

Subchapter A. Examination and Financial Analysis
28 TAC §7.68

1. INTRODUCTION. The Commissioner of Insurance (Commissioner) adopts new §7.68, concerning requirements for the filing of the annual statements, the quarterly statements, other reporting forms, and electronic data filings with the Texas Department of Insurance (Department) and the National Association of Insurance Commissioners (NAIC). The new section is adopted with changes to the proposed text published in the January 6, 2012, issue of the *Texas Register* (37 TexReg 46).

2. REASONED JUSTIFICATION. The new section is necessary to specify the filing requirements for insurers and other regulated entities for the annual statements, the quarterly statements, other reporting forms, and electronic data filings filed with the Department and the NAIC. The requirements are applicable to insurance companies, including limited purpose subsidiary life insurance companies established under the Insurance Code Chapter 841, Subchapter I; health maintenance organizations (HMOs); nonprofit legal service corporations; the Texas Health Insurance Pool; the Texas FAIR Plan Association; and the Texas Windstorm Insurance Association (TWIA). These insurance companies, HMOs, and other regulated entities are referred to collectively as “carriers” in this adoption.

The carriers will file the annual and quarterly statements and other reporting forms with the Department and the NAIC as directed in the adopted requirements. The new section adopts by reference the annual statement blanks, the quarterly statement

blanks, the annual and quarterly supplemental reporting forms, and the related instruction manuals as adopted and published by the NAIC each year, as well as the Texas-specific reporting forms specified in this section.

The carriers will use these forms to report their calendar year financial condition and business operations and activities each year. The information provided by the completion of the forms is necessary to allow the Department to monitor the solvency, business activities, and statutory compliance of the carriers. The new section will be applicable to annual filings with the Department and the NAIC, beginning with the year ending December 31, 2011, and each year thereafter; and to the quarterly filings with the Department and the NAIC, beginning with the quarter ending on March 31, 2012, and each quarter thereafter. The forms and instructions are available for inspection in the office of the Texas Department of Insurance, Financial Regulation Division, Financial Analysis, in the William P. Hobby Jr. State Office Building at 333 Guadalupe, Tower Number III, Third Floor, Austin, Texas. The NAIC forms and instructions may also be reviewed at www.naic.org.

Additionally, the new section is necessary to outline a process for annual notice by the Department of the annual filing requirements and the opportunity to petition the Department for adoption of a rule amendment to this section.

The new section is also necessary to implement HB 3161, 82nd Regular Session, effective June 17, 2011, by specifying the financial, accounting, and certain actuarial filing requirements for limited purpose subsidiary life insurance companies established under the Insurance Code Chapter 841, Subchapter I. Specifically,

§7.68(i)(5) implements the Insurance Code §§841.410(b) and (c), 841.414(c), and 841.420. Also, §7.68(i)(6) restates the actuarial requirement in the Insurance Code §841.419. Section 841.419 requires that, not later than March 1 of each year that a limited purpose subsidiary life insurance company is in operation and is ceded new business from a ceding insurer, a senior actuarial officer of each ceding insurer shall file with the Commissioner a certification that the ceding insurer's transactions with the limited purpose subsidiary life insurance company are not being used to gain an unfair advantage in the pricing of the ceding insurer's products.

The following paragraphs provide a brief summary as well as an analysis of the reasons for the adopted section.

Section 7.68(a) is necessary to explain the purpose of the section.

Section 7.68(b) is necessary to provide the scope and applicability of the section.

Section 7.68(c) is necessary to define the term "Texas Edition." The term "Texas Edition" is used in the section to denote the blanks and forms promulgated by the Commissioner.

Section 7.68(d) is necessary to adopt by reference the NAIC and Texas-specific forms and instruction manuals described in the section.

Section 7.68(e) is necessary to specify the hierarchy of laws in the event of a conflict between the Insurance Code, §7.68, and other Department regulations and the NAIC instructions specified in the section.

Section 7.68(f) is necessary to specify the annual and quarterly statement filing requirements applicable to every domestic carrier described in §7.68(i) – (m).

Section 7.68(g) is necessary to require each foreign HMO and foreign insurer permitted or allowed to do the business of HMOs in Texas to make the annual and quarterly statement filings specified in §7.68(f)(1) – (4) electronically with the NAIC and in paper copy with the Department, and to make the filings specified in §7.68(m) electronically and in paper copy with the Department.

Section 7.68(h) is necessary to enumerate the annual and quarterly filing requirements applicable to every foreign carrier described in §7.68(i) – (l).

Section 7.68(i) is necessary to require each domestic life; life and accident; life and health; accident; accident and health; mutual life; or life, accident, and health insurance company and each domestic stipulated premium company, domestic limited purpose subsidiary life insurance company, domestic group hospital service corporation, and the Texas Health Insurance Pool complete and file the blanks, forms, and electronic annual and quarterly statement filings with the NAIC and the Department, as directed in §7.68(f), with the exceptions or additional filings provided in §7.68(i). Section 7.68(i) is also necessary to require each foreign life; life and accident; life and health; accident; accident and health; mutual life; or life, accident, and health insurance company and each foreign stipulated premium company and foreign group hospital service corporation to complete and file the blanks, forms, and electronic annual and quarterly statement filings with the NAIC and the Department, as directed in §7.68(h), with the exceptions or additional filings provided in §7.68(i).

