

# Preface

The Texas Department of Insurance (TDI) acted in Fiscal Year 1998 to make car insurance more affordable for good drivers in underserved areas, encourage homeowners loss mitigation through premium incentives and implement new legislation protecting patients in managed care plans. In addition, the Department investigated and prosecuted insurance fraud, increased its consumer information efforts and received national acclaim for its efforts to avert insurance company insolvencies stemming from the Year 2000 computer problem.

This Preface introduces TDI's Annual Report for FY 98 by discussing the Department's major initiatives and briefly outlining some of the trends and conditions in the insurance industry.

## Affordability

### **Benchmark Rate Actions**

The Commissioner of Insurance is responsible, by law, for setting benchmark rates each year for automobile and residential property insurance sold by companies subject to rate regulation. Insurers must file new rates within 30 days after the effective date of the Commissioner's benchmark rate order and may use them immediately without TDI's prior approval if they fall within a "flexibility band" of 30 percent above and 30 percent below benchmark rates. Companies must receive prior approval, however, to use rates outside the flexibility band. TDI staff actuaries review filings to assure they are justified and meet Texas' statutory standards.

During FY 98, the Commissioner reduced private passenger auto benchmark rates by a statewide average of 5 percent, effective January 20, 1998. Staff review of company filings disclosed that a number of major insurers had not adequately justified their new rates and that, in fact, substantially lower rates were indicated by their loss experience, particularly in the liability lines. Following negotiations with TDI staff, at least nine insurance groups with a combined market share of more than 70 percent agreed to deeper rate reductions than originally filed. By the close of FY 98, the top 20 companies in terms of premium volume had reduced their rates an average of 7 percent. The reductions filed by these companies ranged from 1 percent to 13.5 percent.

The majority of the private passenger auto insurance market remains in rate-regulated companies. Over the past few years, however, TDI has observed a steady increase in the market share held by the 24 county mutual insurers, which are exempt by law from rate regulation.<sup>1</sup> At the close of FY 98, almost one-fourth of the insured vehicles in the state were covered by county mutuals. An issue raised by this trend is whether auto insurance rate regulation might be subverted by insurer decisions to move standard and preferred business into affiliated county mutuals, whose traditional role has been that of a nonstandard market.

A major initiative addressing affordability and, by extension, availability was the automobile insurance Market Assistance Program (MAP), which is discussed at length in the **Availability** section of this Preface.

No homeowners benchmark rate actions were taken during the fiscal year, although a previously ordered benchmark increase averaging 14.2 percent took effect February 1, 1998. The overwhelming majority of homeowners insurance in Texas is written by Lloyds companies and reciprocal exchanges, which are exempt by law from property rate regulation. At the end of Calendar Year 1997, more than 78 percent of all homeowners coverage was written at non-regulated rates.<sup>2</sup> TDI staff estimated at the close of FY 98 that this amount had risen to approximately 85 percent as nearly all major insurers had transferred the bulk of their homeowners business to their Lloyds or reciprocal exchange affiliates.

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<sup>1</sup> For detail on this growth, see Figure VI on page 8.

<sup>2</sup> Texas Department of Insurance, *Quarterly Legislative Report on Market Conditions, 4<sup>th</sup> Quarter 1997*, pp. 34-35.

## **Discounts and Surcharges**

### *Impact-Resistant Roof Discounts*

Residential property insurance policyholders received a new mandatory discount intended to serve as an incentive for mitigating hail damage, for several years the largest single cause of homeowners insurance losses in Texas. Insurers are required to give homeowners premium discounts for impact-resistant roofs installed on or after February 17, 1998. Only roofs meeting Underwriters Laboratories Standard 2218 for impact resistance qualify for the discount. Rate-regulated companies must give discounts ranging from 1 percent to 35 percent. Lloyds companies and reciprocal exchanges must give discounts but, because of their exemption from rate regulation, may determine the amounts for themselves. The largest discounts are for Class 4 roofs (the most impact resistant) in the northwestern rating territories where the frequency and severity of insurance losses from hailstorms has been the greatest.

Metal roofs were excluded from the initial discount order because of concerns that claims for purely cosmetic damage would reduce the discount's potential for loss mitigation. The discount later was extended, effective May 1, 1998, to metal roofs that meet the UL standard, but insurers may attach an endorsement excluding coverage for cosmetic damage.

### *Texas Driving Insurance Plan Surcharges*

Under the Texas Driving Insurance Plan, rate-regulated insurers must add surcharges to the auto premiums of drivers who cause accidents resulting in losses exceeding threshold amounts determined by the Commissioner of Insurance. Since 1985, the surcharge thresholds had been any bodily injury or \$500 in property damage. During FY 98, the Department determined that these thresholds were obsolete and resulted in disproportionate economic penalties for minor accidents. Effective September 1, 1998, the Commissioner raised the property damage threshold to \$1,000. Surcharges for bodily injury were eliminated altogether because accidents severe enough to cause injury almost certainly would cause at least \$1,000 in damage to vehicles.<sup>3</sup>

## **Tort Reform**

*Texas Insurance Code* Article 5.131 requires the Commissioner of Insurance to issue an order each year through 1999 reducing liability rates to reflect the anticipated impact of the state's 1995 tort reform laws on insurance losses. Affected lines of insurance include medical malpractice, general liability, commercial multiple peril, commercial automobile, private passenger automobile, products liability and farmowners/ranchowners liability.

Insurers are required to submit satisfactory filings demonstrating that they have applied the appropriate tort reform reduction factors to their rates. The tort reform rate reduction order entered by the Commissioner in FY 98, effective January 20, 1998, resulted in liability insurance premiums that were \$656.4 million lower than they would have been in the absence of tort reform. Three years of tort reform rate reduction orders saved businesses and individual consumers a total of \$1.5 billion. In August 1998, TDI staff recommended reduction factors that would increase the savings by another \$705.9 million. The case was pending at the close of the fiscal year.

## **Title**

Title insurance is one of the last remaining lines whose rates are promulgated by the Commissioner of Insurance. All title companies must charge the rates established by the Commissioner. Rates had gone unchanged since 1991. In May 1998, the Commissioner reduced title rates by 3 percent, the first reduction since 1978. Homebuyers' savings from the reduction are estimated at \$20 million per year.

## **Workers' Compensation**

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<sup>3</sup> The surcharge plan does not apply to county mutual insurers, which are exempt by law from regulation of their auto insurance rates.

The decline in workers' compensation rates that began with reforms effective in 1991 continued in FY 98, although at a slower pace than in previous years. The workers' compensation market remained competitive although the industrywide loss ratio (incurred losses expressed as a percentage of earned premiums) rose in Calendar Year 1997 to its highest level since 1991. Figure I traces premiums, losses and loss ratios for the past 10 years.

Figure I

**Workers' Compensation Premiums and Losses - 1988-1997**

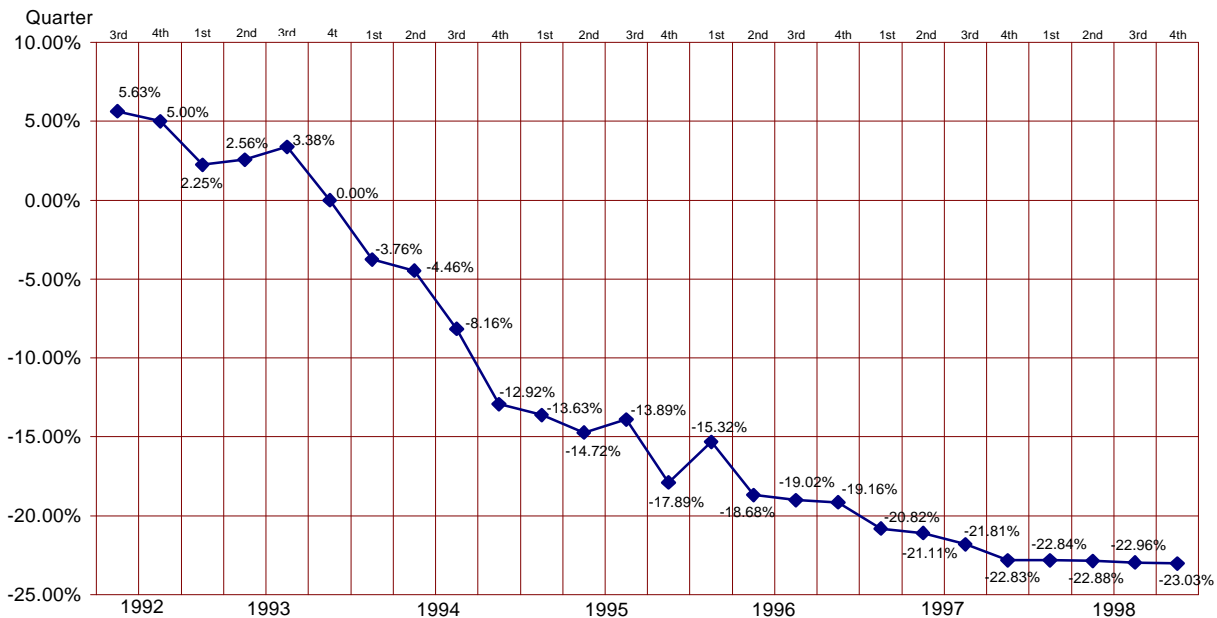
Year	Earned Premium	Incurred Losses	Loss Ratio
1988	\$2,879,387,379	\$3,157,071,342	109.6
1989	3,415,483,998	3,497,452,087	102.4
1990	4,077,110,907	3,870,449,094	94.9
1991	4,482,722,277	3,566,693,254	79.6
1992	2,840,828,895	2,021,781,554	71.2
1993	2,035,422,991	1,288,450,392	63.3
1994	1,918,794,111	743,389,241	38.7
1995	1,723,022,767	1,055,689,547	61.3
1996	1,686,697,985	1,156,101,631	68.5
1997	1,672,488,152	1,220,053,994	72.9

Source: Texas Department of Insurance, 1997 State of Texas Property and Casualty Insurance Experience by Coverage and Carriers, p. 7.

By the end of FY 98, filed rates averaged almost 23 percent below 1991 levels. Figure II tracks the decline in average filed rates since the effective date of the reform legislation. Rates are expressed as percentages below those of 1991, the last year of standard -- or "benchmark" -- rates promulgated by the former State Board of Insurance.

Figure II

**Texas Workers' Compensation Average Rate Level by Quarter 1992-1998**



The percentages shown in Figure II are based on filed rates. Actual rates in the marketplace are lower because of such considerations as experience rating and the use of schedule rating plans. A

schedule rating plan provides for higher or lower rates based on such factors as safety devices, condition and care of workplace premises and employee selection, training and supervision.

## Availability

### Residential Property Insurance

House Bill 1367 of the 74th Legislature mandated creation of the residential property insurance Market Assistance Program (MAP) to improve availability by helping consumers find coverage with admitted companies. TDI launched the program in October 1996.

