

**SUBCHAPTER E. ADMISSION PROCEDURES FOR FOREIGN INSURANCE COMPANIES
28 TAC §7.508****SUBCHAPTER M. REGULATORY FEES
28 TAC §7.1301**

INTRODUCTION. The Commissioner of Insurance adopts 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. New §7.508 is adopted without changes and the amendments to §7.1301 are adopted with a nonsubstantive change to the proposed text published in the November 6, 2020, issue of the *Texas Register* (45 TexReg 7980).

REASONED JUSTIFICATION. 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 §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. The text of subsection (a) as proposed has been changed by deleting a superfluous comma.

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 grammar and 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 replace "which" with "that," and "shall be" with "are," for consistency with agency grammar and rule-drafting style. Subsection (d)(1) - (20) and (22) - (24) is amended to replace "shall be" with "is" for consistency with agency rule-drafting style. The fees set in

subsection (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. Subsection (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) and (21) is 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. Subsection (e)(1) - (3) is amended to replace "shall be" with "is" for consistency with agency rule-drafting style and to reduce the fees set by the provision to \$0.

Section 7.1301(f)(1) is amended to replace "Texas Department of Insurance" with "department" for conciseness; 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." Subsection (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 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." Subsection (f)(3) is amended to replace "Texas Department of Insurance" with "department" for conciseness; 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." Subsection (f)(5) is amended to replace "shall" with "will" for consistency with agency rule-drafting style. Subsection (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 (d)(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. Subsection (g)(1) is amended to replace "shall be" with "is" for consistency with agency rule-drafting style and to reduce the fee set by the provision to \$0. Subsection (g)(2) is amended to replace "shall be" with "is" for consistency with agency rule-drafting style. Subsection (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. Subsection (g)(4) is amended to replace "shall be" with "is" for consistency with agency rule-drafting style. Subsection (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.

The previous §7.1301(h) is deleted because Senate Bill 1623, 86th Legislature, 2019, repealed Insurance Code §961.212, which authorized the fees established by subsection (h). The previous subsections (i) and (j) have been redesignated as subsections (h) and (i), respectively, to account for the deletion of subsection (h).

Redesignated 7.1301(h) 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."

Redesignated §7.1301(i) is amended to update the reference to pre-codified Insurance Code Chapter 3 with current Insurance Code Chapter 841. Paragraphs (1) and (2) in redesignated subsection (i) are deleted because House Bill 1849, 80th Legislature, 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 the previous subsection (j)(2) is added as the second sentence in redesignated (i) and the word "fees" is replaced 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.

SUMMARY OF COMMENTS. TDI did not receive any comments on the proposed new section and amendments.

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

STATUTORY AUTHORITY. TDI adopts 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 a 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.

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 adopts §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 on 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.

TEXT.**§7.1301. Regulatory Fees.**

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

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

(b) Fees for insurers with annual gross premium receipts less than \$450,000. As provided in Insurance Code §202.004, any insurer to which Insurance Code Chapter 202 applies and whose gross premium receipts are less than \$450,000 according to its annual statement for the preceding year ending December 31, is 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 with satisfactory documentation that gross premium receipts were less than \$450,000.

(c) Fees for specified filings pursuant to Insurance Code Chapter 1701. Fees for specified filings pursuant to Insurance Code Chapter 1701 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).

(d) Fees for authorized insurers writing classes of insurance in this state that are regulated by Insurance Code Titles 2 and 6 - 12. For the following filings and actions, the fees are as follows.

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

(2) For filing amendments to certificate of authority if charter is not amended, the fee is \$0.

(3) For reservation of name, the fee is \$0.

(4) For renewal of reservation of name, the fee is \$0.

(5) For filing application for admission of a foreign or alien insurance company, including issuance of certificate of authority, the fee is \$0.

(6) For filing original charter, including issuance of certificate of authority, the fee is \$0.

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

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

(9) For filing designation of attorney for service of process or amendment thereto, the fee is \$0.

(10) For filing a total reinsurance agreement, the fee is \$0.