Section 7.68(j) is necessary to require each domestic fire, fire and marine, general casualty, fire and casualty, or U.S. branch of an alien insurer, a domestic

county mutual insurance company, a domestic mutual insurance company other than life, a domestic Lloyd's plan, a domestic reciprocal or inter insurance exchange, a domestic risk retention group, a domestic life insurance company that is licensed to write workers' compensation, any domestic farm mutual insurance company that filed a property and casualty annual statement for the previous calendar year or had gross written premiums in excess of \$6 million for the current calendar year, a domestic joint underwriting association, the Texas Mutual Insurance Company, the Texas Windstorm Insurance Association, and the Texas FAIR Plan Association to complete and file the blanks, forms, and electronic filings with the NAIC and the Department, as directed in §7.68(f) and §7.68(j). Specifically, §7.68(j)(4) and (5) is necessary to enumerate the annual and quarterly statement filing requirements for TWIA and the FAIR Plan Association, respectively. Section 7.68(j) also is necessary to require each foreign fire, fire and marine, general casualty, fire and casualty, or U.S. branch of an alien insurer, a foreign county mutual insurance company, a foreign mutual insurance company other than life, a foreign Lloyd's plan, a foreign reciprocal or inter insurance exchange, and a foreign life insurance company that is licensed to write workers' compensation, any foreign farm mutual insurance company that filed a property and casualty annual statement for the previous calendar year or had gross written premiums in excess of \$6 million for the current calendar year to complete and file the blanks, forms, and electronic annual and quarterly statement filings with the NAIC and the Department, as directed in §7.68(h), with the exceptions or additional filings provided in §7.68(i).

Section 7.68(j) is also necessary to require each foreign fire, fire and marine, general casualty, fire and casualty, or U.S. branch of an alien insurer, a foreign county mutual insurance company, a foreign mutual insurance company other than life, a domestic Lloyd's plan, a foreign reciprocal or inter insurance exchange, any foreign farm mutual insurance company that filed a property and casualty annual statement for the previous calendar year or had gross written premiums in excess of \$6 million for the current calendar year to complete and file the blanks, forms, and electronic filings with the NAIC and the Department, as directed in §7.68(h) and §7.68(j).

Section 7.68(k) is necessary to require domestic fraternal benefit societies to complete and file the annual and quarterly statement blanks, forms, and electronic filings described in §7.68(f), with the exceptions or additional filings provided in §7.68(k). Section 7.68(k) is also necessary to require foreign fraternal benefit societies to complete and file the annual and quarterly statement blanks, forms, and electronic filings described in §7.68(h), with the exceptions or additional filings provided in §7.68(k).

Section 7.68(l) is necessary to require each domestic title insurance company to complete and file the annual and quarterly statement blanks, forms, and electronic filings described in §7.68(f). Section 7.68(l) is also necessary to require each foreign title insurance company to complete and file the annual and quarterly statement blanks, forms, and electronic filings described in §7.68(h).

Section 7.68(m) is necessary to require each domestic health maintenance organization licensed pursuant to the Insurance Code Chapter 843 and each domestic

insurer that is subject to life insurance statutes and is permitted or allowed to do the business of health maintenance organizations to complete and file the annual and quarterly statement blanks, forms, and electronic filings described in §7.68(f) and the additional filings specified in §7.68(m). Section 7.68(m) is also necessary to require each foreign health maintenance organization licensed pursuant to the Insurance Code Chapter 843 and each domestic insurer that is subject to life insurance statutes and is permitted or allowed to do the business of health maintenance organizations to complete and file the annual and quarterly statement blanks, forms, and electronic filings described in §7.68(h) and the additional filings specified in §7.68(m).

Section 7.68(n) is necessary to enumerate the Texas-specific annual statement filing requirements for farm mutual insurance companies not subject to §7.68(j).

Section 7.68(o) is necessary to enumerate the Texas-specific annual statement filing requirements for statewide mutual assessment associations, local mutual aid associations, mutual burial associations, and exempt associations.

Section 7.68(p) is necessary to state the Texas-specific annual statement filing requirements for nonprofit legal service corporations.

Section 7.68(q) is necessary to specify the Texas-specific annual statement filing requirements for Mexican casualty insurance companies.

Section 7.68(r) is necessary to clarify that nothing in §7.68 prohibits the Department from requiring any insurer or other regulated entity from filing other financial reports with the Department or the NAIC.

Section 7.68(s) is necessary to outline a process for annual notice of the annual, quarterly, and supplemental filing checklists that reference the latest editions of the annual statement, quarterly statement, forms and instructions adopted by the NAIC and the Texas-specific filing forms and instructions. Section 7.68(s) is also necessary to address a process for any interested person to petition the Department for the adoption of a rule amendment to §7.68 under 28 TAC §1.60 (relating to Petition for Adoption of Rules), or its successor, for exceptions to the latest editions of the blanks, supplemental reporting forms, and instructions adopted by the NAIC or the Department.

Simultaneously with the adoption of this new section, the Department is adopting the repeal of existing §7.68, which is also published in this issue of the *Texas Register*.

On November 29, 2011, the Department posted a draft rule for informal comment, concerning requirements for the filing of the annual statements, the quarterly statements, other reporting forms, and electronic data filings with the Department and the NAIC. The Department also disseminated the draft informal rule to various stakeholders for the opportunity to comment.

In response to a written comment on the published proposal, the Department has changed some of the proposed language in the text of the rule as adopted. The Department has also changed some of the proposed language to make minor editorial changes for purposes of clarification and consistency, to conform to agency style, and to correct several typographical errors. None of these changes materially alter issues raised in the proposal, introduce new subject matter, or affect persons other than those previously on notice. The following changes are made to the proposed text.

The Department has changed the catchline of §7.68(g) to “General filing requirements for foreign health maintenance organizations and foreign insurers doing health maintenance organization business.” The new catchline better reflects the content of the subsection. The Department has made similar changes to the catchlines of §7.68(b), (d) – (f), and (h) - (s).

The Department has added a comma to follow the word “accident” in the catchline for redesignated §7.68(i). Additionally, the Department has broken down the list in the first sentence of §7.68(i) by inserting the words “and each” following the list item addressing different variations of life, accident, and health insurance companies. Additional punctuation changes are made in the rest of the sentence for consistency with the change.

The Department has changed proposed §7.68(i) and (m) in response to a comment that under proposed §7.68(i) and (m), it is unclear if foreign accident and health insurers or foreign insurers doing HMO business are required to file the supplemental compensation exhibit under proposed §7.68(f)(6). Section 7.68(i) and (m) as adopted clarify that foreign accident and health insurers and foreign insurers doing HMO business are not required to submit the supplemental compensation agreement. The Department has made similar clarifications to §7.68(j) - (l) as adopted to more clearly state that foreign property and casualty insurers, foreign fraternal benefit societies, and foreign title insurers, respectively, are not required to submit the supplemental compensation agreement.

