

No. 2021-6716

**Official Order  
of the  
Texas Commissioner of Insurance**

**Date:** 03-10-2021

**Subject Considered:**

Texas Department of Insurance  
v.  
Lummie Young and LYoung's Insurance Agency, LLC

SOAH Docket No. 454-20-2304.C

**General remarks and official action taken:**

The subjects of this order are Lummie Young and LYoung's Insurance Agency, LLC (LYoung).

**Background**

After proper notice was given, the above styled case was heard by an administrative law judge for the State Office of Administrative Hearings. The administrative law judge made and filed a proposal for decision containing a recommendation that the department revoke Lummie Young's general lines agent license. A copy of the proposal for decision is attached as Exhibit A.

Enforcement staff for the Texas Department of Insurance (TDI) filed exceptions to the administrative law judge's proposal for decision. Mr. Young did not file exceptions and did not file a reply to TDI's exceptions.

In response to the exceptions, the administrative law judge revised the conclusions of law contained in the proposal for decision. The administrative law judge maintained the recommendation that Mr. Young's license be revoked, and the ALJ added a recommendation that the department order LYoung to cease and desist from engaging in the unauthorized business of insurance. A copy of the administrative law judge's response to exceptions is attached as Exhibit B.

## 2021-6716

COMMISSIONER'S ORDER

TDI v. Lummie Young and L Young's Insurance Agency, LLC

SOAH Docket No. 454-20-2304.C

Page 2 of 2

### Findings of Fact

The findings of fact contained in Exhibit A are adopted by TDI and incorporated by reference into this order.

### Conclusions of Law

The conclusions of law contained in Exhibit A as revised consistent with Exhibit B are adopted by TDI and incorporated by reference into this order.

### Order

It is ordered that the general lines agent license with a life, accident, and health qualification and a property and casualty qualification held by Lummie Young is revoked.


It is ordered that LYoung's Insurance Agency, LLC cease and desist from engaging in the unauthorized business of insurance.

A copy of this order will be provided to law enforcement and other appropriate administrative agencies for further investigation as may be warranted.

Commissioner of Insurance

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

Recommended and reviewed by:

  
James Person, General Counsel

  
Justin Beam, Assistant General Counsel

TEXAS DEPARTMENT OF  
INSURANCE,  
Petitioner

v.

LUMMIE YOUNG AND LYOUNG'S  
INSURANCE AGENCY, LLC,  
Respondent

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BEFORE THE STATE OFFICE

OF

ADMINISTRATIVE HEARINGS

### PROPOSAL FOR DECISION

The staff (Staff) of the Texas Department of Insurance (Department) seeks to revoke Lummie Young's license because Staff alleges he violated an insurance law; failed to remit premiums to an insurer, resulting in a loss to the insured; or engaged in fraudulent or dishonest acts or practices. After considering the evidence and the applicable law, the Administrative Law Judge (ALJ) recommends the Department revoke Mr. Young's license.

#### I. PROCEDURAL HISTORY, NOTICE, AND JURISDICTION

The hearing in this case was held by telephone on July 30, 2020, before ALJ Beth Bierman with the State Office of Administrative Hearings (SOAH) in Austin, Texas. Staff was represented by staff attorney Cassie Tigue. Mr. Young represented himself and LYoung's Insurance Agency, LLC (LYoung). The hearing concluded that day, and the record closed on August 19, 2020, when the transcripts were delivered to the ALJ.<sup>1</sup> Notice and jurisdiction were not disputed and are set out in the Findings of Fact and Conclusions of Law below.

#### II. DISCUSSION

##### A. Background

Mr. Young, individual certification number 66141, holds a general lines agent license with a life, accident, and health qualification, and a property and casualty qualification, originally issued

<sup>1</sup> Corrected transcripts were delivered to the Administrative Law Judge on August 21, 2020.

by the Department on December 13, 1983.<sup>2</sup> On September 20, 2013, LYoung, firm identification number 87790, applied for a general lines agency license. Staff sent LYoung a deficiency letter in November 2013, and subsequently the screening questions were completed. In February 2014, Staff requested additional information regarding LYoung's pending application. The additional information was never provided, and the license application expired.<sup>3</sup> LYoung has never been licensed by the Department.

