

III. History and Major Events

Provide a timeline of your agency's history, and key events, including:

- X the date your agency was established;**
- X the original purpose and responsibilities of your agency;**
- X major changes in responsibilities or statutory authority;**
- X changes to your policymaking body's name or composition;**
- X significant changes in state/federal legislation, mandates, or funding;**
- X significant state/federal litigation that specifically affects your agency's operations;**
- and**
- X key changes in your agency's organization (e.g., a major reorganization of the agency's divisions or program areas).**

Texas began regulating the state's fledgling insurance industry in 1874. The state's economy and population were growing, and wildcat insurance schemes were common. The 14th Texas Legislature (1874) passed a law to regulate company formation, activities, and coverage for life and health insurance. The Legislature gave the State Comptroller of Public Accounts supervisory authority over insurance – one of many duties imposed on that office by statute. There was, however, no insurance department in Texas at that time.

In the early days of statehood, nearly all insurance in Texas was written by companies organized in other states and foreign countries. According to State Comptroller records, only four of the 61 companies doing business in Texas in 1874 were domestic. These domestic companies, offering mostly fire and marine insurance, ventured into business in competition with financially stronger and more experienced out-of-state companies. As a result, most of them either went bankrupt or had to be reinsured and taken over by their out-of-state counterparts.

The legal foundation for a state insurance department was laid in 1876. The Texas Constitution adopted that year authorized the Legislature to create the office of Insurance Commissioner when it deemed it necessary. Following are key events in Texas insurance regulation:

1876 – The 15th Legislature created the Department of Insurance, Statistics, and History. In addition to insurance-related duties, the Commissioner was charged with keeping information and statistics on the state's population, wealth, and general resources. The Commissioner also served as the state historian, state librarian, and superintendent of public grounds and buildings.

1887 – The 20th Legislature expanded the Commissioner's authority to include agriculture and renamed the agency the Department of Agriculture, Insurance, Statistics, and History. The Commissioner also was made an ex-officio member of the Texas A&M College Board of Directors.

1905 – The 29th Legislature passed the first state banking act, adding the regulation and supervision of state banks to the office of the Commissioner of Agriculture, Insurance, Statistics, and History.

1907 – The 30th Legislature created the office of Commissioner of Agriculture and renamed the insurance agency the Department of Insurance and Banking.

1909 – The Legislature created the Fire Insurance Rating Board and made the Commissioner of Insurance and Banking its chair. The Commissioner also became supervisor of all building and loan associations in Texas.

1910 – The 31st Legislature replaced the Fire Insurance Rating Board with the State Insurance Board (SIB), giving SIB the authority to promulgate fire rates. SIB members were charged with selecting a member to serve as Fire Marshal. The State Fire Marshal's duties were to investigate fires to determine causes, inspect buildings to identify fire hazards, and to ensure that hazards were removed or corrected.

1913 – SIB's name was changed to the State Fire Insurance Commission and its authority was broadened. The Legislature enacted a workers' compensation law and created the Texas Employers Insurance Association (TEIA).

1923 – The 38th Legislature separated insurance and banking functions by creating the Department of Insurance and the Department of Banking, each with its own commissioner. The Legislature transferred workers' compensation rate-making authority from TEIA to the State Fire Insurance Commission.

1927 – The 40th Legislature created the Board of Insurance Commissioners, which included a Life Insurance Commissioner, a Fire Insurance Commissioner, and a Casualty Insurance Commissioner. The Legislature also gave the Casualty Insurance Commissioner the power to approve or disapprove auto insurance rates and to promulgate uniform policy forms.

1944 – In *United States v. South-Eastern Underwriters Association*, the U.S. Supreme Court held that an insurance company that conducted substantial business across state lines was engaged in interstate commerce and was therefore subject to federal antitrust regulations. The ruling led to concerns that states no longer had broad authority to regulate the insurance industry within their boundaries.

1945 – The United States Congress enacted the McCarran-Ferguson Act (U.S. Code Title 15, Chapter 20) permitting the states to continue regulating insurance in their respective states. The Act exempts insurance from some federal antitrust statutes to the extent that it is regulated by the states.

1951 – The Legislature codified the state's insurance laws as the Texas Insurance Code.

1954 – Solvency scandals rocked the Texas insurance industry. As a result, the Legislature passed at least 16 insurance-related bills between 1954 and 1958, among them measures strengthening examination laws, increasing minimum capital and surplus requirements, and giving the Board of Insurance Commissioners more control to issue certificates of authority.

1957 – The 55th Legislature established the State Board of Insurance (SBI), with three members responsible for hiring a Commissioner of Insurance to serve at its pleasure as chief administrative officer.

1974 – Congress enacted the Employment Retirement Income Security Act (ERISA) (U.S. Code Title 29, Chapter 18), which overhauled the federal pension law. Health plans later used ERISA to preempt state law regulating health insurance.

