

SUBCHAPTER A. Examination and Financial Analysis
28 TAC §7.18

1. INTRODUCTION. The Commissioner of Insurance adopts amendments to §7.18 concerning the adoption by reference of the *National Association of Insurance Commissioners Accounting Practices and Procedures Manual* (Manual). The amended section is adopted with changes to the proposed text as published in the December 24, 2004 issue of the *Texas Register* (29 TexReg 11896).

2. REASONED JUSTIFICATION. The amendments are necessary to update the version of the Manual previously adopted by the department. The section adopts the Manual by reference with deference to Texas statutes, regulations, and to exceptions enumerated in the section. Amendments to §7.18 concerning Statements of Statutory Accounting Principles (SSAP) provide guidance to independent accountants, industry accountants, and the department's analysts and examiners as how to properly record business transactions for the purpose of accurate statutory reporting. SSAP provide a nationwide standard method of accounting, which most insurers, including health maintenance organizations, are required to use for statutory financial reporting guidance. Although SSAP create a more consistent regulatory environment, they do not preempt individual state legislative or regulatory authority. The Manual is a comprehensive guide to statutory accounting principles and includes the SSAP that have been adopted

by the National Association of Insurance Commissioners (NAIC). Editorial clarifications were made throughout the section to avoid potential confusion. These clarifications did not result in any substantive change to the meaning or effect of the section.

3. HOW THE SECTION WILL FUNCTION. The adopted section provides for more consistent and efficient regulation of insurance. The adoption of the March 2004 version of the Manual provides for a more consistent regulatory environment and provides a single source for accounting guidance. The amendments adopt by reference the March 2004 version of the Manual with the exceptions noted in subsections (c) and (d). The amendments include new SSAP Nos. 88, 89, 91, and subsection (e). SSAP No. 88 supersedes SSAP No. 46, paragraphs 2 and 3 of SSAP No. 32, and paragraphs 4 - 6 of SSAP No. 68. SSAP No. 88 is a new SSAP on the valuation of subsidiary, controlled, and affiliated entities. SSAP No. 89 supersedes SSAP No. 8 and provides statutory accounting guidance for accounting for employers' pensions. SSAP No. 91 supersedes SSAP Nos. 18, 33, and 45 and provides for accounting for transfers and servicing of financial assets including securitizations and various repurchase agreements. New subsection (e) provides for an insurer to request a permitted accounting practice from the department at least 30 days before filing a financial statement that reflects the deviated accounting practice.

4. SUMMARY OF COMMENTS. No comments were received.

5. STATUTORY AUTHORITY. The amendments are adopted under the Texas Insurance Code Articles 1.15, 1.32, 3.33, 5.61, 21.28-A, 21.39 and §§32.041, 36.001, 802.001, 823.012, 841.004, 843.151, 861.255, 862.001. Article 1.15 mandates that the department examine the financial condition of each carrier organized under the laws of Texas or authorized to transact the business of insurance in Texas and adopt by rule procedures for the filing and adoption of examination reports. Article 1.32 authorizes the Commissioner to establish standards for evaluating the financial condition of an insurer. Article 3.33 provides standards for the development and administration of plans for the investment of the assets of insurers. Article 5.61 provides that reserves for workers' compensation insurers transacting business in this state shall be computed in accordance with rules adopted by the Commissioner for the purpose of adequately protecting insureds, securing the solvency of the insurer, and preventing unreasonably large reserves. Article 21.28-A authorizes the Commissioner to adopt rules necessary to remedy the financial condition and the management of certain insurers. Article 21.39 authorizes the Commissioner to adopt rules for establishing reserves applicable to each line of insurance recommended by the NAIC. Sections 32.041 and 802.001 authorize the Commissioner to provide required financial statement forms. Section 823.012 authorizes the Commissioner to issue rules and orders necessary to implement

the provisions of Chapter 823 (Insurance Holding Company Systems). Section 843.151 authorizes the Commissioner to promulgate rules as are necessary to carry out the provisions of Chapter 843. Sections 841.004, 861.255 and 862.001 authorize the Commissioner to adopt rules defining electronic machines and systems, office equipment, furniture, machines and labor saving devices, and the maximum period for which each such class may be amortized. Section 36.001 provides that the Commissioner may adopt any rules necessary and appropriate to implement the powers and duties of the department under the Insurance Code and other laws of this state.

7. TEXT.

§7.18. National Association of Insurance Commissioners Accounting Practices and Procedures Manual.

(a) The purpose of this section is to adopt statutory accounting principles, which will provide independent accountants, industry accountants, and the department's analysts and examiners guidance as how to properly record business transactions for the purpose of accurate statutory reporting. The March 2004 version of the *Accounting Practices and Procedures Manual* (Manual) published by the National Association of Insurance Commissioners (NAIC) will be utilized as the guideline for statutory accounting principles in Texas to the extent the Manual does not conflict with provisions of the Insurance Code or rules of the department. The Commissioner reserves all authority and discretion to resolve

any accounting issues in Texas. When making a determination on the proper accounting treatment for an insurance or health plan transaction, the Commissioner shall refer to the sources in paragraphs (1) – (6) of this subsection in the respective order of priority listed. Furthermore, §§3.1501 - 3.1505, 3.1605, 3.1606, 3.7004, 7.7, 7.85 and 11.803 of this title (relating to Annuity Mortality Tables, General Requirements, Required Opinions, Contract Reserves, Subordinated Indebtedness, Audited Financial Reports and Investments, Loans and Other Assets), preempt any contrary provisions in the Manual:

- (1) Texas statutes;
- (2) department rules;
- (3) directives, instructions, and orders of the Commissioner;
- (4) the Manual;
- (5) other NAIC handbooks, manuals, and instructions, adopted by the department; and
- (6) Generally Accepted Accounting Practices.