Mr. Young has the following disciplinary history with the Department:

1. On September 20, 2010, the Department issued a warning letter to Mr. Young following a complaint that alleged he failed to remit premium payments to an insurer.
2. On August 26, 2013, the Department issued a warning letter to Mr. Young following a complaint that alleged he failed to remit premium payments to an insurer. Due to Mr. Young's failure to bind coverage, the insured had an uninsured loss. Mr. Young paid approximately \$7,000 to reimburse the insured for the loss.

## **B. Applicable Law and Allegations**

A person, including an insurer, may not directly or indirectly do an act that constitutes the business of insurance except as authorized by statute.<sup>4</sup> Engaging in the business of insurance includes, among other acts, receiving or collecting any consideration for insurance, including a premium.<sup>5</sup> Unless a person holds a license or certificate of authority issued by the Department, the person may not solicit or receive an application for insurance in this state; or aid in the transaction of the business of an insurer.<sup>6</sup> Similarly, a person must hold a general property and casualty license, or a general life, accident, and health license, if the person acts as an agent who writes property and casualty insurance, or life, accident, and health insurance, for an insurer.<sup>7</sup>

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<sup>2</sup> Staff Ex. 3.

<sup>3</sup> Staff Exs. 4, 5.

<sup>4</sup> Tex. Ins. Code § 101.102.

<sup>5</sup> Tex. Ins. Code § 101.051(b)(4)(A).

<sup>6</sup> Tex. Ins. Code § 4001.101(a).

<sup>7</sup> Tex. Ins. Code §§ 4051.051; 4054.051.

The Department may discipline a license holder if the Department determines that the license holder has willfully violated an insurance law of this state; has misappropriated, converted to his own use, or illegally withheld money belonging to an insured, insurer, or beneficiary; or has engaged in fraudulent or dishonest acts or practices.<sup>8</sup> For violations of insurance laws or of the Department's rules, the Department may suspend, revoke, or deny renewal of a license; place on probation a person whose license has been suspended; assess an administrative penalty; reprimand a license holder; or require the license holder to qualify or re-qualify for a certificate to sell a product or product line.<sup>9</sup>

Staff has the burden of showing by a preponderance of the evidence that Mr. Young's license should be revoked based on his conduct.<sup>10</sup>

### **C. Evidence**

At the hearing, Staff offered nine exhibits, which were admitted, and presented testimony of the complainant Y.V. and Lewis Weldon Wright, IV, an administrative review liaison for the Department. Mr. Young testified on his own behalf.

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<sup>8</sup> Tex. Ins. Code § 4005.101(b)(1), (4)-(5).

<sup>9</sup> Tex. Ins. Code § 4005.102; *see also id.* §§ 82.051-.055 (additional sanctions available to the Department).

<sup>10</sup> 1 Tex. Admin. Code § 155.427.

## 1. Staff's Testimony and Evidence

The complainant has been a registered nurse in Texas for many years. She is currently employed by Aetna as a registered nurse clinical consultant and manages a call center for Aetna. She previously worked for AmerisourceBergen in a similar capacity. Before that, she worked for MD Anderson Cancer Center for approximately 24 years.

The complainant owns two properties in Bellaire, Texas. One is located at xxx7 Oleander Street (the first property) and the second is located at xxx6 Oleander Street (the second property). In October 2016, the complainant was purchasing the second property and needed to purchase flood insurance in order to close on the property. At that time, she already owned the first property and was attempting to close on an equity loan on that property through Frost Bank. After receiving Mr. Young's information from Frost Bank, the complainant contacted Mr. Young to purchase the requisite flood insurance for the second property.<sup>11</sup> After complainant paid the title company for the insurance, the title company issued payment for the insurance to Mr. Young, and Mr. Young deposited the check into the LYoung account. The complainant received a flood insurance policy declaration and evidence of flood insurance on the second property from Mr. Young.<sup>12</sup>