Owners of property in 427 ZIP codes designated as “underserved” may call 1-888-799-MAPP and start an application for insurance by providing information to a TDI staff member. A house or other dwelling is not eligible for coverage through the MAP if it already is insured by an admitted company. However, buildings insured by surplus lines carriers are eligible because a goal of the program is to help consumers find coverage with Texas-licensed insurance companies. The MAP Section faxes a property owner’s partially completed application to a voluntarily participating agent in the property owner’s community. The agent helps the property owner complete the application and returns the signed application to TDI, which faxes it to the 20 participating insurance companies and groups. The insurers select applications that interest them and may issue premium quotes to applicants whose properties meet their underwriting requirements.

During FY 98, TDI continued an aggressive outreach effort to assure that residents of the underserved ZIP codes are aware of the MAP. These efforts included conventional means such as news releases and television public service announcements and innovative measures such as:

- The purchase of billboard space in eligible neighborhoods of Houston, Austin and the Lower Rio Grande Valley to prominently display the MAP’s telephone number and the message, “Can’t buy home insurance? Call now!”
- The purchase of 120 advertisements in minority newspapers in Austin, El Paso, Houston and the Lower Rio Grande Valley as well as in a statewide African-American publication.
- Distribution of MAP information at tax offices in Cameron, Hidalgo, Starr, Travis and Willacy counties.
- Utility bill inserts in Arlington.

Despite these and other outreach efforts, utilization of the residential property MAP has been low, as indicated by Figure III.

Figure III

	FY97	FY98
Eligible Applications	115	82
Coverage Offers (“Quotes”) *	47	56
Policies Issued	13	18

*\*Excludes multiple quotes offered to some applicants.*

Sixty of the 82 eligible applications received in FY 98 came from Tarrant and Dallas counties, where some insurers have hesitated to write new residential property business because of the area’s history of hail and wind losses. Among the state’s other major urban areas, only four applications came from Harris County, one from Bexar County, one from Travis County, four each from Galveston and Nueces counties and none from El Paso County.

Other data on residential property insurance availability come from the Texas Windstorm Insurance Association (TWIA)<sup>4</sup> and the Surplus Lines Stamping Office of Texas, which provide coverage for those who cannot obtain it in normal insurance markets. Figure IV depicts the growth of the TWIA since 1990. The rate of increase in

<sup>4</sup> TWIA was known as the Texas Catastrophe Property Insurance Association until its name was changed by the 75<sup>th</sup> Legislature.

the number of policies written was 3.3 percent in 1997, the lowest since 1991. Effective September 1, 1998, a new Building Code for Windstorm Resistant Construction, approved by the Commissioner of Insurance, took effect. The code raises the standards for construction along the Texas Gulf Coast. One of TDI's objectives in adopting the code is, by raising standards, to improve availability by encouraging insurers to write more voluntary wind and hail business in the 14 coastal counties.

Figure IV

Texas Windstorm Insurance Association Policies Written and End-of-Year Risks in Force, CY 90-97

Year	Policies Written	Risks in Force
1990	43,051	56,155
1991	44,980	54,145
1992	51,663	55,471
1993	57,144	64,804
1994	63,348	68,681
1995	68,903	89,660
1996	72,977	100,527
1997	75,361	105,243

Source: Texas Windstorm Insurance Association

Because the surplus lines market primarily serves commercial and professional risks, its personal lines writings sometimes are viewed as an indicator of homeowners insurance availability. As Figure V indicates, homeowners premium volume in the surplus lines market increased substantially in FY 96, FY 97 and FY 98. Surplus lines homeowners premium in FY 98 was almost 10 times what it was seven years earlier. It should be noted, however, that the 1998 total was a small fraction of the \$2.56 billion in homeowners premium written by admitted carriers in Calendar Year 1997.

FIGURE V

Homeowners Premium Volume as a Component of Texas Surplus Lines Market, FY 1990-98 (\$ millions)

Fiscal Year	1991	1992	1993	1994	1995	1996	1997	1998
All Lines	807.8	1,027.9	1,272.6	1,094.3	1,125.4	1,092.9	1,086.7	1,004.2
Homeowners	4.0	14.0	22.8	22.4	22.1	27.0	36.4	39.7

Source: Surplus Lines Stamping Office of Texas

A TDI rule that took effect in FY 98 was designed to improve home insurance availability in older neighborhoods and low-income areas. The rule, effective September 1, 1997, prohibits denial of residential property insurance based on the age or a minimum value of the building insured.

**Private Passenger Automobile**

Auto insurance availability is inseparable from affordability. State law guarantees that drivers rejected by insurers have a source of basic limits liability, personal injury protection and uninsured/underinsured motorist coverage by providing an assigned risk plan, the Texas Automobile Insurance Plan Association (TAIPA).<sup>5</sup> Availability issues, therefore, turn less on whether a consumer can obtain coverage than on whether coverage is available at rates commensurate with risk. Among commonly noted statistical indicators of availability/affordability issues are:

- Uninsured motorist estimates. Texas Department of Public Safety data for 1996 indicated that between 17 percent and 21 percent of drivers in traffic accidents did not have liability insurance. TDI staff estimated in

<sup>5</sup> TAIPA also provides a means by which eligible drivers may obtain personal injury protection (PIP) and uninsured/underinsured motorists coverage, which insurers are required to offer.

1997 that about 22 percent of registered vehicles in Texas were uninsured; the statistic is not probative, however, because a vehicle may be registered but not actually driven.

- The number of vehicles insured by county mutual insurance companies, which sell at unregulated rates and traditionally have specialized in coverage for high-risk drivers at commensurate prices. As indicated by Figure VI, the percentage of insured vehicles with liability coverage through county mutuals has risen by more than half over the past five years<sup>6</sup>. This trend probably is skewed considerably by one county mutual's aggressive competition for business at rates competitive with those of some standard companies and by one major insurer's decision – since rescinded – to transfer all of its Texas business to an affiliated county mutual.

Figure VI

County Mutuals Percentage of Insured Private Passenger Autos (Liability Insurance Only) Fourth Quarter, CY 1993 – 1997

Year	Percentage
1993	13.3
1994	15.5
1995	16.8
1996	21.3
1997	23.5

Source: Private Passenger Auto Statistical Plan, (Quarterly Market Reports aggregate data)

- The number of vehicles insured by TAIPA. Fourth quarter data for the past five years, shown in Figure VII, indicates a dramatic decline in the utilization of this source of coverage over the past five years.

Figure VII

Private Passenger Autos Insured by TAIPA, Fourth Quarter, CY 1993 – 1997

Year	Insured Autos
1993	804,423
1994	830,610
1995	562,159
1996	282,237
1997	77,232

Source: Private Passenger Auto Statistical Plan (Quarterly Market Reports aggregate data)

This trend was expected to continue through 1998. The monthly count of TAIPA applications fell from 5,472 in December 1997 to 4,072 in August 1998. The predominant reason for the TAIPA depopulation that began in 1995 was the setting of TAIPA rates in an amount sufficient to pay claims and expenses, as required by state law.<sup>7</sup> TAIPA rates for basic auto liability coverage averaged 94.2 percent above benchmark rates at the end of FY 98.

Another contributor to the depopulation of TAIPA was the mandatory take-out plan approved by the Commissioner of Insurance in 1995.<sup>8</sup> To determine how successful the plan has been in moving drivers from TAIPA to the voluntary market at lower rates, TDI issued a data call to 51 insurers in FY 98. The purpose of the call was to identify TAIPA customers who received take-out offers, then locate them as policyholders of companies in the sample. TDI was able to match 70.6 percent of the TAIPA customers who received take-out

<sup>6</sup> The percentages probably understate the county mutuals' total market share. Some vehicle owners obtain liability coverage through TAIPA and physical damage coverage from county mutuals.

<sup>7</sup> TAIPA rates are promulgated by the Commissioner of Insurance in accordance with *Texas Insurance Code* Article 21.81, Section 5. The statute requires rates to be set "in an amount sufficient to carry all claims to maturity and to meet the expenses incurred in the writing and servicing of the business."

<sup>8</sup> A driver who has been assigned to an insurance company by TAIPA for three years and has had no tickets or accidents during that time is eligible for the mandatory take-out offer. The company must offer to take the customer out of TAIPA and insure him or her voluntarily at its regular market rates.

offers and concluded that most had found coverage at standard or preferred rates either with the company that made the offer or with another company in the voluntary market.

**Auto Insurance Market Assistance Program**

TDI launched a major initiative in FY 98 to assist motorists who were placed in nonstandard markets at high premium rates despite their good driving records. The automobile insurance Market Assistance Program is available to drivers who meet two eligibility criteria:

- Residence in one of the 383 underserved ZIP codes (20 percent of the statewide total). ZIP codes are designated as “underserved”<sup>9</sup> based on higher-than-average concentrations of drivers in the Texas Automobile Insurance Plan Association (TAIPA) and county mutual insurance companies.
- A three-year state Motor Vehicle Record free of traffic citations for at-fault accidents or moving violations. The auto MAP was initiated in stages, starting July 1, 1998, in Austin, El Paso and the Lower Rio Grande Valley. Houston was to be added September 1, Dallas and Fort Worth on November 1 and the rest of the underserved ZIP codes on January 1, 1999.

Drivers may apply for and obtain coverage through the MAP even if they already have insurance with another company.

A driver applies to the MAP by calling TDI’s MAP section at a toll-free telephone number (1-888-799-MAPP). The MAP section verifies that the driver lives in an eligible ZIP code and that each person to be insured on his or her policy has a Motor Vehicle Record with no moving violations or at-fault accidents. The driver’s application information then is placed on a password-protected Internet site for review by participating insurers that have agreed to offer qualified applicants basic liability coverage at their filed rates within the flexibility band.<sup>10</sup> These are the rates normally offered to standard and preferred risks. Companies may apply their usual underwriting standards, which may include consideration of information beyond an applicant’s Motor Vehicle Record. Companies also may offer other coverages, such as collision and comprehensive, in addition to basic auto liability insurance.

As with the residential property insurance MAP, TDI conducted extensive outreach to make the auto MAP known to drivers in underserved areas. In addition to news releases, outreach efforts included street banners, advertising on buses and taxicabs, television public service announcements and mailouts with driver license renewal packets.

The Department also planned follow-up studies to determine why particular applicants were not offered policies. Participating companies are required to report this information. Figure VIII shows MAP results for the two months it operated in FY 98.

Figure VIII

Automobile Insurance MAP Activity July 1 – August 31, 1998

	Austin	El Paso	Lower Valley	TOTAL
Calls received	398	255	209	862
Applications placed on Internet	218	143	130	491
Applicants offered policies	59	37	33	129
Policies issued <sup>11</sup>	6	1	5	12

<sup>9</sup> The underserved ZIP Codes were designated in 1994 by a TDI rule, codified as 28 *Texas Administrative Code* §5.206. The purpose of the rule when issued was to identify areas where insurers could receive credits against their TAIPA assignment quotas by voluntarily writing auto liability policies. At the end of FY 98, TDI was in the process of revising the list of underserved areas based on more recent information. Policies written through the MAP will count toward reducing an insurer’s TAIPA quota.

<sup>10</sup> Voluntarily participating insurer groups are Allstate, Farmers, GEICO, Nationwide, Progressive, Prudential Property & Casualty, Safeco, Southern Farm Bureau and State Farm. These groups write about two-thirds of the car insurance sold in Texas.