(11) For filing a partial reinsurance agreement, the fee is \$0.

(12) For filing a direct reinsurance agreement pursuant to Insurance Code Chapter 884, Subchapter K, the fee is \$0.

(13) For filing for approval of reinsurance agreement pursuant to Insurance Code Chapter 828, the fee is \$0.

(14) For filing for approval of merger pursuant to Insurance Code Chapter 824, the fee is \$0.

(15) For accepting a security deposit, excluding deposits made pursuant to Insurance Code §425.002, the fee is \$0.

(16) For substitution/amendment of a security deposit, excluding deposits made pursuant to Insurance Code §425.002, the fee is \$0.

(17) For certification of statutory deposit, the fee is \$0.

(18) For filing notice of intent to relocate the books/records pursuant to Insurance Code Chapter 803, the fee is \$0.

(19) For filing restated articles of incorporation for domestic/foreign companies, the fee is \$0.

(20) For filing a statement pursuant to Insurance Code Chapter 823, Subchapters D and E, for the first \$9,900,000 of the purchase price or consideration, the fee is \$0.

(21) For filing a statement pursuant to Insurance Code Chapter 823, Subchapters D and E, if the purchase price or consideration exceeds \$9,900,000, the fee is \$0.

(22) For filing registration statement pursuant to Insurance Code Chapter 823, Subchapter B, the fee is \$0.

(23) For filing for review pursuant to Insurance Code Chapter 823, Subchapter C, or Chapter 884, Subchapter L, the fee is \$0.

(24) For filing for an exemption pursuant to Insurance Code §823.164, the fee is \$0.

(e) Other fees established by Insurance Code Chapter 202. For the following filings, the fee is as follows.

(1) For filing joint control agreement, the fee is \$0.

(2) For filing substitution/amendment to the joint control agreement, the fee is \$0.

(3) For filing a change in attorney in fact, the fee is \$0.

(f) Administrative procedures.

(1) When a reinsurance agreement or merger agreement is filed with the department, as enumerated in subsection (d)(10) - (14) of this section, the appropriate fee will be determined based on the ceding or merged company.

(2) The fee relating to reinsurance transactions entered into pursuant to Insurance Code Chapter 823, Subchapter C, and subsection (d)(23) of this section will be determined based on the ceding company.

(3) When an amendment to a reinsurance agreement between affiliated insurers is filed with the department, as mentioned in paragraph (1) of this subsection, the appropriate fee will be based on the ceding company.

(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 be applied to all requests for certification, irrespective of requesting party.

(6) The fees for filing an acquisition statement pursuant to Insurance Code Chapter 823, Subchapters D and E, and subsection (d)(20) and (21) of this section will 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. For the following filings and actions, the fees are as follows.

(1) For filing original application for certificate of authority, the fee is \$0.

(2) For filing annual report, the fee is \$250.

(3) For all examinations made on behalf of the State of Texas by the department or under its authority, the fee will be an amount the commissioner certifies to be just and reasonable.

(4) For filing evidence of coverage which requires approval, the fee is \$100.

(5) For filing required by rule but which does not require approval, the fee is \$50.

(h) Fees for filings pursuant to Insurance Code Chapter 1153. Fees for filings pursuant to Insurance Code Chapter 1153 are set forth in and governed by Chapter 3, Subchapter A of this title.

(i) Fee for filing an annual statement under Insurance Code Chapter 841. The fee for filing an annual statement is \$250.

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

Issued at Austin, Texas, on January 13, 2021.

DocuSigned by:
James Person
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James Person, General Counsel
Texas Department of Insurance

2021-6651

TITLE 28. INSURANCE
Part I. Texas Department of Insurance
Chapter 7. Corporate and Financial Regulation

Adopted Sections
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The Commissioner adopts new 28 TAC §7.508 and amended 28 TAC §7.1301.

Commissioner of Insurance

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By:  _____
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Doug Slape
Chief Deputy Commissioner
Tex. Gov't Code §601.002
Commissioner's Order No. 2018-5528