In August 2017, Hurricane Harvey hit the Texas Gulf Coast, and both of the complainant's properties sustained substantial damage. The complainant testified that she contacted National Flood Service (NFS)—the flood insurance company—to file claims on both her properties. NFS located the flood insurance policy on the first property, but did not locate a flood insurance policy for the second property. The flood insurance policy declaration she received from Mr. Young was not on a form used by NFS, and the accompanying evidence of flood insurance used a policy prefix or numbering sequence not used by NFS when issuing these policies.<sup>13</sup>

The complainant then tried to contact Mr. Young to ask about the flood insurance policy on the second property. She stated that Mr. Young did not return her calls or otherwise respond until the complainant hired legal counsel. The complainant filed a claim against Mr. Young's

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<sup>11</sup> Staff Ex. 7 at 441-51.

<sup>12</sup> Staff Ex. 7 at 449-50.

<sup>13</sup> Staff Ex. 6 at 501-02.

errors and omissions (E&O) policy. At the time of the hearing, the E&O matter had still not been resolved.

The complainant testified that neither of her properties have been repaired and they have been uninhabitable since Hurricane Harvey. Before the hurricane, she had moved to the second property because she planned on using the equity loan to renovate the first property for her mother, who had several medical issues and needed the home to meet Americans with Disabilities Act requirements. Since September 2017, the complainant has been living in an apartment. She testified that she pays for the apartment rent while continuing to pay for the equity loan on the first property and the mortgage on the second property.

Mr. Wright has been employed by the Department for 13 years. He currently is the administrative review liaison for the Agent and Adjuster Licensing Office in the Enforcement Division. Before becoming a Department employee, Mr. Wright, was a licensed agent for Farmers Insurance, and operated a general lines, life, accident and health, property and casualty agency for 12 years. He has over 30 years' experience in the insurance industry. Part of his current job duties involve evaluating possible misconduct or fraudulent or dishonest acts by licensees.

Mr. Wright testified that a having a license issued by the Department conveys to the public that the license holder has met the requirements for licensure, which indicate that the license holder is trustworthy, reliable, competent, and authorized to engage in the business of insurance. The Department monitors licensees, he said, to protect consumers, especially given the complex nature of some of the insurance products offered to consumers.

Mr. Wright was familiar with the two warning letters the Department issued to Mr. Young in 2010 and 2013.<sup>14</sup> He testified that in the 2013 disciplinary action, the Department had informed Mr. Young that he was operating LYoung without a license, and advised him to obtain a license for LYoung.

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<sup>14</sup> Staff Ex. 9.

Mr. Wright testified that any business transaction related to an insurance product—for example, the collection or transmission of an insurance premium—is engaging in the business of insurance.<sup>15</sup> Invoices created in the name of LYoung are a representation to the public that LYoung is an entity doing insurance transactions, he said.

Mr. Wright testified that revocation of Mr. Young's license was appropriate after evaluating all the factors and information in this case. Specifically, Mr. Wright cited the loss suffered by the complainant in this case as a result of Mr. Young's failure to transmit premiums to the insurer, and the fact that he believed Mr. Young produced fraudulent documents by giving a declaration of insurance to the complainant. Additionally, Mr. Young was continuing to operate LYoung without obtaining a license for LYoung. These acts, he said, would constitute grounds for discipline under Texas Insurance Code § 4005.101(b)(1), (4) and (5). According to Mr. Young, each of these violations would be a separate ground for revocation.

## **2. Respondent's Testimony**

Mr. Young testified that the complainant's premium payment for flood insurance on the second property was remitted to him by the title company, and he deposited it into the LYoung agency account. He said he did not intend to take her money and not apply it towards the flood insurance policy. He admitted it was an error. When Hurricane Harvey came through, the building where he worked was damaged, and he could not get into his office. Mr. Young said he did not receive a call from the complainant, but was uncertain whether the telephone was working at that time.

As for the application he submitted for LYoung licensure, Mr. Young testified that the Department sent its request for additional information to the wrong address. He admitted, however, that he knew that LYoung was not licensed by the Department. Mr. Young maintained that licensure was not required for LYoung because he did not receive any commissions from LYoung, and because the 1099 federal income tax forms he receives each year—which record income received during a tax year—list his personal social security number and are made out to LYoung.