The Department has redesignated §7.68(i)(5)(C) as §7.68(i)(6), and has changed §7.68(i)(5)(A) and (B) to make grammatical corrections. Additionally, the Department has changed redesignated §7.68(i)(6) to clarify that the insurer ceding business to a limited purpose subsidiary life insurance company, not the limited purpose subsidiary life insurance company itself, is required to annually file with the Department the actuarial certification specified under the Insurance Code §841.419. These changes make the provisions consistent with the statutory actuarial certification filing requirements in §841.419.

The Department has inserted necessary indefinite articles and revised punctuation in §7.68(j).

The Department has added the phrase “of this section” in the first sentence of §7.68(k) and in the first sentence of §7.68(l) to conform to agency style.

The Department has changed the catchline of §7.68(n) by replacing two references to subsection (f) with references to subsection (j). These changes are necessary to more accurately reflect filings requirements that may apply to a farm mutual insurance company that filed a property and casualty annual statement for the previous calendar year or had gross written premiums in excess of \$6 million for the current calendar year.

The Department has inserted a comma in the first sentence of §7.68(s) and removed two commas to correct punctuation.

3. HOW THE SECTION WILL FUNCTION.

Section 7.68(a) explains the purpose of the section.

Section 7.68(b) explains the scope and applicability of the section.

Section 7.68(c) defines the term "Texas Edition" as the blanks and forms promulgated by the Commissioner.

Section 7.68(d) adopts by reference the NAIC and Texas-specific forms and instruction manuals listed in the section.

Section 7.68(e) specifies the hierarchy of laws in the event of a conflict between the Insurance Code, §7.68, and other Department regulations and the NAIC instructions specified in the section.

Section 7.68(f) specifies the annual and quarterly filing requirements applicable to every domestic carrier described in §7.68(i) – (m).

Section 7.68(g) requires each foreign HMO and foreign insurer permitted or allowed to do the business of HMOs in Texas to make the filings specified in §7.68(f)(1) – (4) electronically with the NAIC and in paper copy with the Department. Section 7.68(g) further requires each foreign HMO and foreign insurer permitted or allowed to do the business of HMOs in Texas to make the filings specified in §7.68(m) electronically and in paper copy with the Department.

Section 7.68(h) enumerates the annual and quarterly filing requirements applicable to every foreign carrier described in §7.68(i) – (l).

Section 7.68(i) requires each domestic life; life and accident; life and health; accident; accident and health; mutual life; or life, accident, and health insurance company and each domestic stipulated premium company, limited purpose subsidiary

life insurance company, domestic group hospital service corporation, and the Texas Health Insurance Pool to complete and file the blanks, forms, and electronic filings with the NAIC and the Department, as directed in §7.68(f), with the exceptions or additional filings provided in §7.68(i). Section 7.68(i) also requires each foreign life; life and accident; life and health; accident; accident and health; mutual life; or life, accident and health insurance company and each foreign stipulated premium company and foreign group hospital service corporation to complete and file the blanks, forms, and electronic filings with the NAIC and the Department, as directed in §7.68(h), with the exceptions or additional filings provided in §7.68(i).

Section 7.68(j) requires each domestic fire, fire and marine, general casualty, fire and casualty, or U.S. branch of an alien insurer, a domestic county mutual insurance company, a domestic mutual insurance company other than life, a domestic Lloyd's plan, a domestic reciprocal or inter insurance exchange, a domestic risk retention group, a domestic life insurance company that is licensed to write workers' compensation, any domestic farm mutual insurance company that filed a property and casualty annual statement for the previous calendar year or had gross written premiums in excess of \$6 million for the current calendar year, a domestic joint underwriting association, the Texas Mutual Insurance Company, the Texas Windstorm Insurance Association, and the Texas FAIR Plan Association to complete and file the blanks, forms, and electronic filings with the NAIC and the Department, as directed in §7.68(f) and this subsection. Section 7.68(j) also requires each foreign fire, fire and marine, general casualty, fire and casualty, or U.S. branch of an alien insurer, a foreign county

mutual insurance company, a foreign mutual insurance company other than life, a foreign Lloyd's plan, a foreign reciprocal or inter insurance exchange, a foreign life insurance company that is licensed to write workers' compensation, and any foreign farm mutual insurance company that filed a property and casualty annual statement for the previous calendar year or had gross written premiums in excess of \$6 million for the current calendar year to complete and file the blanks, forms, and electronic filings with the NAIC and the Department, as directed in §7.68(h) and this subsection.

Section 7.68(k) requires domestic fraternal benefit societies to complete and file the blanks, forms, and electronic filings described in §7.68(f), with the exceptions or additional filings provided in §7.68(k). Section 7.68(k) also requires foreign fraternal benefit societies to complete and file the blanks, forms, and electronic filings described in §7.68(h), with the exceptions or additional filings provided in §7.68(k).

Section 7.68(l) requires each domestic title insurance company to complete and file the blanks, forms, and electronic filings described in §7.68(f). Section 7.68(l) also requires each foreign title insurance company to complete and file the blanks, forms, and electronic filings described in §7.68(h).

Section 7.68(m) requires each domestic health maintenance organization licensed pursuant to the Insurance Code Chapter 843 and each domestic insurer that is subject to life insurance statutes and is permitted or allowed to do the business of health maintenance organizations to complete and file the blanks, forms, and electronic filings described in §7.68(f) and the additional filings specified in §7.68(m). Section 7.68(m) also requires each foreign health maintenance organization licensed pursuant

to the Insurance Code Chapter 843 and each foreign insurer that is subject to life insurance statutes and is permitted or allowed to do the business of health maintenance organizations to complete and file the blanks, forms, and electronic filings described in §7.68(g) and the additional filings specified in §7.68(m).

Section 7.68(n) enumerates the Texas-specific filing requirements for farm mutual insurance companies not subject to §7.68(j).

