~[shall be \$750]~~.

(15) For accepting a security deposit, excluding deposits made pursuant to ~~[the]~~ Insurance Code §425.002, ~~[Article 3.16,]~~ the fee is \$0 ~~[shall be \$100]~~.

(16) For substitution/amendment of a security deposit, excluding deposits made pursuant to ~~[the]~~ Insurance Code §425.002, ~~[Article 3.16,]~~ the fee is \$0 ~~[shall be \$50]~~.

(17) For certification of statutory deposit, the fee is \$0 ~~[shall be \$10]~~.

(18) For filing notice of intent to relocate the books/records pursuant to ~~[the]~~ Insurance Code Chapter 803, ~~[Article 1.28,]~~ the fee is \$0 ~~[shall be \$150]~~.

(19) For filing restated articles of incorporation for domestic/foreign companies, the fee is \$0 ~~[shall be \$250]~~.

(20) For filing a statement pursuant to ~~[the]~~ Insurance Code Chapter 823, Subchapters D and E, ~~[Article 21.49-1, §5,]~~ for the first \$9,900,000 of the purchase price or consideration, the fee is \$0 ~~[shall be \$500]~~.

(21) For filing a statement pursuant to ~~[the]~~ Insurance Code Chapter 823, Subchapters D and E, ~~[Article 21.49-1, §5,]~~ if the purchase price or consideration exceeds \$9,900,000, the fee is \$0 ~~[an additional \$250 for each \$10 million exceeding \$9,900,000 but not more than a \$5,000 total fee]~~.

(22) For filing registration statement pursuant to ~~[the]~~ Insurance Code Chapter 823, Subchapter B, ~~[Article 21.49-1, §3,]~~ the fee is \$0 ~~[shall be \$150]~~.

(23) For filing for review pursuant to ~~[the]~~ Insurance Code Chapter 823, Subchapter C, or Chapter 884, Subchapter L, ~~[Article 21.49-1, §4 or Article 22.15,]~~ the fee is \$0 ~~[shall be \$250]~~.

(24) For filing for an exemption pursuant to ~~[the]~~ Insurance Code §823.164, ~~[Article 21.49-1, §5(e),]~~ the fee is \$0 ~~[shall be \$250]~~.

(e) Other fees established by ~~[the]~~ Insurance Code Chapter 202 ~~[, Article 4.07]~~. For the following filings, the fee is [shall be] as follows.

(1) For filing joint control agreement, the fee is \$0 ~~[shall be \$50]~~.

(2) For filing substitution/amendment to the joint control agreement, the fee is \$0 [~~shall be \$20~~].

(3) For filing a change in attorney in fact, the fee is \$0 [~~shall be \$500~~].

(f) Administrative procedures.

(1) When a reinsurance agreement or merger agreement is filed with the department [~~Texas Department of Insurance~~], as enumerated in subsection (d)(10)–(14) [~~subsection (d)(11)–(15)~~] of this section, the appropriate fee will be determined based on the ceding or merged company [~~will be the company upon which the determination of the appropriate fee to be assessed will be based~~].

(2) The fee relating to reinsurance transactions entered into pursuant to [~~the~~] Insurance Code Chapter 823, Subchapter C, [~~Article 21.49–1, §4,~~] and Subsection (d)(23) [~~subsection (d)(24)~~] of this section will [~~shall~~] be determined based on [~~using~~] the ceding company [~~as a basis for such fee~~].

(3) When an amendment to a reinsurance agreement between affiliated insurers is filed with the department [~~Texas Department of Insurance~~], as mentioned in paragraph (1) [~~of this subsection~~], the appropriate fee will be based on the ceding company [~~will be the insurer upon which the determination of the appropriate fee to be charged will be based~~]. —

(4) An amendment to the charter would constitute any change in the original charter, including, but not limited to, name change, home office change, increase in capital, conversion, and increase in lines.

(5) The fee relating to affixing the official seal and certifying to the seal will — [~~shall~~] be applied to all requests for certification, irrespective of requesting party.

(6) The fees for filing an acquisition statement pursuant to [~~the~~] Insurance Code Chapter 823, Subchapters D and E, [~~Article 21.49–1, §5~~] and Subsections (d)(20) and

~~(21) [subsection (d)(21) and (22)]~~ of this section will ~~[shall]~~ apply to and be collected from the applicant whenever:

- (A) the applicant is a regulated entity subject to this section; or
- (B) the company being acquired is a regulated entity subject to this

section.

(g) Fees pursuant to the Texas Health Maintenance Organization Act, Insurance Code Chapter 843 ~~[\$32]~~. For the following filings and actions, the fees are ~~[shall be]~~ as follows.

(1) For filing original application for certificate of authority, the fee is ~~is~~ \$0 ~~[shall be \$7,500]~~.

(2) For filing annual report, the fee is ~~[shall be]~~ \$250.

(3) For all examinations made on behalf of the State of Texas by the department ~~[Texas Department of Insurance]~~ or under its authority, the fee will be an amount ~~[shall be in such amounts as]~~ the commissioner certifies ~~[shall certify]~~ to be just and reasonable.

(4) For filing evidence of coverage which requires approval, the fee is ~~[shall be]~~ \$100.

(5) For filing required by rule but which does ~~[do]~~ not require approval, the fee is ~~[shall be]~~ \$50.

~~[(h) Fees under the Insurance Code, Article 23.08. For the following filings and actions, the fees shall be as follows:]~~

~~[(1) For filing annual statement, the fee shall be \$200.]~~

~~[(2) For application for certificate of authority, the fee shall be \$1,500.]~~

~~[(3) For issuance of additional certificate of authority and amendment to same, the fee shall be \$50.]~~

~~(h) [(i)] Fees for filings pursuant to [the] Insurance Code Chapter 1153 [~~Article 3.53~~]. Fees for filings pursuant to [the] Insurance Code Chapter 1153 [~~Article 3.53~~] are set forth in and governed by Chapter 3, Subchapter A of this title [~~and shall be governed thereby~~].~~

~~(i) Fee for filing an annual statement [(j) Fees] under [the] Insurance Code Chapter 841. The fee for filing an annual statement is \$250. [~~Chapter 3. For the following filings and actions, the fees shall be as follows.~~]~~

~~[(1) For valuing policies of life insurance, and for each \$1 million of insurance or fraction thereof, \$10.]~~

~~[(2) For filing the annual statement, \$250.]~~

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

Issued in Austin, Texas, on October 21, 2020.

DocuSigned by:

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James Person, General Counsel
Texas Department of Insurance