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<sup>15</sup> Tr. at 61.



**D. Analysis**

The Department may discipline a license holder if the Department determines that the license holder has willfully violated an insurance law of this state; has misappropriated, converted to his own use, or illegally withheld money belonging to an insured, insurer, or beneficiary; or has engaged in fraudulent or dishonest acts or practices.<sup>16</sup>

It is undisputed that Mr. Young has operated LYoung without obtaining the necessary licensure for LYoung. Staff has met its burden of proving that Mr. Young has violated an insurance law of this state. Therefore, the Department may discipline Mr. Young pursuant to Texas Occupations Code § 4005.101(b)(1).

It is undisputed that Mr. Young failed to remit the flood insurance premium for the second property to the insurer, which caused an uninsured loss to the complainant. This is the third disciplinary action by the Department in which Mr. Young has failed to remit a premium. Although he testified that he did not intend to fail to remit the premium, the ALJ does not find his denial credible given the unexplained discrepancies in the insurance documents. Staff has met its burden of proving that Mr. Young misappropriated, converted, or illegally withheld money belonging to an insurer or insured. Therefore, the Department is authorized to discipline Mr. Young pursuant to Texas Occupations Code § 4005.101(b)(4).

The preponderance of the credible evidence also establishes that the declaration of insurance Mr. Young provided to the complainant was not on a form used by insurer for that purpose, and that the policy number listed on the evidence of flood insurance used a prefix or numbering system not used by the insurer. Mr. Young did not offer any credible explanation for these inconsistencies in the paperwork he forwarded to the complainant, and the preponderance of the evidence indicates that he fabricated these documents to deceive the complainant into believing flood insurance had been secured for her property while he retained her premium. Staff has therefore met its burden of proving that Mr. Young engaged in fraudulent or dishonest acts or practices and is subject to disciplinary action pursuant to Texas Occupations Code § 4005.101(b)(5).

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<sup>16</sup> Tex. Ins. Code § 4005.101(b)(1), (4)-(5).

In closing argument, Staff also urged the ALJ to issue an order to LYoung to cease and desist from engaging in the business of insurance without a license. It is undisputed that LYoung is engaging in the business of insurance without a license. However, the authority Staff cited in its notice of hearing, Texas Insurance Code § 82.052(2), authorizes cease and desist orders only against “the holder of [an] authorization.” An “authorization” is defined as “a permit, license, certificate of authority, certificate of registration, or other authorization issued or existing under the commissioner’s authority . . . .”<sup>17</sup> Because LYoung does not hold an authorization issued by the Department, it appears LYoung cannot be sanctioned under the provision relied upon by Staff.

Accordingly, based on the preponderance of the evidence, the ALJ concludes that Mr. Young’s license should be revoked. This is his third disciplinary action for retaining premium in violation of the Texas Insurance Code and the Department’s rules, and the second time an insured has been harmed. He also engaged in fraudulent or dishonest acts or practices by issuing the fraudulent declaration of insurance and the evidence of flood insurance to the insured. Additionally, he has operated LYoung for years without securing a license for LYoung, even after he was advised by the Department that LYoung needed to be licensed. In support of this recommendation, the ALJ makes the following findings of fact and conclusions of law.

### III. FINDINGS OF FACT

1. Lummie Young, individual certification number 66141, holds a general lines agent license with a life, accident, and health qualification, and a property and casualty qualification, originally issued by the Texas Department of Insurance (Department) on December 13, 1983.
2. On September 20, 2013, LYoung Insurance Agency, LLC (LYoung), firm identification number 87790, applied for a general lines agency license. Staff sent LYoung a deficiency letter in November 2013, and subsequently the screening questions were completed. In February 2014, Department Staff requested additional information regarding LYoung’s pending application. The additional information was never provided, and the license application expired.
3. On September 20, 2010, the Department issued a warning letter to Mr. Young following a complaint that alleged he failed to remit premium payments to an insurer.

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<sup>17</sup> Tex. Ins. Code § 82.001.