Section 7.68(o) enumerates the Texas-specific filing requirements for statewide mutual assessment associations, local mutual aid associations, mutual burial associations, and exempt associations.

Section 7.68(p) states the Texas-specific filing requirements for nonprofit legal service corporations.

Section 7.68(q) specifies the Texas-specific filing requirements for Mexican casualty insurance companies.

Section 7.68(r) provides that nothing in §7.68 prohibits the Department from requiring any insurer or other regulated entity from filing other financial reports with the Department or the NAIC.

Section 7.68(s) outlines a process for annual notice of the annual, quarterly, and supplemental filing checklists that reference the latest editions of the annual statement, quarterly statement, forms and instructions adopted by the NAIC and the Texas-specific filing forms and instructions. Section 7.68(s) further addresses a process for any interested person to petition the Department for the adoption of a rule amendment to this section under 28 TAC §1.60 (relating to Petition for Adoption of Rules), or its

successor, for exceptions to the latest editions of the blanks, supplemental reporting forms, and instructions adopted by the NAIC or the Department.

4. SUMMARY OF COMMENTS AND AGENCY RESPONSE.

§7.68(i) and (m).

Comment: One commenter states that based upon the proposed text in §7.68(i) and (m), it is unclear whether foreign accident and health insurers or foreign insurers doing HMO business are required to file the supplemental compensation exhibit under §7.68(f)(6). The commenter recommends that the Department revise the language to more clearly reflect what is intended. The commenter further states that requiring foreign insurers to file the supplemental compensation exhibit would change current Texas requirements, and the commenter expresses concern that the Department is not able to maintain the confidentiality of this filing.

Agency Response: The Department agrees that the language in §7.68(i) and (m) as proposed is unclear and has changed §7.68(i) and (m) to more clearly state that foreign accident and health insurers and foreign insurers doing HMO business are not required to submit the supplemental compensation agreement. The Department has made similar clarifications to §7.68(j) - (l) as adopted to more clearly state that foreign property and casualty insurers, foreign fraternal benefit societies, and foreign title insurers, respectively, are not required to submit the supplemental compensation agreement.

5. NAMES OF THOSE COMMENTING FOR AND AGAINST THE SECTION.

Neither for nor against, with suggested changes: Texas Association of Life and Health Insurers.

6. STATUTORY AUTHORITY. The new section is adopted under the following provisions of the Insurance Code. Sections 802.001 - 802.003 and 802.051 - 802.056 authorize the Commissioner to make changes in the forms of the annual statements required of insurance companies of any kind, as shall seem best adapted to elicit a true exhibit of their condition and methods of transacting business, and require certain insurers to make filings with the NAIC. Chapters 2201, 2210, and 2211 and §§841.255, 841.410(b) and (c), 841.414, 841.420, 842.003, 842.201, 842.202, 843.151, 843.155, 861.254, 861.255, 862.001, 862.003, 882.001, 882.003, 883.002, 883.204, 884.256, 885.401, 885.403 - 885.406, 886.107, 887.009, 887.060, 887.401 - 887.407, 911.001, 911.304, 912.002, 912.201 - 912.203, 912.301, 941.252, 942.201, 961.002, 961.003, 961.052, 961.202, 982.004, 982.101, 982.103, 982.251 - 982.254, 984.101 - 984.103, 984.153, 984.201, 984.202, 1301.009, 1506.057, 1506.058, 2210.008, 2210.101, 2210.102, 2210.152, 2211.058, 2551.001, and 2551.152 require the filing of financial reports and other information by insurers and other regulated entities and provide specific rulemaking or regulatory authority to the Commissioner relating to those insurers and other regulated entities.

Sections 982.001, 982.002, 982.004, 982.052, 982.102 - 982.104, 982.106, 982.108, 982.110 - 982.112, 982.201 - 982.204, 982.251 - 982.255, and 982.302 -

982.306 provide the conditions under which foreign and alien insurers are permitted to do business in this state and require foreign and alien insurers to comply with the provisions of the Insurance Code. Sections 844.001-844.005, 844.051-844.054, and 844.101 specify statutory requirements relating to nonprofit health corporations and authorize the Commissioner to adopt rules to implement the regulation of nonprofit health corporations holding a certificate of authority under the Insurance Code, Title 2, Chapter 844.

Section 2210.008 authorizes the Commissioner to adopt rules in the manner prescribed in the Insurance Code, Chapter 36, Subchapter A, as reasonable and necessary to implement Chapter 2210. Section 2210.101 provides that the board of directors of the Texas Windstorm Insurance Association is responsible and accountable to the Commissioner. Section 2210.102 requires the Commissioner to appoint the board of directors of the Texas Windstorm Insurance Association. Section 2210.152 requires the plan of operation for the Texas Windstorm Insurance Association to provide for the efficient, economical, fair, and nondiscriminatory administration of the Association and to include provisions as considered necessary by the Department to implement the purposes of Chapter 2210.

Section 2211.057 charges the Commissioner with the authority to supervise the Texas FAIR Plan Association and the inspection bureau. Section 2211.057(1) grants the Commissioner the power to examine the operations of the Texas FAIR Plan Association and the inspection bureau through free access to all books, records, files, papers, and documents related to the operation of the Texas FAIR Plan Association

and the inspection bureau. Section 2210.057(4) grants the Commissioner the power to require reports from the Texas FAIR Plan Association concerning the risks the Texas FAIR Plan Association insurers under Chapter 2211 as the Commissioner considers necessary.

Section 421.001 requires insurers to establish adequate reserves and provides for the adoption of each current formula for establishing reserves applicable to each line of insurance. Section 32.041 requires the Department to furnish the statement blanks and other reporting forms necessary for companies to comply with the filing requirements. Section 36.001 provides that the Commissioner of Insurance may adopt any rules necessary and appropriate to implement the powers and duties of the Texas Department of Insurance under the Insurance Code and other laws of this state.

7. TEXT.

§7.68. Requirements for Filing the Annual Statements, the Quarterly Statements, Other Reporting Forms, and Electronic Filings with the Texas Department of Insurance and the NAIC.

