

SUBCHAPTER E. Examinations and Annual Reports
28 TAC §25.88

INTRODUCTION. The Texas Department of Insurance adopts amendments to 28 Texas Administrative Code §25.88, concerning an assessment that will be used to cover the general administrative expenses of the department's regulation of insurance premium finance companies. The amendments are adopted without changes to the proposed text published in the November 14, 2014, issue of the *Texas Register* (39 TexReg 8913).

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

REASONED JUSTIFICATION. The amendments are necessary to adjust the rate of assessment to ensure that there are sufficient funds to meet the expenses of performing the department's statutory responsibilities for examining, investigating, and regulating insurance premium finance companies. Under §25.88, the department levies an assessment on insurance premium finance companies licensed under Insurance Code Chapter 651 to cover the department's general administrative expenses for each fiscal year.

The department has determined that the estimated revenue need requires the collection of the minimum assessment amount of \$250 from every insurance premium finance company for each calendar year, which is due to the department at the address provided on the invoice no later than April 1.

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

3727

TITLE 28. INSURANCE
Part I. Texas Department of Insurance
Chapter 25. Insurance Premium Finance

Adopted Section
Page 2 of 7

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

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

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

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

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

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

To complete the calculation of the revenue need, the department combined the costs allocated to the premium finance assessment source and the self-directed source attributable to regulation of premium finance insurance companies. The department subtracted the current fiscal year estimated amount of premium finance fee revenue and the estimated combined previous fiscal year ending fund balance of the premium finance assessment source and the self-directed budget account attributable to premium finance from the amount of the combined costs

3727

TITLE 28. INSURANCE
Part I. Texas Department of Insurance
Chapter 25. Insurance Premium Finance

Adopted Section
Page 4 of 7

for regulation of premium finance insurance companies. The resulting balance was the amount of revenue need for the purpose of calculating the premium finance assessment rate. The department divided the revenue need by the estimated loan dollar volume to determine the proposed rate of assessment for premium finance insurance companies. Based on this, the department determined that the estimated revenue need requires the collection of the minimum assessment amount of \$250 from each insurance premium finance company.

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

The department amends the first sentence of the section to update the reference when the assessment is due and substitutes “of each year” after April 1 instead of a specific year to reflect the payment is due every year. If the assessment does not change, then §25.88 will not have to be amended annually to change the year.

The department amends the second sentence of the section relating to where payments must be sent. The department deletes the specific address and adds that the address can be found on department invoices sent to premium finance companies. If the assessment amount does not change, then §25.88 will not have to be amended when the address changes.

The department makes nonsubstantive amendments to conform with the department’s writing style guides. In the first sentence, the department deletes the word “each” and adds the word “every” before insurance premium finance company so that “each” is not used twice in the same sentence.

SUMMARY OF COMMENTS. The department did not receive any comments on the published proposal.

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

Insurance Code §201.001(a)(1) states that the Texas Department of Insurance operating account is an account in the general revenue fund, and that the account includes taxes and fees received by the commissioner or comptroller that are required by the Insurance Code to be deposited to the credit of the account. Section 201.001(b) states that the commissioner shall administer money in the Texas Department of Insurance operating account and may spend money from the account in accordance with state law, rules adopted by the commissioner, and the General Appropriations Act. Section 201.001(c) states that money deposited to the credit of the Texas Department of Insurance operating account may be used for any purpose for which money in the account is authorized to be used by law.

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

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

Insurance Code §651.006(a) requires each insurance premium finance company licensed by the department to pay an amount imposed by the department to cover the direct and indirect

3727

TITLE 28. INSURANCE
Part I. Texas Department of Insurance
Chapter 25. Insurance Premium Finance

Adopted Section
Page 6 of 7

costs of examinations and investigations and a proportionate share of general administrative expenses attributable to regulation of insurance premium finance companies.

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

TEXT.

§25.88. General Administrative Expense Assessment. No later than April 1 of each year, every insurance premium finance company holding a license issued by the department under Insurance Code Chapter 651 must pay an assessment to cover the general administrative expenses attributable to the regulation of insurance premium finance companies. An insurance premium finance company must send payment to the Texas Department of Insurance at the address provided on the invoice. The assessment to cover general administrative expenses is \$250.

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

Issued at Austin, Texas, on December 16, 2014.



Sara Waitt
General Counsel
Texas Department of Insurance

3727

TITLE 28. INSURANCE
Part I. Texas Department of Insurance
Chapter 25. Insurance Premium Finance

Adopted Section
Page 7 of 7

The commissioner adopts §25.88.


Julia Rathgeber
Commissioner of Insurance

Commissioner's Order No. **3727**