1975 – The 64th Legislature created a separate State Fire Marshal's Office (SFMO).

1986 – TDI created a toll-free consumer hotline.

1987 – 70th Legislature created the Office of Consumer Protection (OCP) within SBI.

1988 – The National County Mutual insolvency – the largest ever in Texas – led to the resignation of the Commissioner and additional changes at SBI

1989 – The 71st Legislature enacted major workers’ compensation reform law and created the Texas Workers’ Compensation Commission (TWCC).

1991 – The 72nd Legislature passed House Bill (HB) 2 and HB 62, the most comprehensive insurance reform legislation in Texas history, affecting everything from ratemaking to the compulsory auto insurance liability law. SBI was renamed the Texas Department of Insurance. OCP was made independent of TDI, renamed the Office of Public Insurance Counsel (OPIC), and given broader powers. Legislation also mandated that TDI provide a toll-free number for information and implement a process to resolve consumer complaints. SFMO became part of the new Texas Commission on Fire Protection.

1993 – The 73rd Legislature shifted most of the board’s authority to a Commissioner to be appointed in odd-numbered years to a two-year term by the Governor and confirmed by the Texas Senate. Legislation allowed the board to continue its authority over rates, policy forms, and related matters until August 31, 1994. On November 18, 1993, however, the board voted unanimously to turn over all remaining authority to the Commissioner as of December 16, 1993. Also that year, the Legislature passed HB 2055, the Small Employer Health Insurance Availability Act. The bill required carriers to offer three standard health benefit policies to small employers. TDI developed the three prototype policies and distributed them along with informational materials to the industry.

1995 – The 74th Legislature established penalties for insurance claim fraud, empowered TDI to commission peace officers, and conferred law enforcement agency status on TDI. TDI created the Fraud Unit, headed by an Associate Commissioner. Guaranteed issue provisions of the Small Employer Health Insurance Availability Act took effect, requiring insurers to accept and employer group despite the pre-existing medical conditions of one or more employees. The Legislature also changed the number of requires small employer plans from three to two, a basic plan and a catastrophic plan.

1996 – Congress enacted the Health Insurance Portability and Accountability Act (HIPAA), which addressed health care coverage, administration, and security. The Senate Interim Committee on Managed Care expressed concerns regarding the dual regulation of health maintenance organizations (HMOs) by the Texas Department of Health (TDH) and TDI. As a result, TDH delegated the HMO complaint investigation and examination functions to TDI via an interagency agreement that took effect on September 1, 1996.

1997 – The 75th Legislature enacted Senate Bill (SB) 371, which returned SFMO and its duties to TDI. The Legislature also enacted several bills designed to improve the availability of health care and assure the quality of care. SB 385 permanently transferred responsibilities for HMO complaints and examinations from TDH to TDI, codified TDI’s patient protection rules, and required OPIC to prepare reports comparing the benefits and services of HMOs operating in Texas. Legislation to implement provisions of HIPAA was also passed. The Texas Health Insurance Risk Pool was activated for people unable to obtain coverage because of pre-existing medical conditions. Also that year, Texas became the first state to enact a law authorizing enrollees of HMOs and other insurers to sue in state court for treatment decisions. In *Aetna Health Inc. v. Davila* and *Cigna Health Care v. Calad*, the Supreme Court held that ERISA preempts cases brought in state courts for damages allegedly resulting from the health plans’ coverage decisions. The court further held that Texas law is not saved from ERISA preemption as a law regulating insurance because the savings clause does not apply when there is a direct conflict between state and federal law, including remedies provisions.

1999 – The federal *Gramm-Leach-Bliley Financial Services Modernization Act* repealed the Glass-Steagall Act, which prohibited banks from offering investment, commercial banking, and insurance services. GLBA now allows commercial and investment banks to consolidate with insurance underwriting services.

2000 – Led by a dramatic increase in mold remediation claims, homeowners claims for water damage more than doubled, and the dollar amount paid on claims multiplied sevenfold.

2001 – TDI received \$1.3 million from the federal Health Resources and Services Administration (HRSA) to study the uninsured in Texas. HRSA awarded a supplemental grant to the agency in 2003 to continue the study.

2003 – In response to rising homeowners insurance premiums, SB 14 granted TDI new authority to regulate all insurance rates in Texas, eliminating the existing “Lloyds” exemption.

2005 – The 79th Legislature passed HB 7, which abolished TWCC and created the Division of Workers’ Compensation (DWC) as a division within TDI. DWC is administered by the Commissioner of Workers’ Compensation, who is appointed by the Governor. HB 7 also created a new state agency, the Office of Injured Employee Counsel (OIEC), to meet the needs of injured workers. OIEC is administratively supported by TDI. HB 7 also authorized TDI to certify workers’ compensation health care networks, a new approach to health care delivery similar to the managed care networks used in group health insurance.