<sup>11</sup> At the end of the fiscal year, TDI was trying to determine the reason for the low number of policies actually sold, relative to the number of offers made. Possible reasons included slow reporting by participating companies, decisions by applicants to remain with their present insurers and a time lag between offers and decisions whether to accept them.

## Health Care Coverage

For many years, Texas did not have a market of last resort for people whose medical histories or current poor health made them unacceptable to health care plans. The 75th Legislature changed that by activating the Texas Health Insurance Risk Pool, which is regulated by TDI. During FY 98, the Commissioner appointed the pool's board of directors and approved its plan of operation. Department staff actively assisted the pool in preparing to begin operations. The pool met its January 1, 1998, statutory start-up deadline. By the end of the fiscal year, the pool had received 2,677 applications and issued 1,773 policies.

The 75th Legislature was one of the most – if not the most – productive in Texas history in addressing health care issues, particularly managed care issues. Lawmakers passed at least 34 bills addressing health care. Most took effect during FY 98. By the end of the fiscal year, TDI had accomplished nearly all of the necessary implementation.

One of the most significant measures implemented during FY 98 was Senate Bill 386, which mandated a system of independent review of adverse determinations made by utilization review agents (URAs) for health maintenance organizations and insurance companies.<sup>12</sup> Under this system, a URA's decision that a treatment is not medically necessary or appropriate is subject to binding independent review at the request of the patient, physician or patient's representative. The URA sends the patient's request for independent review to TDI, which transmits it to the Texas Medical Foundation, the only independent review organization (IRO) certified by the Department as of August 31, 1998. Rules governing the independent review system, including the duty of utilization review agents to forward requests to TDI, were adopted late in Calendar Year 1997. Figure IX provides statistics on independent review through the end of FY 98.

Figure IX

### Independent Review Statistics As of August 31, 1998

Cases received	217
URA decision upheld	100
URA decision overturned	87
URA decision upheld in part and reversed in part	10
Cases pending on 8/31/98	20

Effective September 1, 1997, Senate Bill 385 formally transferred responsibility for HMO quality of care regulation to TDI, which had exercised such responsibility under a contract with the Texas Department of Health for the preceding 12 months. The Legislature also provided funding for 10 nurses to assist in examining HMOs and to investigate quality of care complaints. The HMO/URA Division is responsible for investigating all complaints against HMOs and for referring cases involving violations of the *Texas Insurance Code* and/or TDI rules to the Legal and Compliance Program for possible enforcement actions. As indicated by Figure X, the division processed 3.5 times as many complaints in FY 98 as in FY 97.

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<sup>12</sup> Senate Bill 386 also established a cause of action against HMOs and insurers for medical professional liability. Corporate Health Insurance Inc., Aetna Health Plans of Texas, Aetna Health Plans of North Texas and Aetna Life Insurance Co. sued in a Houston federal court for declaratory and injunctive relief on the ground that the Employee Retirement Income Security Act of 1974 (ERISA) preempted state legislation authorizing such litigation. On September 18, 1998, after the close of the fiscal year, U. S. District Judge Vanessa D. Gilmore granted a summary judgment holding that ERISA preempts the independent review system but not the right to sue an HMO or insurer because of the quality of health care benefits actually received. Aetna subsequently expressed its support for the IRO system and offered to work with TDI and the Attorney General's office to preserve independent review. On October 5, 1998, the Office of the Attorney General filed notice of appeal and an unopposed motion for stay pending appeal. Judge Gilmore granted the stay on October 9, 1998.



Figure X

HMO Complaints Received and Closed Fiscal Years 1997-1998

	<b>1997</b>	<b>1998</b>
Complaints Received	1,805	4,914
Complaints Closed	1,398	4,926

The surge in total complaints was attributable largely to provisions of Senate Bill 385 that require HMOs to pay health care providers promptly.<sup>13</sup> More than 60 percent of the complaints received in FY 98 came from physicians and other providers and dealt primarily with the alleged failure of HMOs to pay within the new statutory deadlines. Complaints about quality, availability and accessibility of care accounted for 19 percent of the total. During FY 98, TDI put detailed information about HMO complaints – as well as complaints against other types of insurers – on the Department’s Internet Web site, [www.tdi.state.tx.us](http://www.tdi.state.tx.us). The intent was to increase the amount of information available to consumers and employers who are selecting health care plans.

Senate Bill 385 codified as statutory law a number of TDI patient protection rules adopted in 1995 and 1996, including a prohibition against the use of financial incentives that could directly or indirectly encourage doctors to limit medically necessary services. During FY 98, one large HMO consented to a \$100,000 fine and payment of \$3.4 million in restitution to physicians who were penalized financially under an incentive plan. The plan rewarded doctors for keeping certain pharmacy costs below budget and penalized them if their pharmacy costs exceeded budgeted amounts. TDI staff, meanwhile, drafted proposed guidelines for distinguishing legitimate incentives from those that might undermine quality of care in violation of the statute. The Commissioner scheduled a hearing on the draft guidelines for September 23, 1998, after the start of FY 99.

As shown by Figure XI, the explosive enrollment growth in basic service HMOs that has characterized the 1990s continued unabated in FY 98. Enrollment surged 15.7 percent just in the six months between December 31, 1997, and June 30, 1998. By the end of FY 98, almost one-fifth of the state’s residents were enrolled in a basic service HMO.<sup>14</sup> Medicare HMOs also showed significant growth, reaching an enrollment of 316,086 as of June 30, 1998, a 29 percent rise over their enrollment a year earlier.<sup>15</sup>

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<sup>13</sup> A provision of Senate Bill 385 requires HMOs to pay for covered services not later than 45 days after the date a properly completed claim for payment is received or, if applicable, within the number of calendar days specified by the provider’s contract with the HMO. Capitation payments must be made no later than the 60<sup>th</sup> day after an enrollee has selected or been assigned a primary care physician.

<sup>14</sup> Based on 3,706,776 enrollees divided by 19,128,000, the U. S. Census Bureau’s 1996 Texas population estimate.

<sup>15</sup> Texas Department of Insurance, *Health Maintenance Organizations, Financial Report, Basic Service, Second Quarter 1998*, p. 74.

Figure XI

Texas HMO Enrollment, Calendar Years 1981 - 1998

Year	Total HMO Membership*	
1981	114,300	
1982	170,100	
1983	272,446	
1984	392,800	
1985	564,430	
1986	780,598	
1987	1,043,823	
1988	1,300,000	
1989	1,626,099	
	Basic Service Membership	Single Service Membership
1990	1,320,707	542,315
1991	1,423,933	626,027
1992	1,485,764	857,515
1993	1,612,327	960,352
1994	1,806,109	1,131,716
1995	2,188,330	1,294,079
1996	2,717,778	2,095,112
1997	3,202,431	2,288,976
1998 (through June)	3,706,776	2,440,877

\* Note: From 1986 through 1989, the "approximate" membership count included "Basic Service" HMOs and "Single Service" HMOs combined. There were no "Single Service" HMOs before 1986. Taken from FY 90 Annual Report, State Board of Insurance. Membership numbers were compiled from annual statements filed by the HMOs. They include only HMO members. They do not include members of self-funded plans for which the HMOs had administrative services only (ASO) contracts. There may be overlap between basic service and single service enrollment.

In contrast to FY 97, the huge enrollment growth in FY 98 was not accompanied by a similar expansion of the number of licensed HMOs. As shown by Figure XII, there were 73 licensed HMOs (basic service and single service combined) at the close of the fiscal year, three more than at the end of FY 97. During the fiscal year, two HMOs merged and one surrendered its certificate of authority to do business in Texas.

Figure XII

Texas Licensed HMOs, FY 76 - FY 98					
1976	1	1983	12	1990	34
1977	3	1984	12	1991	32
1978	4	1985	16	1992	32
1979	7	1986	24	1993	32
1980	9	1987	32	1994	33
1981	8	1988	34	1995	36
1982	11	1989	37	1997	70
				1998	73

Competition for market share and other factors held basic service HMO premiums and total revenue to a level below expenses throughout the fiscal year. The financial condition of the HMOs is discussed further in the **Solvency** section of this Preface.

## Insurance Fraud

Estimates of the economic cost of insurance fraud vary widely. The Coalition Against Insurance Fraud estimates that fraudulent claims amounted to \$85.3 billion in 1995.<sup>16</sup> The Coalition said this amount included \$59.1 billion in false health insurance claims. The National Health Care Anti-Fraud Association reports that member insurers estimate that 3 percent to 5 percent of health care dollars – i. e., \$30 billion to \$50 billion per year – are lost to fraud.<sup>17</sup> The National Insurance Crime Bureau estimates that consumers pay an extra \$200 to \$300 per year in insurance premiums because of insurance fraud.<sup>18</sup> Insurance fraud includes fraudulent claims, unauthorized insurance, company insider fraud and agent fraud, including theft of premiums. One of the four Texas insurers that failed in FY 98 became insolvent because of insider fraud. The extent of insurance fraud in Texas is suggested by the fact that TDI's Insurance Fraud Unit had 279 investigations in progress at the close of FY 98. These investigations included 123 for alleged property and casualty claim fraud, 48 for health care fraud, 40 for unauthorized insurance and 68 cases involving fraud by licensees, including agents and companies.

Although some Fraud Unit investigations conclude with a Commissioner's cease-and-desist order and/or administrative penalties, most successful fraud investigations culminate in a criminal indictment and conviction and/or a civil injunction. It is important, therefore, for the Fraud Unit to establish strong working relationships with local and federal prosecutors as well as with such other investigative bodies as the FBI, the U. S. Postal Service, insurance company special investigative units (SIUs) and the Internal Revenue Service. As a matter of policy, TDI volunteers the services of Fraud Unit attorneys as special prosecutors to reduce the burden on local district attorneys of trying insurance fraud cases referred to them by TDI. In FY 98, district attorneys appointed Fraud Unit attorneys as special prosecutors in 33 cases. TDI also cooperated with the Texas Workers' Compensation Commission, Health and Human Services Commission and several health professionals licensing agencies to develop a plan to share information through database matching and mutual notification of actions for fraud.

A challenge constantly faced by investigators and prosecutors is the ability of perpetrators to change tactics and devise new varieties of fraudulent activity when old ones are detected and shut down by regulators, law enforcement agencies and prosecutors. The Fraud Unit began receiving numerous referrals in FY 98 from insurers that had identified groups of agents who allegedly conspired to submit false applications in order to receive commissions or to submit groups of applications for life insurance policies that were later viaticated.<sup>19</sup> As property and casualty insurance companies became more aggressive in investigating fraudulent claims, dishonest operators of clinics began switching to defrauding health care insurers and Medicaid. Another trend recently identified by the Fraud Unit involves the location of health care clinics in exercise facilities, where the clinic operators offer "free" medical examinations to people who come to the facilities to work out. The examinations, however, are not free because they are billed to insurance companies for payment. Moreover, the individuals' exercise sessions also are billed to their insurance companies as "physical therapy."