(b) The Commissioner adopts by reference the March 2004 version of the Manual, with the exceptions and additions set forth in subsections (c) and (d) of this section, as the source of accounting principles for the department when examining financial reports and for conducting statutory examinations and rehabilitations of insurers and health maintenance organizations licensed in Texas, except where otherwise provided by law. This adoption by reference shall be applied to examinations conducted as of January 1, 2005 and thereafter,

and also shall be used to prepare all financial statements filed with the department for periods after January 1, 2005.

(c) The Commissioner adopts the following exceptions and additions to the Manual:

(1) In addition to the statements of statutory accounting principles in the Manual, Statement of Statutory Accounting Principles (SSAP) No. 88 regarding valuation of subsidiary, controlled, and affiliated entities and SSAP No. 91 regarding accounting for transfers and servicing of financial assets including securitizations and various repurchase agreements adopted by the NAIC on September 12, 2004 and effective January 1, 2005, are adopted by reference and shall be used to prepare all financial statements filed with the department for periods after January 1, 2005. This adoption of SSAP Nos. 88 and 91 effectively replaces SSAP Nos. 18, 33, 45, 46, paragraphs 2 and 3 of SSAP No. 32, and paragraphs (4) – (6) of SSAP No. 68.

(2) Retrospective premiums must be billed within 60 days of computation and audit premiums must be billed within 60 days of the completion of the audit in determining the beginning date from which the 90 day period is calculated to determine admissibility of uncollected premium balances under SSAP No. 6.

(3) Electronic machines, constituting a data processing system or systems and operating systems software used in connection with the business of an insurance company acquired after December 31, 2000, may be an admitted

asset as permitted by Insurance Code §§841.004, 861.255, 862.001, and any other applicable law and shall be amortized as provided by the Manual. All such property acquired prior to January 1, 2001, may be an admitted asset as permitted by Insurance Code §§841.004, 861.255, 862.001, and any other applicable law, and shall be amortized in full over a period not to exceed ten years.

(4) Furniture, labor-saving devices, machines, and all other office equipment may be admitted as an asset as permitted by Insurance Code §§841.004, 861.255, 862.001, and any other applicable law and, for such property acquired after December 31, 2000, depreciated in full over a period not to exceed five years. All such property acquired prior to January 1, 2001, may be an admitted asset as permitted by Insurance Code §§841.004, 861.255, 862.001, and any other applicable law, and shall be depreciated in full over a period not to exceed ten years.

(5) Goodwill, as reported on a regulated entity's statutory financial statements as of December 31, 2000, and any additional goodwill acquired thereafter, beginning January 1, 2001, shall be admitted as an asset and accounted for as permitted by SSAP Nos. 61 and 68. All other amounts of goodwill, including, but not limited to, such amounts that may have been previously expensed, shall not be allowed as an admitted asset. However, notwithstanding the provisions of SSAP Nos. 61 and 68, all methods of non-

insurer subsidiary and affiliate valuation permitted by Insurance Code §§823.301 - 823.307 may be used for the purposes of goodwill calculation.

(6) All certificates of deposit, of any maturity, may be classified as cash and are subject to the accounting treatment contained in SSAP No. 2, notwithstanding the provisions of SSAP No. 26.

(d) A farm mutual insurance company, statewide mutual assessment company, local mutual aid association, or mutual burial association that has less than \$5 million in annual direct written premiums need not comply with the Manual.

(e) In the event a domestic insurer desires to deviate from the accounting guidance in a Texas statute or any applicable regulation, the insurer shall file a written request for a permitted accounting practice. Such filing shall be made with the Associate Chief Examiner, Texas Department of Insurance, Mail Code 305-2E, P.O. Box 149104, Austin, Texas 78714-9104 at least 30 days before filing the financial statement affected by the deviated accounting practice. Insurers shall not use deviated accounting practice without the department's prior approval.

(f) This section shall not be construed to either broaden or restrict the authority provided under the Insurance Code to insurers, including health maintenance organizations.

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 _____ 2005.

Brenda Caldwell
Special Regulatory Counsel
Texas Department of Insurance

IT IS THEREFORE THE ORDER of the Commissioner of Insurance that amendments to §7.18, concerning the adoption by reference of the *Accounting Practices and Procedures Manual*, are adopted.

AND IT IS SO ORDERED.

JOSE MONTEMAYOR
COMMISSIONER OF INSURANCE

ATTEST:

Brenda Caldwell
Special Regulatory Counsel

COMMISSIONER'S ORDER NO. _____