(a) Purpose. This section specifies the requirements for insurers and other regulated entities to file the annual statements, the quarterly statements, other reporting forms, and electronic data filings with the department and the National Association of Insurance Commissioners (NAIC) necessary to report information concerning the financial condition and business operations and activities of insurers.

(b) Scope and applicability. This section applies to all insurers and certain other regulated entities authorized to do the business of insurance in this state and includes, but is not limited to, life insurers; accident insurers; life and accident insurers; life and health insurers; accident and health insurers; life, accident and health insurers; mutual life insurers; stipulated premium insurers; limited purpose subsidiary life insurance companies under the Insurance Code Chapter 841, Subchapter I; group hospital service corporations; fire insurers; fire and marine insurers; U.S. branches of alien insurers; Mexican casualty insurers; general casualty insurers; fire and casualty insurers; mutual insurers other than life; statewide mutual assessment companies; local mutual aid associations; mutual burial associations; exempt associations; county mutual insurers; Lloyd's plans; reciprocal and inter-insurance exchanges; domestic risk retention groups; domestic joint underwriting associations; title insurers; fraternal benefit societies; farm mutual insurers; health maintenance organizations; nonprofit health corporations; nonprofit legal services corporations; the Texas Health Insurance Pool; the Texas Mutual Insurance Company; the Texas Windstorm Insurance Association; and the Texas FAIR Plan Association. Insurers and other regulated entities must properly report each calendar year to the department and the NAIC by completing, in accordance with applicable instructions, the appropriate paper copy annual and quarterly statement blanks, other reporting forms, and electronic filings specified in this section. This section shall be applicable to annual filings with the department and the NAIC, beginning with the year ending December 31, 2011, and each year thereafter;

and to the quarterly filings with the department and the NAIC, beginning with the quarter ending on March 31, 2012, and each quarter thereafter.

(c) Definition. In this section, "Texas Edition" refers to the blanks and forms promulgated by the commissioner.

(d) NAIC and TDI specific forms and instructions. The commissioner adopts by reference the annual statement blanks, the quarterly statement blanks, the annual and quarterly supplemental reporting forms, and the related instruction manuals as adopted and published by the NAIC each year; and the Texas-specific reporting forms specified in this section. The Texas-specific forms are available from the Texas Department of Insurance, Financial Regulation Division, Financial Analysis, Mail Code 303-1A, P. O. Box 149104, Austin, Texas 78714-9104. Copies of the latest editions of the blanks, supplemental reporting forms, and related instruction manuals adopted and published by the NAIC may be obtained from the NAIC, and can be filed electronically using software available from vendors.

(e) Conflicts with other laws. In the event of a conflict between the Insurance Code, any currently existing department rule, form, instructions, or any specific requirement of this section and the NAIC instructions listed in this section, the Insurance Code, the department rule, form, instruction, or the specific requirements of this section shall take precedence and in all respects control.

(f) General filing requirements for domestic insurers and other domestic regulated entities. Every domestic insurer and other domestic regulated entity must complete and file the following reports and forms using the latest editions of the annual

and quarterly statement blanks, forms, and related instruction manuals adopted by the NAIC that are appropriate for the type of business written by the insurer or regulated entity:

(1) an annual statement, in paper copy with the department and electronically with the NAIC, due on or before March 1 for the preceding year ending December 31;

(2) quarterly statements, in paper copy with the department and electronically with the NAIC, due on or before May 15, August 15, and November 15;

(3) all the annual and quarterly supplements adopted by the NAIC including, but not limited to, the Management's Discussion and Analysis, in paper copies with the department and electronically with the NAIC, prepared and filed in accordance with and on or before dates specified in the latest editions of the forms, instructions, and guidelines adopted by the NAIC;

(4) a Statement of Actuarial Opinion, in paper copy with the department and electronically with the NAIC, due on or before March 1 for the preceding year ending December 31;

(5) a Schedule SIS, in paper copy only with the department, due on or before March 1 for the preceding year ending December 31;

(6) a Supplemental Compensation Exhibit, in paper copy only with the department, due on or before March 1 for the preceding year ending December 31;

(7) a Texas Overhead Assessment Exemption Form (Texas Edition), in paper copy only with the department, due on or before March 1 for the preceding year

ending December 31. This form is to be filed only by domestic insurance companies that have qualified pension contracts under the Insurance Code §401.151; otherwise, this form should not be filed;

(8) an Analysis of Surplus (Texas Edition), in paper copy only with the department, due on or before March 1 for the preceding year ending December 31; and

(9) an advertising certificate of compliance with its annual statement filing, in paper copy only with the department, prepared and filed in accordance with §21.116 of this title (relating to Special Enforcement Procedures for Rules Governing Advertising and Solicitation of Insurance).

(g) General filing requirements for foreign health maintenance organizations and foreign insurers doing health maintenance organization business. Every foreign health maintenance organization and foreign insurer permitted or allowed to do the business of health maintenance organizations must file the filings specified in subsection (f)(1) - (4) of this section electronically with the NAIC and in paper copy with the department; and the filings specified in subsection (m) of this section electronically and in paper copy with the department.

(h) General filing requirements for foreign insurers and other foreign regulated entities. Each foreign insurer or other foreign regulated entity described in subsections (i) – (l) of this section:

(1) must prepare and file electronically with the NAIC the filings specified in subsection (f)(1) – (4) of this section on or before the due dates required under those provisions;

(2) if filing only electronically with the NAIC and not filing a paper copy with the department, must file with the department, in paper copy, a signed annual statement jurat page, along with the advertising certificate of compliance required under §21.116 of this title, on or before March 1; and a signed jurat page for each quarter on or before May 15, August 15, and November 15, respectively, in lieu of filing the entire paper filings;

(3) the commissioner reserves the right to request paper copies of any paper or electronic filings made by foreign companies in their state of domicile or the NAIC; and

(4) a foreign insurer that is classified as a commercially domiciled insurer under the Insurance Code §823.004 annually must file an Analysis of Surplus (Texas Edition) in paper copy with the department, on or before March 1 for the prior year ending December 31.