A particularly unfortunate trend is the increasing frequency of fraud against elderly consumers, especially in the sale of annuities and life insurance. One case in which Fraud Unit attorneys were appointed as special prosecutors involved two Wichita Falls agents indicted on charges they converted \$471,000 in premiums collected from eight senior citizens. Another case, referred to the Travis County District Attorney in FY 98, involved an agent's alleged theft by deception of \$1.6 million from an elderly Austin resident who intended to buy annuities with the money. Trials in both cases were pending at the close of FY 98.

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<sup>16</sup> Coalition Against Insurance Fraud, Press Release, July 10, 1997.

<sup>17</sup> National Health Care Anti-Fraud Association, Internet site, [www.nhcaa.org](http://www.nhcaa.org), Fact Sheet: Estimated Loss to Fraud.

<sup>18</sup> National Insurance Crime Bureau, Press Release, July 28, 1998.

<sup>19</sup> A life insurance policy is "viaticated" when a terminally ill person sells the death benefit at a discount to another party, who is named the beneficiary, continues paying the premium and collects the death benefit upon the death of the insured.

Unauthorized insurance remains a threat to the public. During FY 98, the Fraud Unit, through the Office of the Attorney General, obtained a permanent injunction against the Mission Cooperative Group<sup>20</sup> of Kingwood, which sold auto insurance under the guise of being a "voluntary unincorporated mutual benefit association." This organization collected an estimated \$160,000 in premiums before the Fraud Unit investigation shut it down. The court froze Mission's bank accounts and directed TDI to use the \$79,000 balance to pay outstanding claims, refund membership fees paid by customers and reimburse the Office of the Attorney General for legal expenses incurred in shutting down the unlicensed operation.

## Banks in Insurance

On October 7, 1997, U. S. District Judge James R. Nowlin issued a final judgment holding that the National Bank Act authorizes national banks to act as agents in the sale of annuities and preempts Texas laws that prevent them from being licensed to do so.<sup>21</sup> The Commissioner of Insurance issued interim procedures on December 18, 1997, for banks to become licensed as incorporated insurance agents for the sale of annuities only. The procedures will be in effect until the 76th Legislature can conform the agent licensing laws to Judge Nowlin's decision. During FY 98, only two banks applied for and received annuities-only licenses.

## Solvency

Insurance regulation originated, historically, from the absolute necessity that insurance companies maintain the financial strength to meet the commitments they make when they issue insurance policies to consumers.

Through analysis of financial statements, regular financial examinations, communication with other states' insurance departments and other means, TDI monitors insurance companies and HMOs to assure their financial soundness. The Department's responsibilities include early identification of troubled companies, followed by swift and effective rehabilitation where possible and removal from the marketplace through receivership and liquidation when rehabilitation is not possible. Rehabilitative measures may include merger with stronger companies.

On a national level, the financial performance of both the life/health and property/casualty segments of the insurance industry was very strong in Calendar Year 1997.

A. M. Best Co. reported that net income of legal reserve life/health companies increased 21.6 percent to \$22.2 billion, led in part by growth in realized capital gains and a 7.8 percent increase in premium. According to Best, almost half of net premium in 1997 was derived from sales of retirement savings products. Capital and surplus rose 13 percent to \$219.9 billion on the strength of improved net income and equities performance. Return on equity averaged 14.5 percent.<sup>22</sup>

Best described 1997 as a spectacular year for property/casualty companies. Catastrophe losses were the lowest in nine years, investment income was up 40 percent from the previous year and personal lines underwriting results were favorable. Industrywide net income increased 50 percent to \$37 billion. Policyholders' surplus rose 20.8 percent to \$308.1 billion.<sup>23</sup>

A major trend in the industry is toward merger and consolidation. During FY 98, the merger of Zurich and B.A.T. resulted in the consolidation of approximately \$43 billion in surplus. The Citicorp and Travelers merger was well under way and resulted in the creation of the largest commercial banking organization in the United States and the world, with total consolidated assets of some \$750 billion and market capitalization of some \$80 billion. This trend toward industry consolidation was evident in the Texas market as TDI continued to process a significant number of mergers. The number of licensed Texas domestic insurance companies and HMOs

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<sup>20</sup> The group is not connected in any way to Mission American Insurance Co., Mission American Life Insurance Co., Mission Insurance Company of Texas Inc., Mission Life Insurance Co., Mission National Life Insurance Co. or Mission Premium Finance Co., all of which are licensed entities in Texas.

<sup>21</sup> *Texas Bankers Association et al vs. Elton Bomer in his official capacity as Commissioner of Insurance*. The ruling also extended to state-chartered banks because the Texas Constitution gives them all the powers of a national bank.

<sup>22</sup> *BestWeek*, Life/Health Supplement, Release 5, August 31, 1998, page L/H 1.

<sup>23</sup> *BestWeek*, Property/Casualty Supplement, Release 4, April 6, 1998, page P/C 1.

declined from 586 to 567 during the fiscal year. The total number of licensed companies, both domestic and "foreign" (i. e., out-of-state) fell from 2,117 to 2,093.

The trend toward consolidation probably will accelerate because of the Year 2000 computer problem. Some companies that are unready for the Year 2000 very likely will deal with the problem by merging into companies that are ready.

The Year 2000 problem is the largest solvency issue confronting the Department and the industry. Investment management, claim processing and premium billings are among the company financial activities that could fail if a company's computers do not correctly recognize the year change that will occur on January 1, 2000. Costs associated with such a failure could threaten the solvency of some companies. Moreover, litigation against commercial general liability customers over damages from Year 2000-related losses could result in severe financial stress to some property and casualty companies. While there are many different opinions on the subject, some estimates place the potential total litigation costs associated with Year 2000 losses as high as \$1 trillion – roughly three times the property/casualty industry's total surplus. The cost associated with this issue may well approximate the cost to the property and casualty industry of the asbestos and pollution issues. Despite the seriousness of the problem, a TDI survey of some 3,500 licensees found that a substantial number of them lacked a formal plan for making their computer systems Year 2000-complaint. Averting insolvencies resulting from the Year 2000 problem was a major priority of TDI's Financial and Information Services divisions FY 98. The Department's efforts to address the Year 2000 problem led to TDI's selection for the National Association of Insurance Commissioners' "Technology of the Year" award.

Another major solvency concern has been the continuing financial losses of many Texas HMOs. In the aggregate, HMOs operating in Texas lost \$322 million in Calendar Year 1997, and the losses continued into the first two quarters of 1998, when net losses totaled \$94.7 million. Texas HMOs are not alone in their unprofitability. The New York Times reported that 49 percent of the nation's 650 HMOs lost money through September of 1997, in stark contrast to the profitability of 90 percent of the industry four years earlier.<sup>24</sup> Premium increases and additional mergers expected in FY 99 as the HMO industry strives to reach profitability. The Department expects the industry to control costs aggressively while maintaining the quality of patient care.

As indicated by Figure XIII, the number of domestic insurers placed in court-ordered receivership in FY 98 was not appreciably higher than during FY 97. Factors that contribute to the small number of insolvencies include favorable economic conditions, the state's statutory solvency requirements, sound regulatory tools and early intervention.

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<sup>24</sup> "Reality of the HMO System Doesn't Live Up to the Dream," *The New York Times*, October 5, 1998, page A1.

Figure XIII

Texas Domestic Insurance Company Receiverships, FY 83-98

	<b>Life &amp; Health</b>	<b>Property &amp; Casualty</b>	<b>Title</b>
1983	2	3	
1984	0	0	
1985	2	3	
1986	1	1	
1987	2	3	1
1989	14	5	1
1990	13	6	
1991	7	5*	
1992	6	4	
1993	6	3	
1994		6	1
1995	0	1	
1996	0	1	
1997	1	2	
1998	3**	1	

*\*Two of these companies were placed in receivership but were released shortly afterwards.*

*\*\*Includes one fraternal benefit society.*

Texas domestic companies placed in receivership in FY 98 were American Eagle Insurance Co., a property and casualty company specializing in aviation insurance; Supreme Home of the Progressive Order of Pilgrims, a fraternal benefit society selling burial policies; Gulf Atlantic Life Insurance Co. and Professional Benefits Insurance Co. The Texas Property and Casualty Insurance Guaranty Association's estimated claims liability for the American Eagle insolvency is approximately \$6.1 million. As a fraternal, the Supreme Home of the Progressive Order of Pilgrims had no guaranty association protection. TDI handled the Gulf Atlantic insolvency in-house, and there is no guaranty association claim liability. Professional Benefits, a life and health carrier, involves an estimated claim liability of \$3.2 million for the Texas Life, Accident, Health and Hospital Service Insurance Guaranty Association.

In addition, the Commissioner of Insurance declared four foreign companies to be "impaired," one more than in FY 97. By law, an impairment order is a necessary step before a guaranty association may pay claims against an insolvent company. The foreign companies impaired in FY 98 are First National Life Insurance Co. of Montgomery, Alabama; United Southern Assurance Co. of Melbourne, Florida; American Western Life Insurance Co. of Salt Lake City, Utah; and MDPhysicians Insurance Co. of Oklahoma City.

## Conclusion

The sections that follow describe through statistics and narrative the Department's regulation of the \$46.4 billion-a-year Texas insurance industry during Fiscal Year 1998.

# Commissioner's Office

The Commissioner, appointed by the Governor with the advice and consent of the Senate, is the agency's chief executive and administrative officer.

As the agency's chief administrator, the Commissioner oversees agency regulatory functions, establishes agency operating procedures and enforces state insurance laws. Enforcement includes disciplinary and legal actions against violators and other orders designed to protect Texas insurance consumers.

As part of his regulatory duties, the Commissioner sets benchmark rates and flexibility bands for automobile and residential property insurance, presumptive rates for credit life and credit disability insurance, title insurance rates and rates for the Texas Automobile Insurance Plan Association ("assigned risk plan") and the Texas Windstorm Insurance Association ("Windpool"), formerly the the Texas Catastrophe Property Insurance Association ("Catpool").

In addition, the Commissioner reviews auto and residential property rates outside the flexibility bands and workers' compensation insurance rates, as necessary. The Commissioner may review rates submitted to the Department under "file and use" provisions for such lines as boiler and machinery, business owners, commercial multi-peril, credit and involuntary unemployment, crime, fire and allied commercial, general liability, glass, miscellaneous liability, mortgage guaranty, medical malpractice, other professional liability and commercial umbrella.

The Commissioner adopts rules implementing new laws and addressing problems in regulating companies and agents. In addition, the Commissioner appoints individuals to advisory boards and committees and oversees their operation.

The Commissioner's Office includes the Chief of Staff and six activities:

Chief of Staff and Senior Associate Commissioner for Administration oversees Administrative Operations, which includes the agency's computer and data services, business planning and redesign, accounting, budget, building and records management, purchasing, mail services, personnel and staff development, as well as the agency ombudsman and ethics advisor charged with helping encourage positive solutions to workplace problems.

General Counsel and Chief Clerk serves as the Commissioner's chief legal adviser on contested cases, coordinates all rate hearings and assists in developing rules, setting rates and handling various appeals to the Commissioner. In addition, the office coordinates matters involving contested cases and rule-making, performs legal research, certifies rules for the agency and maintains records and proceedings involving Commissioner actions. The office also handles several hearings-related duties, including coordinating hearing notices and scheduling of hearings with the State Office of Administrative Hearings (SOAH), along with providing a required court reporter.