4. On August 26, 2013, the Department issued a warning letter to Mr. Young following a complaint that alleged he failed to remit premium payments to an insurer. Due to Mr. Young's failure to bind coverage, the insured had an uninsured loss. Mr. Young paid approximately \$7,000 to reimburse the insured for the loss. The Department informed Mr. Young at that time that LYoung was operating without a license, and advised him to obtain a license for LYoung.
5. Mr. Young never obtained a license for LYoung, and has continued to operate LYoung without a license.
6. On July 16, 2020, in response to receiving a consumer complaint, Staff issued a notice of hearing and a request to docket seeking to impose sanctions on Mr. Young and LYoung for violations of the Texas Insurance Code and applicable rules.
7. The notice of hearing contained a statement of the time, place, and nature of the hearing; a statement of the legal authority and jurisdiction under which the hearing was to be held; a reference to the particular sections of the statutes and rules involved; and either a short, plain statement of the factual matters asserted or an attachment that incorporated by reference the factual matters asserted in the complaint or petition filed with the state agency.
8. The hearing in this case was held by telephone on July 30, 2020, before Administrative Law Judge Beth Bierman of the State Office of Administrative Hearings (SOAH). Staff of the Department was represented by staff attorney Cassie Tigue. Mr. Young represented himself. The hearing concluded that day, and the record closed August 19, 2020, upon receipt of the transcripts.
9. The complainant owns two properties in Bellaire, Texas. One is located at xxx7 Oleander Street (the first property) and the second is located at xxx6 Oleander Street (the second property). In October 2016, the complainant needed to purchase flood insurance in order to close on the purchase of the second property. At that time, she already owned the first property and was attempting to close on an equity loan on that property through Frost Bank.
10. The complainant contacted Mr. Young to purchase the requisite flood insurance for the second property. After complainant paid the title company for the insurance, the title company issued payment for the insurance to Mr. Young, and Mr. Young deposited the check into the LYoung account. The complainant received a flood insurance policy declaration and evidence of flood insurance on the second property from Mr. Young.

11. In August 2017, Hurricane Harvey hit the Texas Gulf Coast, and both of the complainant's properties sustained substantial damage. The flood insurance company, National Flood Service (NFS), did not locate a flood insurance policy for the second property and denied complainant's claim on that property.
12. The flood insurance policy declaration complainant received from Mr. Young was not on a form used by NFS, and the accompanying evidence of flood insurance used a policy prefix or numbering sequence not used by NFS when issuing the policy.
13. Mr. Young misappropriated, converted to his own use, or illegally withheld money belonging to an insured or insurer, when he failed to remit the flood insurance premium to the insurer.
14. Mr. Young submitted a fraudulent flood insurance policy declaration and evidence of flood insurance to complainant.
15. The complainant filed a claim against Mr. Young's errors and omissions (E&O) policy. At the time of the hearing, the E&O matter had still not been resolved, and neither of her properties have been repaired. Since the hurricane damaged her properties, she has been paying on her mortgages and paying rent to live in an apartment.
16. The preponderance of the evidence demonstrates Mr. Young's license should be revoked.

#### **IV. CONCLUSIONS OF LAW**

1. The Department has jurisdiction over this matter. Tex. Ins. Code §§ 4001.101; 4005.101; 4051.051; 4054.051.
2. SOAH has authority to hear this matter and issue a proposal for decision with findings of fact and conclusions of law. Tex. Gov't Code ch. 2003; Tex. Ins. Code § 4005.104.
3. Mr. Young received timely and sufficient notice of hearing. Tex. Gov't Code §§ 2001.051-.052.; Tex. Ins. Code § 4005.104(b).
4. The commissioner may order the holder of an authorization to cease and desist from an activity determined to be in violation of the Texas Insurance Code or a rule of the commissioner; or the failure to comply with the Texas Insurance Code or a rule of the commissioner. Tex. Ins. Code § 82.052(2).
5. The Department may revoke a license if the Department determines that the applicant has willfully violated an insurance law of this state; has misappropriated, converted to his own use, or illegally withheld money belonging to an insured, insurer, or beneficiary; or has

engaged in fraudulent or dishonest acts or practices engaged in fraudulent or dishonest acts or practices. Tex. Ins. Code § 4005.101(b)(1), (4)-(5).