(i) Filing requirements for life, accident and health insurers. Each domestic life; life and accident; life and health; accident; accident and health; mutual life; or life, accident, and health insurance company and each domestic stipulated premium company, limited purpose subsidiary life insurance company, group hospital service corporation, and the Texas Health Insurance Pool must complete and file the blanks, forms, and electronic filings as directed in subsection (f) of this section and this subsection. Each foreign life; life and accident; life and health; accident; accident and health; mutual life; or life, accident and health insurance company and each foreign stipulated premium company and foreign group hospital service corporation must

complete and file the blanks, forms, and electronic filings as directed in subsection (h) of this section and this subsection. The electronic filings of these forms or reports with the NAIC must be completed and filed in accordance with the NAIC data specifications and instructions for electronic filing and must include PDF format filing. Insurers and other regulated entities specified in this subsection and engaged in business authorized under the Insurance Code Chapters 843 or 848 may have additional reporting requirements under subsections (g) and (m) of this section. Domestic insurers or other regulated entities described in this subsection, and foreign insurers or other regulated entities described in this subsection must prepare and file the reports and forms specified in subsections (f) and (h) of this section, respectively, with the following exceptions or additional filings:

(1) a separate accounts annual statement (required of companies maintaining separate accounts), in paper copy with the department and electronically with the NAIC, due on or before March 1 for the preceding year ending December 31.

(2) for stipulated premium companies not subject to the Insurance Code §884.406, all filings with due dates of March 1 under subsections (f) or (h) of this section, are due on or before April 1. Additionally, a stipulated premium company, unless specifically requested to do so by the department, is not required to file quarterly data filings with the department or with the NAIC, if it meets all three of the following conditions:

(A) it is authorized to write only life insurance on its certificate of authority;

(B) it collected premiums in the prior calendar year of less than \$1 million; and

(C) it had a profit from operations in the prior two calendar years.

(3) The Statement of Actuarial Opinion required under subsections (f)(4) and (h)(1) of this section must be prepared and filed in accordance with the following:

(A) Companies filing the NAIC Life, Accident and Health Annual Statement and the Statement of Actuarial Opinion, attached to the NAIC Life, Accident and Health Annual Statement must follow the applicable provisions of Chapter 3, Subchapter Q, of this title (relating to Actuarial Opinion and Memorandum Regulation), except for companies exempted from the asset adequacy analysis pursuant to §3.1608 of this title (relating to Asset Adequacy Analysis Exemption). Notwithstanding §3.1608 of this title, limited purpose subsidiary life insurance companies annually must prepare and file the asset adequacy analysis required under Chapter 3, Subchapter Q of this title. For those companies exempted from the asset adequacy analysis pursuant to §3.1608 of this title, the format provided by instructions 1 – 12 of the NAIC Annual Statement Instructions, Life, Accident and Health, must be followed.

(B) Companies filing the NAIC Health Annual Statement and the Statement of Actuarial Opinion attached to the NAIC Health Annual Statement must follow the NAIC Annual Statement Instructions, Health. In addition, for those companies not exempted from the asset adequacy analysis pursuant to §3.1608 of this title, the Statement of Actuarial Opinion must follow the applicable provisions of §§3.1601 - 3.1608 of this title that are not covered in the NAIC Annual Statement

Instructions, Health, including those provisions relating to asset adequacy analysis.

(C) Any company required by §3.4505(b)(3)(G) of this title (relating to General Calculation Requirements for Basic Reserves and Premium Deficiency Reserves) to opine on the application of X factors, must attach this opinion to the NAIC Life, Accident and Health Annual Statement or the NAIC Health Annual Statement, as applicable.

(4) The Texas Health Insurance Pool must prepare and file the following, in paper copies only with the department:

(A) the NAIC Health Annual Statement with only pages 1 - 6, and Schedule E Part 1, Part 2, and Part 3 to be completed and filed on or before March 1 for the preceding year ending December 31; and

(B) the NAIC Health Quarterly Statements, with only pages 1 - 6, Schedule E, Part 1 - Cash, and Part 2 – Cash Equivalents to be completed and filed on or before May 15, August 15, and November 15;

(5) Each limited purpose subsidiary life insurance company must complete and file:

(A) the paper copy filings with the department and the electronic filings with the NAIC specified under subsection (f)(1) – (9) of this section; and

(B) an actuarial memorandum and a regulatory asset adequacy issues summary, in paper copy only with the department, in accordance with and on or before the due dates provided in Chapter 3, Subchapter Q, of this title; and

(6) An insurer ceding business to a limited purpose subsidiary life

insurance company must file the actuarial certification required under the Insurance Code §841.419, in paper copy only with the department, due on or before March 1 for the preceding year ending December 31.

(j) Requirements for certain property and casualty insurers. Each domestic fire, fire and marine, general casualty, fire and casualty, or U.S. branch of an alien insurer, a domestic county mutual insurance company, a domestic mutual insurance company other than life, a domestic Lloyd's plan, a domestic reciprocal or inter insurance exchange, a domestic risk retention group, a domestic life insurance company that is licensed to write workers' compensation; any domestic farm mutual insurance company that filed a property and casualty annual statement for the previous calendar year or had gross written premiums in excess of \$6 million for the current calendar year, a domestic joint underwriting association, the Texas Mutual Insurance Company, the Texas Windstorm Insurance Association, and the Texas FAIR Plan Association must complete and file the blanks, forms, and electronic filings as described in subsection (f) of this section and this subsection. Each foreign fire, fire and marine, general casualty, fire and casualty, or U.S. branch of an alien insurer, a foreign county mutual insurance company, a foreign mutual insurance company other than life, a foreign Lloyd's plan, a foreign reciprocal or inter insurance exchange, a foreign life insurance company that is licensed to write workers' compensation, and any foreign farm mutual insurance company that filed a property and casualty annual statement for the previous calendar year or had gross written premiums in excess of \$6 million for the current calendar year must complete and file the blanks, forms, and electronic filings as described in

subsection (h) of this section and this subsection. The electronic filings with the NAIC must be completed and filed in accordance with the NAIC data specifications and instructions and must include PDF format filing, as applicable. Domestic insurers or other regulated entities described in this subsection and foreign insurers or other regulated entities described in this subsection annually must prepare and file the reports and forms specified in subsections (f) and (h) of this section, respectively, with the following exceptions or additional filings:

(1) a combined property/casualty annual statement, if required, due on or before May 1, for the preceding year ending December 31, in paper copy with the department and electronically with the NAIC. The combined property/casualty annual statement is required only for those affiliated insurers that wrote more than \$35 million in direct premiums as a group in the previous calendar year, as disclosed in Schedule T of the NAIC annual statement(s).