Chief Economist serves as the Commissioner's chief research and technical adviser, provides studies of insurance markets and develops analyses of regulatory policies, including the impact of proposed rules on markets and rates.

Executive Services provides clerical and other support services to the Commissioner and staff.

Internal Audit serves as an independent appraisal activity within the Department to evaluate financial, administrative, operational and compliance controls and to make recommendations to the Commissioner and agency management for improvement. As a partnership with management, Internal Audit provides support in attaining agency goals by furnishing analyses, appraisals and recommendations pertinent to the activities reviewed. An important part of Internal Audit's role is to challenge ineffective, inefficient and inappropriate

policies, procedures, programs, activities and processes and to serve as a resource and adviser to management.

Government Relations serves as TDI's liaison with the Legislature and other governmental entities. Major responsibilities include helping the Commissioner: determine the legislative needs of the agency; report to the Legislature; coordinate and track agency-wide responses to legislative and constituent inquiries; monitor and analyze legislation affecting the agency; update agency staff on status of legislation; coordinate the appearance of agency staff for testimony before various legislative committees; oversee implementation of legislation; compile and index all insurance and agency-related legislation adopted by the Legislature; distribute requested information to legislators, committees and other governmental entities; research and review possible appointments to various boards and committees required to assist the department.

Public Information Office serves as the agency's primary contact with the news media and also responds to information requests from consumers, the insurance industry and other regulators and government agencies. Late in FY98, Publications moved from Administrative Services to the Public Information Office. Publications designs, illustrates and produces agency publications and related print materials. PIO's major external communication responsibilities involve:

- Media -- researching, writing, editing and distributing news releases announcing agency actions; conducting and coordinating interviews with the news media; assisting the Commissioner in drafting articles and consumer columns for various publications and TDI's Internet web site; operating NEWSline, a toll-free information line that gives radio stations prerecorded insurance information; maintaining an Internet web page for information of interest to the news media; providing weekly news media tips on upcoming hearings; providing expertise in radio-television production, and responding to information requests.
- Insurance Regulators -- coordinating electronic mail among TDI, other state insurance departments and the National Association of Insurance Commissioners.
- Legislators -- coordinating the writing and editing of the Annual Report to the Governor and Legislature.
- Public/Industry -- writing speeches; writing and editing the agency's regulatory newsletter (*Texas Insurance News*); working with other TDI programs to provide information through an Internet web site; writing and overseeing production of radio and television public service announcements (PSAs) and other videos; writing and editing consumer brochures in cooperation with other TDI divisions; designing, illustrating and producing agency publications and related print materials, and responding to information requests.

Internal communications responsibilities include producing the agency's employee newsletter (*The Bulletin Board*); providing a weekly summary of significant trade journal articles; issuing electronic news and information bulletins to TDI staff; sending out electronic agency news items, and helping edit various agency reports and documents.

## Accomplishments & Actions

Major insurance regulatory actions and accomplishments of the Texas Department of Insurance in Fiscal Year 1998 included:

### Accident, Health, HMOs

- Approving the plan of operation for the Texas Health Insurance Risk Pool, which helps provide health care coverage to Texans who can't find coverage elsewhere.
- Adopting certification rules for Independent Review Organizations and requiring Utilization Review Agents to notify patients of their right to independent review following denial of treatment.
- Providing staff support and technical expertise needed to help the Health Insurance Risk Pool begin operating as scheduled in January 1998, as well as creating a Pool Web site linked to TDI's.
- Placing HMO profiles on TDI's Web site and updating on a quarterly basis.



- Issuing a bulletin warning HMOs and insurers that a new state law requires prompt payment to doctors and other providers and sending out a similar bulletin reminding HMOs and insurers that they now fall under the prompt payment law for any first-party claims by HMO members.

#### Administrative

- Conducting a survey on Year 2000 preparedness by 3,500 insurers, premium finance companies and other licensees who do business in Texas.
- Winning the National Association of Insurance Commissioner's "Technology of the Year" award for its efforts to assess insurance industry efforts in preparing for the Year 2000 problem.
- Improving the agency's process for soliciting bids from historically underutilized businesses (HUBs) and increasing the volume of HUB purchases.
- Issuing agency and program business plans every year since Fiscal Year 1995.
- Working with NAIC to install the State Interface Technology Enhancement (SITE), which provides improved access to insurance industry financial and company data stored in Kansas City. As a result of using these new software and hardware tools, TDI can get faster response from NAIC on state page and annual statement queries and reduce the time and cost of data transmissions from their database to ours.

#### Agents

- Assisting the legislatively mandated Licensing Advisory Committee with its review and evaluation of insurance agents and agents licensing statutes.
- Making the application for an insurance agent's license available for downloading from TDI's Web site.

#### Automobile

- Conducting consumer surveys as part of an investigation into the low response rate to TAIPA (Texas Automobile Insurance Plan Association) takeout offers.
- Lowering TAIPA (Texas Automobile Insurance Plan Association) rates an average of 3.9 percent.
- Reducing private passenger auto benchmark rates an average of 5 percent and commercial rates 9.3 percent.
- Convincing a number of auto insurers to lower their 1998 auto rate filings and give larger rate reductions.
- Adopting a rule allowing driver education credit for youthful drivers taught by parents instead of by driving schools.
- Adopting a rule allowing insurers to waive deductibles when auto glass is repaired instead of replaced.
- Creating a new section of the Market Assistance Program (MAP) to help drivers obtain reasonably priced insurance in underserved areas of the state.

#### Availability

- Launching billboard, utility bill insert and other PR campaigns to give the Market Assistance Program (MAP) greater exposure to homeowners and drivers who could benefit.

#### Banks

- Issuing the first license allowing banks in Texas to sell annuities on July 30, 1998. The license was issued in compliance with Commissioner's Bulletin No. B-0051-97. The bulletin followed a United States district judge ruling declaring (1) that national banks are authorized under 12 U.S.C. § 24 (Seventh) to sell annuities as agents in the State of Texas and (2) that the provisions of the Texas Insurance Code that prohibit national banks' exercise of such authority are preempted.

#### Consumer Assistance

- Calling HMOs directly concerning doctor's complaint about unpaid bills and having Market Conduct Examinations check HMO records on the claims complaints. The special exam showed that of 30 claims, 22 had been paid, four were denied because they duplicated previous claims and four were being held for further information. In addition, TDI issued a bulletin reminding all health insurers and HMOs that Senate Bill 385 provisions now require prompt reimbursement of providers.
- Providing detailed complaint databases and summaries for the first time via the agency's Internet Web site.

## Enforcement

- Negotiating with GEICO to make \$9.6 million in auto premium refunds, ending a case brought by staff concerning overcharges built into 1995, 1996 and 1997 rate filings.
- Issuing a cease-and-desist order to halt operation of the “National Processing Center” lead card operation.
- Fining the Texas Workers’ Compensation Insurance Fund \$175,000 for claim data reporting errors that resulted in many employers having incorrect experience modifiers.
- Signing a consent order requiring Prudential to pay a \$150,000 fine and reimburse Texans who were denied payment for oral contraceptives under group health plans.
- Negotiating a consent order requiring Montgomery Ward to make restitution estimated at \$5 million to credit card customers who bought “Credit Security Plan” without realizing it was insurance.
- Negotiating with Farmers to refund excess premiums to 8,000 people who paid too much because of the company's no-prior insurance underwriting guideline.
- Fire Marshal
- Warning the public that certain Omega-brand fire sprinkler heads might not work properly.

## Fraud

- Working with Erath County authorities on securing a guilty plea from Richard Sommers Moreland for defrauding elderly women in an investment scam. He received three 10-year sentences and a 20-year sentence.
- Obtaining a temporary restraining order to stop the sale of unauthorized car insurance by Mission Cooperative Group of Kingwood.
- Working with Harris County authorities to secure the arrest of Houston lawyer Reginald C. Ike and his accomplices in a staged accident ring.
- Working with Wichita County authorities to indict Rupert Franklin and Nancy Lou O’Dell on charges that they sold counterfeit annuity contracts to elderly women.
- Helping convict Joyce Marie Martin in Bryan for using fictitious doctors in filing insurance claims.

## NAIC

- Receiving second-round accreditation of TDI's financial monitoring system from the National Association of Insurance Commissioners (NAIC).

## Property

- Researching, adopting and promoting a new insurance discount for homeowners who install hail-resistant roofing materials.

# Other Highlights

## General Counsel/Chief Clerk

- Reviewing and advising the Commissioner in 141 rulings in connection with contested cases set and/or heard by the State Office of Administrative Hearings, including benchmark and other rate cases.
- Advising the Commissioner on thirteen appeals of decisions, including decisions of the Texas Catastrophe Property Insurance Association (“Catpool”), now known as the Texas Windstorm Insurance Association (TWIA), and the Texas Workers’ Compensation Insurance Facility, now known as the Facility Insurance Corporation.
- Providing legal and clerical services in connection with the adoption of 53 new rules, the repeal of seven rules and the amendment of 106 previously adopted rules. Twenty-eight proposed rules were pending at the end of FY 98.
- Providing legal and clerical services to the Regulation and Safety Program in connection with submission to the *Texas Register* of: (1) a 92-page proposed rule to set minimum standards for single service HMOs and implement other HMO-related legislation from the 1997 Legislature; and (2) a 64-page proposed rule to establish “Independent Review Organizations” (IROs) to resolve treatment which consisted of

amendments to five subchapters in the Texas Insurance Code. The amendments were adopted November 6, 1997.

- Processing for legal staff 42 assurances of voluntary compliance (AVC) and 298 consent orders in connection with agents and insurers.
- Reviewing, processing and advising the Commissioner on 34 specialized rules under Articles 5.96 and 5.97 of the *Texas Insurance Code*. Twenty were still pending at the end of FY98.
- Continuing to streamline the agency's internal rulemaking process.
- Updating additional portions of TDI's database of Commissioner orders. The database now includes 35 years of orders by insurance commissioners and the former State Board of Insurance.
- Converting the last of the key databases for indexing Commissioner decisions from an outdated Paradox database to a new agency standard Access database and expanding other automated records.
- Providing the Commissioner's Agendas on TDI's Web site and working with other areas to circulate proposed rules and bulletins via the Internet.

#### Chief Economist

- Investigating the appropriateness of using computer models for analyzing industry exposure to catastrophes.
- Studying the effects of tort reform legislation on the industry.
- Developing recommendations for designating underserved markets and reviewing markets in various lines.
- Helping manage the process of designating statistical agents.
- Serving as lead staff person on TAIPA issues, including take-out credits and quota calculations.
- Helping oversee the process for prior approval rate filings under *Texas Insurance Code* Article 5.101.

#### Executive Services

- Helping the Commissioner and staff respond to all inquiries directed to the Commissioner of Insurance.
- Coordinating the activities of the Commissioner of Insurance and agency staff as directed by the Commissioner.