6. By operating LYoung without a license, Mr. Young willfully violated an insurance law of this state. Tex. Ins. Code § 4005.101(b)(1).
7. By failing to remit a premium to the insurer, Mr. Young misappropriated, converted to his own use, or illegally withheld money belonging to an insured, insurer, or beneficiary. Tex. Ins. Code § 4005.101(b)(4).
8. By fabricating documents provided to the complainant, Mr. Young engaged in fraudulent or dishonest acts or practices engaged in fraudulent or dishonest acts or practices. Tex. Ins. Code § 4005.101(b)(5).
9. The Department should revoke Mr. Young's license.

**SIGNED October 14, 2020.**

**/s/ Beth Bierman**  
**Administrative Law Judge**  
**State Office of Administrative Hearings**

**2021-6716**

ACCEPTED  
454-20-2304  
1/4/2021 4:55 PM  
STATE OFFICE OF  
ADMINISTRATIVE HEARINGS  
Jodi Brown, CLERK

**Exhibit B**

FILED  
454-20-2304  
1/4/2021 4:15 PM  
STATE OFFICE OF  
ADMINISTRATIVE HEARINGS  
Jodi Brown, CLERK

# State Office of Administrative Hearings

Kristofer S. Monson  
Chief Administrative Law Judge

January 4, 2021

Kent Sullivan  
Commissioner of Insurance  
Texas Department of Insurance  
333 Guadalupe, Tower 1, 13<sup>th</sup> Floor, MC 113-2A  
Austin, TX 78714

**VIA EFILE TEXAS**

**RE: Docket No. 454-20-2304.C; Texas Department of Insurance  
v. Lummie Young and L Young's Insurance Agency, LLC**

Dear Commissioner Sullivan:

I issued a Proposal for Decision in this case on October 14, 2020. Staff of the Texas Department of Insurance timely filed exceptions to the Proposal for Decision. Mr. Young did not file exceptions and did not reply to the exceptions filed by Staff. I have reviewed Staff's exceptions and make the following changes to the Proposal for Decision.

Staff requests modifications to Conclusions of Law Nos. 4, 7, 8, and 9; and requests that an additional Conclusions of Law No. 6a be adopted. These requested modifications are appropriate and should be made to the Proposal for Decision. The amended and additional Conclusions of Law should now read:

4. The commissioner may order the holder of an authorization or an entity engaged in the business of insurance to cease and desist from an activity determined to be in violation of the Texas Insurance Code or a rule of the commissioner; or the failure to comply with the Texas Insurance Code or a rule of the commissioner. Tex. Ins. Code § 82.052(2).

6a. By operating without a license, LYoung willfully violated an insurance law of this state. Tex. Ins. Code § 4005.101(b)(1).

7. By failing to remit a premium to the insurer, Mr. Young and LYoung misappropriated, converted to their own use, or illegally withheld money belonging to an insured, insurer, or beneficiary. Tex. Ins. Code § 4005.101(b)(4).

8. By fabricating documents provided to the complainant, Mr. Young and LYoung engaged in fraudulent or dishonest acts or practices engaged in fraudulent or dishonest acts or practices. Tex. Ins. Code § 4005.101(b)(5).

**2021-6716**

Exceptions Letter

January 4, 2021

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9. The Department should revoke Mr. Young's license and order LYoung to cease and desist from the engaging in the unauthorized business of insurance.

Finally, Staff correctly notes that a reference to Mr. Young on page 6 in the last sentence of the second paragraph was in error. The sentence should read: According to Mr. Wright, each of these violations would be a separate ground for revocation. I regret the error.

The Proposal for Decision is ready for your review, and I recommend its adoption as modified above.

Sincerely,

/s/ Beth Bierman

Administrative Law Judge

State Office of Administrative Hearings

BB/tt

xc: Cassie Tigue, Staff Attorney, Texas Department of Insurance, 333 Guadalupe, Tower 1, 13<sup>th</sup> Floor, Austin, Texas 78701 **VIA EFILE TEXAS**  
Lummie Young d/b/a L Young's Insurance Agency, LLC, [REDACTED]  
Bellaire, TX 77401 - **VIA EFILE TEXAS**