(2) an Actuarial Opinion Summary prepared and filed in accordance with §7.9 of this subchapter (relating to Examination of Actuarial Opinion for Property and Casualty Insurers).

(3) for Texas county mutual insurance companies, a Texas Supplement for County Mutuals (Texas Edition) and a Texas Supplemental "A" for County Mutuals (Texas Edition), in paper copy only with the department, due on or before March 1. Texas county mutual insurance companies are not required to file an Analysis of Surplus (Texas Edition) as described in subsection (f)(8) of this section.

(4) The Texas Windstorm Insurance Association must complete and file

in paper copy with the department and electronically with the NAIC the filings specified under subsection (f) of this section and paragraph (2) of this subsection, on or before the due dates required under those provisions. Additionally, the Texas Windstorm Insurance Association must prepare and file in paper copy with the department only:

(A) annual financial statements for each year ending December 31, due on or before March 1, in accordance with the Insurance Code Chapter 2210, prepared in accordance with generally accepted accounting principles as prescribed or modified by the Governmental Accounting Standards Board or its successor, and in compliance with the Government Code §2101.011(d) and any related regulations, guidelines, procedures, or reporting requirements prescribed by the Comptroller of Public Accounts; and

(B) quarterly financial statements for the first three quarters of each calendar year, due on or before May 15, August 15, and November 15, prepared in accordance with generally accepted accounting principles as prescribed or modified by the Governmental Accounting Standards Board or its successor.

(5) Notwithstanding §5.9927 of this title (relating to Annual and Quarterly Financial Statements), the Texas FAIR Plan Association must complete and file in paper copy with the department and electronically with the NAIC the filings specified under subsection (f) of this section and paragraph (2) of this subsection, except that the annual statements, the Statement of Actuarial Opinions, and all annual supplements due on or before March 1 under the NAIC instructions are due on or before March 31; and the Actuarial Opinion Summary is due on or before April 15.

(6) An insurer that files an application with the department for approval of a policyholder dividend must file an Analysis of Surplus (Texas Edition) for property and casualty insurers with the application.

(k) Requirements for fraternal benefit societies. Each domestic fraternal benefit society must complete and file the blanks, forms, and electronic filings as described in subsection (f) of this section and this subsection. Each foreign fraternal benefit society must complete and file the blanks, forms, and electronic filings as described in subsection (h) of this section and this subsection. The electronic data filings with the NAIC must be completed and filed in accordance with the NAIC data specifications and instructions and must include PDF format filing. Domestic insurers or other regulated entities described in this subsection and foreign insurers or other regulated entities described in this subsection must prepare and file the reports and forms specified in subsections (f) and (h) of this section, respectively, with the following exceptions or additional filings:

(1) a separate accounts annual statement (required of companies maintaining separate accounts), in paper copy with the department and electronically with the NAIC, due on or before March 1 for the preceding year ending December 31.

(2) The Statement of Actuarial Opinion required under subsections (f)(4) and (h)(1) of this section must be prepared in accordance with the following:

(A) The Statement of Actuarial Opinion, attached to the Fraternal Annual Statement, must follow the applicable provisions of §§3.1601 - 3.1608 of this title, except for companies exempted from the asset adequacy analysis pursuant to

§3.1608 of this title. For those companies exempted from the asset adequacy analysis pursuant to §3.1608 of this title, the format provided by instructions 1 – 12 of the NAIC Fraternal Annual Statement Instructions must be followed; and

(B) Any company required by §3.4505(b)(3)(G) of this title to opine on the application of X factors, shall attach this opinion to the NAIC Fraternal Annual Statement, as applicable.

(l) Requirements for title insurers. Each domestic title insurance company must complete and file the blanks, forms, and electronic filings as described in subsection (f) of this section and this subsection. Each foreign title insurance company must complete and file the blanks, forms, and electronic filings as described in subsection (h) of this section and this subsection. The electronic filings with the NAIC must be completed and filed in accordance with the NAIC data specifications and instructions and must include PDF format filing.

(m) Requirements for health maintenance organizations. Each domestic health maintenance organization licensed pursuant to the Insurance Code Chapter 843 and each insurer that is subject to life insurance statutes and is permitted or allowed to do the business of health maintenance organizations must complete and file the following blanks, forms, and electronic filings as described in subsection (f) of this section and this subsection. Each foreign health maintenance organization licensed pursuant to the Insurance Code Chapter 843 and each foreign insurer that is subject to life insurance statutes and is permitted or allowed to do the business of health maintenance organizations must complete and file the following blanks, forms, and electronic filings

as described in subsection (g) of this section and this subsection. The electronic filings with the NAIC must be completed and filed in accordance with NAIC data specifications and instructions and must include PDF format filing. The Texas specific electronic filings regarding HMO data requested by the department must be completed and filed in accordance with the instructions provided by the department. Domestic health maintenance organizations and insurers described in this section and foreign health maintenance organizations and insurers described in this section must prepare and file the reports and forms specified in subsections (f) and (g) of this section, respectively, with the following additional filings:

(1) with each quarterly statement filing with the department and the NAIC, include an up-to-date and completed Schedule E, Part 3 – Special Deposits, utilizing the format from the Health Annual Statement;

(2) a Texas HMO Supplement Annual (Texas Edition), in paper copy and electronically only with the department, due on or before March 1, containing annual data for the preceding year ending December 31, to be completed according to the instructions provided by the department; and

(3) a Texas HMO Supplement Quarterly (Texas Edition), due on or before May 15, August 15, and November 15, in paper copy and electronically only with the department, containing quarterly statement data, to be completed according to the instructions provided by the department.