#### Internal Audit

- Conducting six financial-related or performance audits including an analysis of the TDI Fraud Unit's administrative structure and workflow, review of TDI and SFMO performance measures, a review of the SFMO performance measure "clean-up" efforts, a statutorily required audit of seized / forfeited property, and a management control audit of the seized / forfeited property process. Three of the six audits were on-going at fiscal year-end.
- Serving as the Department's liaison to external auditors on three projects including the State Auditor's Office (SAO) audit of fiscal year 1997 performance measures, and SAO audit of the Group Insurance Program administered by the Employees Retirement System. Internal Audit served as an advisor to the Department's transition team assigned to accomplish an orderly and efficient move of the SFMO operations to TDI. During this transition, TDI requested assistance from the SAO and Internal Audit served as agency liaison.
- Serving as an advisor on nine projects including: the Planning Work Group, the "Year 2000" monitoring project, FY 97 Performance Measures Clean-Up, Open Records Tracking System, the Policy Approval Tracking System (PATK), a SAIAF Peer Review Workgroup, Performance Measure Self-Audits project, and an advisory project involving the definitions and methodologies of TDI's performance measures. Four of these advisory projects are long-term projects that span multiple years such as the "Year 2000" monitoring project.
- Conducting seven investigations as authorized under Section 2102.003 (2) (E) of the *Government Code*. One of the seven investigations was in process at August 31.
- Conducting two information system/telecommunication audits: an audit of telephone services and a review of electronic data processing general controls. The review of electronic data processing general controls was on-going at fiscal year-end.
- Providing a quality assurance audit to two agencies within the State Agency Internal Audit Forum (SAIAF) program. One audit was of the Texas Commission for the Blind, and the other for the Texas

Railroad Commission. The SAIAF program provides for these “peer reviews” to ensure an on-going high level of quality and integrity of audit work.

- Preparing an annual report of Fiscal Year 1997 Internal Audit activities. This report is required by statute and is submitted to the Commissioner of Insurance, Governor's Office of Budget and Planning, Legislative Budget Board, Sunset Advisory Commission and SAO.
- Preparing a status report of SAO recommendations contained in reports issued during fiscal 1995-1997 for the Commissioner.

Government Relations

- Tracking and coordinating implementation of more than 100 insurance-related bills passed during the 1997 legislative session.
- Publishing bill implementation information on the Department's Web site.
- Working with bill authors/sponsors of legislation and TDI staff to ensure that legislative intent was handled in a consistent manner.
- Monitoring and assisting the board of the newly created Texas Health Insurance Risk Pool.
- Assisting with the start-up and initial meetings of the Statewide Rural Health Care System.
- Monitoring and attending for the Commissioner of Insurance, Texas Healthy Kids Corporation board meetings.
- Coordinating appointment of numerous members to advisory committees and boards.
- Assisting the Agents' Advisory Committee.

Public Information Office

- Working with Consumer Protection and Regulation and Safety to create a public information campaign promoting TDI's new auto market assistance program (AUTO-MAP) to help good drivers in underserved areas obtain coverage at reasonable rates. PIO's portion of the effort included production of consumer columns, news releases and TV public service announcements distributed to media in the underserved areas.
- Taking on the new responsibility of handling public information needs for the State Fire Marshal's Office, including producing a quarterly newsletter.
- Working with Regulation and Safety and Consumer Protection to publicize a new insurance discount for homeowners who install hail-resistant roofing materials. These efforts included a consumer column, news releases and a web page with details on contacting manufacturers of the special roofing materials.
- Working with Consumer Protection and Information Services, as well as the Webmaster, Gatekeepers and others in each program, to (1) create a more compact and efficient Internet Web site design for the agency; (2) make agency complaint data available via the Internet for the first time; work with Regulation and Safety and Consumer Protection to design a special Web page providing information for physicians and providers; and (4) revamp TDI's HurricaneLink Web page into a new StormLink page that includes information about other severe weather, including tornadoes and floods.
- Working with Information Services, Government Relations and Publications to design and implement Internet Web sites for the Texas Healthy Kids Corporation and the Texas Health Insurance Risk Pool.
- Working with Consumer Protection to update several of the agency's major publications: Questions About Your Health Care Coverage, Automobile Insurance Made Easy, Shopping Smart, Insurance Fraud: Buyer Beware and Storm Warnings.

Figure I - 1

Summary of Activity — Commissioner's Office

	FY97	FY98
Commissioner Hearings/Meetings	59	80
Commissioner's Orders*	1,405	1,457

\* Commissioner's Orders in FY98 included 300 disciplinary orders, 79 rules/manual orders, 783 company activities orders, 89 authority orders temporary acting commissioner / 7 delegation orders for routine actions and 199 other types of orders.

Figure I - 2

Commissioner's Hearings By Type — FY97-FY98		
	<b>FY97</b>	<b>FY98</b>
<b>Total Hearings</b>		
<b>Conducted for Commissioner*</b>	<b>137</b>	<b>74</b>
Benchmark Rate Hearings	4	3
Disciplinary	102	46
License Applications	11	5
Appeals/Other^	14	20

*\*Total number of actual hearings conducted for the Commissioner by the State Office of Administrative Hearings (SOAH). The count excludes prehearing conferences.*

*^ "Appeals/Other" includes appeals of emergency cease-and-desist orders and of actions taken by the Texas Workers' Compensation Insurance Fund, now known as the Facility Insurance Corporation, the Texas Catastrophe Property Insurance Association ("Catpool"), now known as the Texas Windstorm Insurance Association ("Windpool"), and the Texas Medical Liability Insurance Underwriting Association (Joint Underwriting Association).*

Figure I - 3

Summary of Activity — Internal Audit		
	<b>FY97</b>	<b>FY98</b>
Projects Completed	25	17
Reports Issued	24	15

Figure I - 4

Summary of Activity — Public Information Office		
	<b>FY97</b>	<b>FY98</b>
Press Releases*	117	117
News Tips	52	51
NEWSLine Audio Releases	50	28
Speeches/Testimony	21	27
Graphic Design Orders Filled**	491	381
General Information Requests	4,974	5,092
Electronic Bulletins	624	652
Electronic Managers' Memos	0	0

*\*Press releases do not include the 24 Consumer Columns issued each year by the Commissioner of Insurance (12 English and 12 Spanish). Also not included in the summary are 12 issues of Texas Insurance News, a regulatory newsletter aimed at agents and others interested in the insurance industry, and 12 issues of the Bulletin Board, the TDI employee newsletter.*

*\*\* FY97 number of orders filled was recorded while Publications was in Administrative Services; most of FY98 number of orders filled also recorded while Publications was in Administrative Services.*

# Legal and Compliance

Legal and Compliance enforces the *Texas Insurance Code*, investigates and takes action against company and agent misconduct, drafts rules and regulations and provides legal advice and support to the agency.

Legal and Compliance consists of six sections:

Agency Counsel provides legal advice to the Commissioner and agency staff regarding internal agency operations, including contract matters, personnel matters and open records requests. The section staff also negotiates contracts, drafts proposed policies and rules and assists in drafting legislation.

Regulation and Safety drafts rules and regulations and provides legal advice and expertise in matters relating to property and casualty lines; life, accident and health insurance; managed care plans; workers' compensation; and other regulated lines of insurance. Regulation and Safety also assists on rate-related issues and agent's licensing matters.

Financial provides legal advice and representation in matters involving financial solvency and conservation, drafts rules, reviews holding company transactions and provides support regarding company licensing matters. Financial also brings enforcement actions against insurers, HMOs and title companies resulting from statutorily mandated examinations.

Enforcement brings administrative actions as warranted against licensed companies and agents for violations of the *Texas Insurance Code* or the *Texas Administrative Code*. It also investigates allegations of illegal activities and prosecutes disciplinary actions that may result in cease-and-desist orders, license denials, revocations, administrative penalties and restitution to harmed consumers. The section refers cases for criminal prosecution and works with the Office of the Attorney General (OAG) on appeals of enforcement actions. It also prosecutes violations that affect marketing and servicing of insurance products or TDI's ability to regulate the industry, recognizing that insurance must be sold and serviced in a fair and competitive market, free from deceptive practices and unlawful competition.

International Regulatory Counsel deals exclusively with international insurance regulatory issues. With passage of the North American Free Trade Agreement, the counsel's office was created to help reduce licensing barriers for insurers outside the United States, coordinate enforcement of insurance laws and anti-fraud measures, resolve legal disputes and create opportunities for joint business ventures.

Compliance Intake Unit provides support for the rest of the Legal Division, the Fraud Unit and the department as a whole, handling public assistance calls and analyzing reports and complaints for referral to the Insurance Fraud Unit or Enforcement. Such referrals generally are made within 48 hours of receipt.

Legal and Compliance also oversees the agency's Library.

## Highlights

Major accomplishments by Legal and Compliance for Fiscal Year 1998 included:

- Providing \$13,485,247 in restitution to consumers and obtaining payment of \$2,138,450 in administrative penalties, fines and forfeitures. The restitution and penalties included: (1) an order requiring Geico to refund \$9.6 million in automobile insurance premium overcharges paid by 35,000 Texas consumers; (2) an order requiring Harris Methodist Texas HealthPlan, Inc. to pay \$3,400,000 in restitution to physicians who received financial penalties or failed to receive certain

bonuses based upon their financial performance (Harris also was assessed a \$100,000 administrative penalty); and (3) an order requiring Montgomery Wards to pay \$350,000 in restitution to 2,437 Texas consumers and attorneys fees of \$150,000 plus an injunction regarding in-store and telemarketing sales of various lines of credit insurance.

- Drafting new rules (Subchapter NN, §§ 3.14001-3.14008) providing for the valuation of life insurance policies.
- Drafting new HMO rules to implement Senate Bill 385, which statutorily transferred the authority to regulate HMO quality of care from the Texas Department of Health to TDI.
- Drafting new rules to implement statutory changes enacted by the 75<sup>th</sup> Legislature and the Health Insurance Portability and Accountability Act of 1996 (HIPAA).
- Drafting a new minimum standards rule to implement House Bill 710, which adopted various federal requirements contained in the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and in federal rules relating to availability of individual accident and health insurance.
- Performing regulatory legal work necessary to represent TDI at the State Office of Administrative Hearings (SOAH) in connection with the Millers Mutual Fire Insurance Company plan to demutualize pursuant to recently enacted legislation.
- Providing legal services in connection with the Financial Program's analysis of insurers' Y2K readiness.
- Providing assistance to the Advisory Committee for the Interim Study of Agents and Agents' License Statutes, which was appointed by the Commissioner in accordance with Senate Bill 206.
- Providing assistance with implementation of the automobile liability insurance Market Assistance Program (MAP) which assists good drivers who have become insured by "non-standard" insurers or through the state's assigned risk plan to obtain coverage at rates that match their good driving records.
- Providing legal advice and assistance in connection with a Commissioner's Order requiring the Texas Workers Compensation Insurance Fund to pay an administrative penalty in the amount of \$175,000, plus restitution to its policyholders for its failure to timely file correctly completed unit statistical cards.
- Preparing rules to implement title insurance regulation relating to the home equity amendment to the Texas Constitution.
- Providing assistance in the start-up of three new statutory entities: the Texas Healthy Kids Corporation; the Texas Health Insurance Risk Pool; and the Rural Community Health System of Texas.
- Performing legal work in connection with the procurement of a computerized Optical Storage and Retrieval System for use by the agency.
- Drafting and providing legal support in connection with a rule regulating the sale of credit property insurance.
- Successfully arguing to the Office of the Attorney General that certain HMO complaint information should be considered public information under the Texas Public Information Act.
- Providing legal assistance and preparing amendments to the tort reform rate reduction rules to establish new rate reduction percentages for liability policies issued in 1998.
- Providing legal advice and assistance in connection with making TDI complaint information available through TDI's web page on the Internet.
- Preparing and presenting a white paper to the National Association of Insurance Commissioners titled "A Seamless Transaction for Insurers of Motor Carriers Transporting Goods Between Canada, the U.S. and Mexico."

