

SUBCHAPTER DD. ASSESSMENT
28 TAC §3.4401

INTRODUCTION. The Texas Department of Insurance proposes the repeal of 28 TAC Chapter 3, Subchapter DD, §3.4401, relating to Assessment. The repeal is necessary because the Texas Health Insurance Pool (THIP) was abolished by SB 1367, 83rd Legislature, Regular Session (2013), which repealed Insurance Code Chapter 1506, the THIP's enabling legislation, effective September 1, 2015.

EXPLANATION. SB 1367 obviated the purpose of Subchapter DD, which provided for assessments for the purpose of providing the funds necessary to carry out the powers and duties of the THIP. The subchapter is now unnecessary and should be repealed.

FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT. Ms. Judy Wooten, project manager for the Life and Health Regulatory Initiatives Team, Regulatory Policy Division, has determined that during each year of the first five years that the proposed repeal is in effect, there will be no fiscal impact on state or local governments as a result of enforcing or administering the section. There will be no measurable effect on local employment or the local economy as a result of the proposal.

PUBLIC BENEFIT AND COST NOTE. Ms. Wooten has also determined that for each year of the first five years the repeal of the section is in effect, the public benefit anticipated as a result of administration and enforcement of the repealed sections will be the elimination of provisions requiring assessments to fund a program that no longer exists. There is no anticipated economic cost to persons required to comply with the proposed repeal. There is no anticipated difference in cost of compliance between small and large businesses.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS FOR SMALL AND MICRO BUSINESSES. In accordance with Government Code §2006.002(c), TDI has determined that this proposed repeal will not have an adverse economic effect on small or micro businesses because it is

simply a repeal of an obsolete rule. Therefore, in accordance with Government Code §2006.002(c), TDI is not required to prepare a regulatory flexibility analysis.

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

REQUEST FOR PUBLIC COMMENT. TDI invites the public and affected persons to comment on this proposal. Submit your written comments on the proposal no later than 5 p.m., Central time, on June 13, 2016. Send written comments by mail to the Office of the Chief Clerk, Mail Code 113-2A, Texas Department of Insurance, PO Box 149104, Austin, Texas 78714-9104, or by email to chiefclerk@tdi.texas.gov. You must simultaneously submit an additional copy of the comments by mail to Ms. Judy Wooten, Project Manager for Life and Health Regulatory Initiatives Team, Regulatory Policy Division, Mail Code 106-1A, Texas Department of Insurance, PO Box 149104, Austin, Texas 78714-9104, or by email to LHLComments@tdi.texas.gov. You must submit any request for a public hearing separately to the Office of the Chief Clerk, Mail Code 113-2A, Texas Department of Insurance, PO Box 149104, Austin, Texas 78714-9104, or by email to chiefclerk@tdi.texas.gov before the close of the public comment period. If a hearing is held, written comments and public testimony presented at the hearing will be considered.

STATUTORY AUTHORITY. The repeal of §3.4401 is proposed under SB 1367, 83rd Legislature, Regular Session (2013), and Insurance Code §36.001. SB 1367 abolished the THIP and repealed Insurance Code Chapter 1506. Section 36.001 provides that the commissioner of insurance 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. The proposed repeal of §3.4401 implements SB 1367, 83rd Legislature, Regular Session (2013).

TEXT.

Subchapter DD. Assessment.

§3.4401. Assessments.

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

Issued at Austin, Texas, on April 27, 2016.



Norma Garcia
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Texas Department of Insurance