(n) Requirements for farm mutual insurers not subject to the provisions of subsection (j) of this section. Farm mutual insurance companies not subject to

subsection (j) of this section annually must complete and file the following blanks and forms with the department only, on or before March 1 for the preceding year ending December 31:

(1) Annual Statement (Texas Edition);

(2) Texas Overhead Assessment Exemption Form (Texas Edition). This form is to be filed only by domestic insurance companies that have qualified pension contracts under the Insurance Code §401.151; otherwise, this form should not be filed; and

(3) Statement of Actuarial Opinion, unless exempted under §7.31 of this subchapter (relating to Annual Statement Instructions for Farm Mutual Insurance Companies).

(o) Requirements for statewide mutual assessment associations, local mutual aid associations, mutual burial associations, and exempt associations. Each statewide mutual assessment association, local mutual aid association, mutual burial association, and exempt association must complete and file the following blanks and forms with the department only, on or before April 1 for the preceding year ending December 31:

(1) Annual Statement (Texas Edition) (exempt companies are required to complete all pages except lines 22, 23, 24, 25, and 26 on page 3, the special instructions at the bottom of page 3, and pages 4 - 7);

(2) Texas Overhead Assessment Exemption Form (Texas Edition). This form is to be filed only by domestic insurance companies that have qualified pension contracts under the Insurance Code §401.151; otherwise, this form should not be filed;

(3) Release of Contributions Form (Texas Edition);

(4) 3-1/2 Percent Chamberlain Reserve Table (Reserve Valuation)
(Texas Edition);

(5) Reserve Summary (1956 Chamberlain Table 3-1/2 Percent) (Texas
Edition);

(6) Inventory of Insurance in Force by Age of Issue or Reserving Year
(Texas Edition); and

(7) Summary of Inventory of Insurance in Force by Age and Calculation
of Net Premiums (Texas Edition).

(p) Requirements for nonprofit legal service corporations. Each nonprofit legal service corporation doing business as authorized by a certificate of authority issued under the Insurance Code Chapter 961 annually must complete and file with the department only the following blanks and forms for the preceding year ending December 31. An actuarial opinion is not required. The following forms are to be filed on or before March 1:

(1) Annual Statement (Texas Edition); and

(2) Texas Overhead Assessment Exemption Form (Texas Edition). This form is to be filed only by domestic insurance companies that have qualified pension contracts under the Insurance Code §401.151; otherwise, this form should not be filed.

(q) Requirements for Mexican casualty insurance companies. Each Mexican casualty insurance company doing business as authorized by a certificate of authority issued under the Insurance Code Chapter 984, annually must complete and file the

following blanks and forms with the department only for the preceding year ending December 31. All submissions must be printed or typed in English and all monetary values must be clearly designated in United States dollars. The form identified in paragraph (1) of this subsection must be completed to the extent specified in paragraph (1) of this subsection and in accordance with the latest edition of the property and casualty annual statement instructions adopted by the NAIC. An actuarial opinion is not required. It is the express intent of this subsection that it shall not repeal or otherwise modify or amend any department rule or the Insurance Code. The following blanks or forms are to be filed on or before March 1:

(1) an annual statement using the latest edition of the property and casualty annual statement blank adopted by the NAIC; provided, however, only pages 1 - 4, and 104 (Schedule T) are required to be completed;

(2) a copy of the balance sheet and the statement of profit and loss from the Mexican financial statement (printed or typed in English);

(3) a copy of the official documents issued by the Comisión Nacional de Seguros y Fianzas approving the annual statement for the preceding year ending December 31; and

(4) a copy of the current license to operate in the Republic of Mexico.

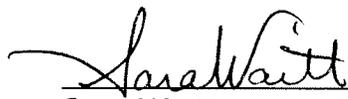
(r) Other financial reports. Nothing in this section prohibits the department from requiring any insurer or other regulated entity from filing other financial reports with the department or the NAIC.

(s) Annual notice and opportunity to petition for adoption of a rule amendment to

this section. The department annually will publish notice of the annual, quarterly, and supplemental filing checklists that reference the latest editions of the annual statement, quarterly statement, forms and instructions adopted by the NAIC and the Texas-specific filing forms and instructions. On or before 30 days after the department publishes its notice, any interested person may petition the department for the adoption of a rule amendment to this section under §1.60 of this title (relating to Petition for Adoption of Rules), or its successor, for exceptions to the latest editions of the blanks, supplemental reporting forms, and instructions adopted by the NAIC or the department.

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

Issued at Austin, Texas, on February 9, 2012.



Sara Waitt
General Counsel
Texas Department of Insurance

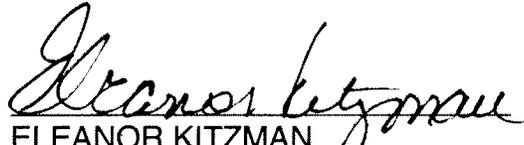
IT IS THEREFORE THE ORDER of the Commissioner of Insurance that new §7.68 specified herein, concerning requirements for the filing of the annual statements, the quarterly statements, other reporting forms, and electronic data filings with the Department and the NAIC, is adopted.

12-0119

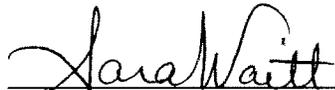
TITLE 28. INSURANCE
Part 1. Texas Department of Insurance
Chapter 7. Corporate and Financial Regulation

Adopted Section
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AND IT IS SO ORDERED.


ELEANOR KITZMAN
COMMISSIONER OF INSURANCE

ATTEST:



Sara Waitt, General Counsel

COMMISSIONER'S ORDER NO. 12-0119

FEB 09 2012