Figure I - 5

Summary of Activity - Legal and Compliance

	<b>FY94</b>	<b>FY95</b>	<b>FY96</b>	<b>FY97</b>	<b>FY98</b>
Cases received	2,287	2,425	2,535	1,541	1,160
Cases closed	5,639	2,975	2,530	1,654	1,320
License revocations	60	95	108	76	62
License denials	22	14	51	41	57
License suspensions/ suspensions of writing *	14	4	6	11	5
Cease and desist orders	14	26	4	4	3
Monetary forfeitures/ restitution orders	250	74	71	54	128
Assurances of voluntary compliance	0	0	44	50	32
Forfeitures/assessments/ restitution	\$6,173,865	\$19,324,154	\$2,179,383	\$78,270,762	\$15,623,697
Cases referred to attorney general/district attorneys**	117	134	0	1	0

\* This includes actions against financially hazardous companies under Article 1.32, Texas Insurance Code.

\*\* The Fraud Unit now handles the majority of referrals to the Attorney General and to district attorneys. The Fraud Unit became a separate program with its own associate commissioner in FY96.



# Insurance Fraud Unit

The Insurance Fraud Unit prepares cases for criminal prosecution based on evidence of fraud committed by persons engaged in the insurance business, whether licensed or unauthorized, and claim fraud committed by policyholders, service providers and others.

The Unit also refers cases for civil litigation or administrative disciplinary action as required. It secures cease-and-desist orders against unauthorized insurers and may refer cases to the Attorney General for injunctive relief.

The Unit consists of four sections.

Unit Management includes the Associate Commissioner, Chief Investigator and Special Projects Officer. By statute, the Chief Investigator supervises and directs all peace officers and coordinates and oversees all investigations conducted by the Fraud Unit.

Insurer Fraud combines the functions of the former Licensed Entities and Unauthorized Insurance sections. It investigates (1) fraud cases involving companies, agents and other TDI licensees, including third party administrators, continuing care retirement communities and eligible surplus lines insurers and (2) fraud cases involving unlicensed insurance operations. Among these are entities falsely claiming exemption from regulation under the Employee Retirement and Security Income Act (ERISA), including unlicensed Multiple Employer Welfare Associations (MEWAs).

Claimant and Provider Fraud combines the functions of the former Property and Casualty and Health Care sections. It investigates (1) staged accident rings, arson and fake burglary claims, staged slip-and-fall cases and other suspicious liability insurance claims and (2) examines reports of fraudulent billing by health care providers, as well as reports of unlicensed providers and fraud rings involving health insurance claimants, providers and attorneys. Fraudulent billing may include instances of overbilling, double-billing, billing for procedures not performed and “unbundling” of charges to artificially inflate billings.

Attorney section provides both civil and criminal legal resources for the unit’s investigations, including drafting search warrants and enforcement orders, coordination with district attorneys and assistance with prosecution of cases.

## Fraud Unit History

Concern over insurance fraud and the Department’s ability to detect it resulted in legislation passed in 1989 giving the Travis County District Attorney statewide jurisdiction to prosecute insurance fraud.

Improvement in fraud-fighting efforts continued when the 72nd Legislature created the Insurance Fraud Unit in 1991. The Fraud Unit became active in January 1992.

The 74th Legislature in 1995 made significant changes in TDI’s fraud enforcement authority. Legislation authorized the Commissioner of Insurance to commission eligible fraud investigators as peace officers, removed the requirement that a pattern of fraud be established before TDI could investigate alleged consumer and provider fraud cases and defined insurance claim fraud in greater detail and provided criminal penalties, ranging from a Class C misdemeanor to a first degree felony, for insurance claim fraud.

TDI's Fraud Unit has doubled in size since FY95 with the addition of investigators and attorneys. The Texas Commission on Law Enforcement Officer Standards and Education recognized the unit as a law enforcement agency, effective September 1, 1995. Law enforcement agency status, with commissioned peace officers, enhances TDI's anti-fraud efforts by giving the agency: (1) access to criminal intelligence, including national and regional crime databases, that only peace officers may legally receive; (2) authority to make arrests and execute search warrants and (3) authority to take cases to grand juries and request and serve grand jury subpoenas.

On a national level, the unit works with the Coalition Against Insurance Fraud, the National Insurance Crime Bureau, the National Association of Insurance Commissioners (NAIC) and federal law enforcement agencies such as the FBI, IRS, U.S. Postal Service and U.S. Attorneys.

## Highlights

Major accomplishments by the Insurance Fraud Unit for Fiscal Year 1998 included:

- Obtaining 79 indictments on 52 individual subjects on charges that included theft, conspiracy, insurance fraud, misapplication of fiduciary property, securing execution of a document by deception and unauthorized insurance activity.
- Arresting, either directly or with other law enforcement officers, five suspects indicted on charges involving alleged insurance fraud.
- Obtaining 54 convictions, through various Texas district attorneys, on charges resulting from Fraud Unit investigations.
- Obtaining 10 indictments against two agents in a major case involving theft of \$471,000 in premium from eight elderly individuals in the Wichita Falls area.
- Working with the U.S. Secret Service and Dallas Police Department on a multi-agency operation involving a Dallas/Fort Worth-area property damage ring responsible for more than \$2 million in fraudulent automobile property damage claims.
- Obtaining a permanent injunction with the assistance of the Attorney General's Office against an unauthorized automobile insurer early in its operation and making full refunds totaling over \$56,000 to every consumer in less than 10 months.
- Establishing or improving working relationships with District Attorney's Offices throughout Texas by joint investigation or prosecution of cases.
- Improving cooperation and coordination of statewide anti-fraud efforts by taking a joint leadership role with the Health and Human Services Commission in implementing a legislative initiative to develop a plan for sharing of information related to actions against fraud between the Texas Department of Insurance, Health and Human Services Commission, Texas Workers' Compensation Commission and health-profession licensing agencies.

Figure I - 6

Summary of Activity - Insurance Fraud Unit

	<b>FY97</b>	<b>FY98</b>
Cases Received	1,221	1,619
Cases Closed	584	456
Cease and Desist Orders	9	9
Other Enforcement Orders	17	6
Assurances of Voluntary Compliance	5	11
Monetary Forfeiture/Restitution Orders	10	36
Forfeitures/Assessments/Restitution <sup>+</sup>	\$14,303,069	\$1,649,498
Cases Referred to Attorney General/District Attorneys*	165	88
Indictments**	69	79
Arrests By Fraud Unit Peace Officers <sup>^</sup>	14	5
Convictions	38	54

*+ \$13 million of FY97's more than \$14million in forfeitures/assessments/restitution was the result of consent orders against rental car firms that used unlicensed agents to sell supplemental liability coverage.*

*\*This figure for FY98 constitutes a total of 88 referrals on 141 individuals.*

*\*\*This figure for FY98 constitutes a total of 79 indictments returned on 52 individual subjects.*

*<sup>^</sup>This figure represents only arrests executed directly by Fraud Unit Peace Officers or in which Fraud Unit Peace Officers participated.*

Figure I - 7

Judgments Assessed Against Unauthorized Insurance Operations - FY95-FY98

<b>Judgment</b>	<b>FY95</b>	<b>FY96</b>	<b>FY97</b>	<b>FY98</b>
Civil Penalties	\$16,026,000	\$8,182,000	\$726,200	\$25,500
Premium Tax Liabilities	\$1,450,678	\$10,692	\$126,735	\$8,417
Miscellaneous Liabilities	\$749,146	\$216,810	\$5,000	\$19,157
Direct Restitution to Consumers*	\$1,100,000	\$166,747	\$13,025,000	\$79,871

*\* FY97's \$13 million in direct restitution was the result of consent orders against rental car firms that used unlicensed agents to sell supplemental liability coverage.*

# Financial

Financial licenses all companies operating in Texas and monitors the solvency and market conduct of 2,119 licensed insurance companies and health maintenance organizations (HMOs). In addition, the program seeks to rehabilitate companies that fall short of solvency standards and eventually liquidates the few that cannot be rehabilitated.

The total of all insurers, HMOs, third party administrators and continuing care retirement communities (CCRCs) holding certificates of authority from the Texas Department of Insurance is 2,726. Annual statements filed by insurers and HMOs for Calendar Year 1997 reported \$46.4 billion in Texas premiums and \$35.0 billion in claim payments to Texas policyholders. These companies reported aggregate assets of \$3.5 trillion, liabilities of \$3.0 trillion and capital and surplus of \$479.1 billion. More information from insurance company annual statements may be found in Part IV of this report.

Financial Program consists of five activities.

Insurer Services licenses both foreign and domestic insurance companies, maintains company charter files and processes and approves certain transactions for admitted insurance companies. Insurer Services also processes licensing applications for health maintenance organizations. It registers eligible non-admitted insurers and risk retention/purchasing groups, oversees statutory deposits of licensed companies and corporate agencies and maintains the agency database of both licensed and registered companies. The activity tracks purchasing alliances formed under the Small Employer Health Insurance Availability Act.

Financial Monitoring reviews annual and interim financial statements, CPA audits, examination reports, reinsurance arrangements and other documents to determine the financial condition of insurance companies, health maintenance organizations (HMOs) and other licensed insurance entities and to initiate recommendations for regulatory actions as appropriate, such as supervision and conservation. It reviews changes of control, mergers, affiliate agreements and investments and holding company registration statements of insurance companies domiciled, or commercially domiciled, in Texas. In addition, Financial Monitoring reviews all applications for admission, service area expansions, and agreements/contracts of HMOs and monitors the operational and financial condition trends of the HMO industry in Texas.

Actuarial Division performs actuarial examinations that focus on the adequacy of reserves and other actuarial items for both life insurance companies and property and casualty insurance companies. These actuarial examinations are coordinated with the examinations performed by the Examinations activity. Actuarial also performs actuarial analyses and actuarial projects that relate to solvency, availability of coverage, policy values, disclosure and consumer equity.

Examinations performs statutory examinations of a variety of entities regulated by the Department, including insurers, health maintenance organizations (HMOs), premium finance companies, managing general agents (MGAs), reinsurance intermediaries and multiple employer welfare arrangements (MEWAs). These examinations evaluate a company's financial condition, compliance with performance standards required by law, including treatment of policyholders, and the quality of medical care provided by HMOs. Examinations occur on-site at company locations throughout the United States and may last from a few days to several months. The activity suggests ways to correct deficiencies uncovered by the examinations and initiates referrals for further regulatory action. In addition, the activity processes annual operations reports required of premium finance companies. To hold down travel expenses and provide adequate oversight of the examination process, regional offices are maintained in Dallas, Houston and San Antonio.

Conservation and Liquidation Oversight provide supervision and conservatorship services and receivership oversight. If a company cannot be rehabilitated, it is placed in receivership by the District Court in Travis County. Receivership involves liquidation of the insurer by a special deputy receiver (SDR) and payment of outstanding covered claims by the appropriate guaranty association.

Rehabilitation tools include informal actions, such as management conferences, as well as progressively more formalized tools, including required filings of business plans with TDI analysts assigned to a financially troubled company. The more formal actions are administered by the Conservation Division and may include placing a financially troubled entity into supervision or conservation. Formal actions also include issuing hazardous financial condition orders that provide for the company to plan and implement specific corrective actions.

Supervision may last up to 180 days. Conservation field examiners use that time to work with owners and management to determine the company's financial condition, check internal management controls and operating procedures and prepare a rehabilitation plan. Conservation releases the company if it can show that the requirements of the Commissioner's supervision order have been satisfied.

Conservatorship requires that a conservator be appointed to take charge of the company. It lasts for 90 days, with possible 30-day extensions for up to six months.

If supervision or conservatorship fails, the Commissioner may ask the Attorney General to petition the District Court in Travis County to place the company in receivership, which involves liquidation of the insurer by a special deputy receiver and payment of outstanding covered claims by the appropriate guaranty association. Such petitions may be requested if the company's financial condition has deteriorated, rehabilitation is not possible and the company is insolvent and/or impaired.

Liquidation Oversight (Oversight) monitors and evaluates each SDRs' performance in handling receivership cases by analyzing business plans, including financial statements, cost benefit analyses, budgets, estimated general administrative expenses and planned activities, as required by the *Texas Insurance Code*. Oversight also monitors the state's guaranty associations to ensure the appropriate and fair processing of receivership related claims and complaints, as well as maintains the records of delinquent insurers during and after receivership.

Conservator's Report at the beginning of Fiscal Year 1998 showed Conservation had 37 insurance companies under supervision, conservatorship or special administrative and court-directed actions. Another 31 came to Conservation during the fiscal year, while 33 were closed, leaving a year-end balance of 35 companies.

Liquidation Oversight's Receivership Report showed four insurers; one property and casualty, two life, accident and health company and one fraternal — were placed in receivership in Fiscal Year 1998. Two closed receiverships were re-opened. Three insurers — two property and casualty and one life, accident and health company — were placed in receivership in Fiscal Year 1997. One property and casualty company was placed into receivership in each of the Fiscal Years 1995 and 1996. No health maintenance organizations (HMOs) were placed in receivership during FY 98.

In FY 98, the Commissioner issued orders declaring five foreign companies — one property and casualty company and four life, accident and health companies — to be impaired. The agency evaluates on a case-by-case basis whether to seek district court orders allowing seizure and liquidation of company assets or holdings located in Texas. The majority of receivership actions against foreign companies are left to the states where the companies are domiciled.

The Texas Property and Casualty Insurance Guaranty Association made no assessments in FY 98 and made no refunds to member insurers. The Texas Life, Accident, Health and Hospital Service Guaranty Association made \$23,954,748 in assessments in Fiscal Year 1998 and refunded \$15,952,505 to member insurers. The Title Insurance Guaranty Association made no assessments in FY 98.

No unauthorized entities were placed into receivership in FY 98. Such actions are now generally handled through cease-and-desist orders or actions by the Texas Attorney General.

During FY 98, six receivership estates were liquidated and closed. That left thirty two active receiverships in the process of liquidation — twenty four property and casualty companies, six life, accident and health companies one title company and one fraternal company. Liquidation Oversight anticipates closing twenty four of the thirty two receiverships in FY 99.

Three key components in overseeing receiverships are:

**Special Deputy Receivers (SDRs)** — When insolvent insurers are placed in receivership by the District Court in Travis County, Texas the Commissioner is designated as Receiver. As Receiver, the Commissioner contracts with a SDR to administer the receivership. The Insurance Code mandates that the SDR is selected through a competitive bid process.

**Guaranty Associations** — Some claims against an insolvent insurer are payable by one of three guaranty associations: Texas Property and Casualty Insurance Guaranty Association; the Life, Accident, Health and Hospital Service Guaranty Association; and the Texas Title Insurance Guaranty Association. Funds utilized by the guaranty associations to pay claims are derived from two sources: distributions from receiverships and assessments of member insurers.

**Receivership Court (The Special Master)** — The District Court in Travis County, Texas is designated by statute as the Receivership Court. It is this Court where receivership actions are brought by the Texas Attorney General, as well as the court where suits by and against the Receiver are brought. The Court also has exclusive venue over suits against guaranty associations. In addition, the Insurance Code provides that the Receivership Court provide judicial supervision for each receivership. The Receivership Court has appointed a special master to assist it in this role. The appointment of the Special Master to supervise receivership court proceedings provides a resource for collective expertise in the complex area receivership law. Receivership assets fund receivership court costs.

Part III, the Receiver's and Conservator's Report, provides more complete information on the individual receiverships and guaranty association accounts.

## Highlights

Major accomplishments by the Financial Program for Fiscal Year 1998 included:

- Conducting a Year 2000 special examination of more than 3,000 entities. The Commissioner has identified the Year 2000 problem as the most critical issue facing TDI.
- Creating a business plan to guide the Program through Fiscal Year 1999.
- Successfully integrating HMO quality of care triennial examinations into the existing processes.
- Conducting several examinations of carriers suspected of engaging in red-lining.
- Concluding several multi-billion dollar acquisitions or restructuring filings under the Texas Holding Company Act and other statutes.
- Reviewing approximately 475 license applications, service area expansions, service agreements and other HMO filings.
- Improving a professional training program that resulted in more than 7,089 hours of continuing professional education for Financial Program staff.
- Recovering through special deputy receivers \$24,357,017 in receivership assets, while keeping administration costs to only 25 percent of asset recovery. In addition, receiverships distributed \$82,462,054 in cash to the property and casualty guaranty association, which increased the funds available to pay claims of insolvent insurance companies and decreased the assessment of member insurers.
- Developing a Web page for American Eagle Insurance Company in Receivership (AEIC) and publishing AEIC's proof of claim (POC) packet on the Internet, giving the public greater access to receivership information.

- Initiating several regulatory interventions (mainly supervision and conservatorship) in cases involving potentially troubled insurers and other entities.
- Implementing a new allocation system to allocate Receiver's expenses to open receiverships more equitably and cost-effectively
- Inspecting the largest surplus lines carrier in the world, Lloyd's of London and presenting a report on the findings to the National Association of Insurance Commissioners in August 1998. This special review by state regulators, the NAIC and TDI staff was led by Jose Montemayor, Associate Commissioner of the Financial Program.
- Working to adopt a complex regulation calling for life products to provide for adequate reserves and updated mortality.
- Providing extensive support for the start-up of the Texas Health Insurance Risk Pool.
- Receiving a full five-year accreditation from the NAIC following a successful review by the NAIC on-site review team.
- Reviewing the first-ever demutualization of a Texas property/casualty company.
- Reducing the number of forms to be filed as hardcopy by insurance companies, while allowing greater reliance on electronic filings.
- Approving numerous filings related to HMOs, including applications for licensure. From December 31, 1993, to year-end 1997, the number of HMOs in Texas increased from 32 to 70, and HMO basic plan enrollees increased from 1.6 million to 3.2 million.

Figure I - 8

Insurance Companies in Supervision/Conservatorship		
	<b>FY97</b>	<b>FY98</b>
<b>Balance of Companies</b>		
Beginning of Fiscal Year	41	37
Referred During Fiscal Year	23	16
<b>Total</b>	<b>64</b>	<b>53</b>

Figure I - 9

Insurers Under Court-Directed/Special Administrative Action		
	<b>FY97</b>	<b>FY98</b>
Under Court-Directed Action	0	0
Under Special Administrative Action	13	7
Under Hazardous Financial Condition Action (Article 1.32)	0	8
<b>Total</b>	<b>13</b>	<b>15</b>

Figure I - 10

Disposition of Companies Under Rehabilitation		
	<b>FY97</b>	<b>FY98</b>
Total (Figure I-8 & Figure I-9)	77	68
Cases Closed		
Rehabilitated	15	9
In Receivership	4	5
Dissolved	7	3
Other Changes*	14	16
<b>Total Cases Closed</b>	<b>40</b>	<b>33</b>
<b>Balance at End of Fiscal Year</b>	<b>37</b>	<b>35</b>

*\*FY98: Other changes included: 5 entities moved from supervision to conservatorship; 4 entities moved from supervision to Article 1.32; 3 entities moved from conservatorship to administrative oversight; and 4 entities moved from administrative oversight to supervision.*

Figure I - 11

Texas Guaranty Association Assessments - 1975-1998

Year	Life/A&H	P&C	Title	Total
1998+	<b>\$23,954,748</b>	<b>\$0</b>	<b>\$0</b>	<b>\$23,954,748</b>
1997	\$51,186,830	\$0	\$0	\$51,186,830
1996	68,882,786	(127,000,000)	0	(58,117,214)
1995	83,026,366	0	0	83,026,366
1994	22,101,673	194,938,801	0	217,040,474
1993*	66,238,272	119,261,000	0	185,499,272
1992*	63,257,000	112,328,000	0	175,585,000
1991	24,970,000	122,602,000	6,215,000	153,787,000
1990	112,476,000	61,019,000	5,560,000	179,055,000
1989	16,359,000	41,231,000		57,590,000
1988				-0-
1987	33,500,000	41,680,000		75,180,000
1986	5,000,000	20,000,000		25,000,000
1985	8,000,000	20,000,000		28,000,000
1984	4,000,000			4,000,000
1983				-0-
1982	10,000,000			10,000,000
1981	3,000,000			3,000,000
1980				-0-
1979	1,840,000			1,840,000
1978	1,200,000			1,200,000
1977				-0-
1976		4,120,000		4,120,000
1975	600,000	3,305,000		3,905,000

+Life/A&H made \$23.9 million in assessments in 1998; however, it refunded \$15.9 million to its member insurers.

\*1992 and 1993 guaranty assessments involve carryover assessments from the 1991 liquidation of Executive Life Insurance Co. and the 1991 liquidation of Texas Employers Insurance Association.

Figure I - 12

Assessments for Life, Accident & Health  
Guaranty Fund - FY75-FY98

Year	Assessment
1975	\$600,000
1976	\$0
1977	\$0
1978	\$1.20 million
1979	\$1.84 million
1980	-\$0-
1981	\$3.00million
1982	\$10.00 million
1983	-\$0-
1984	\$4.00 million
1985	\$8.00 million
1986	\$5.00 million
1987	\$33.50 million
1988	-\$0-
1989	\$16.36 million
1990	\$112.48 million
1991	\$24.97 million
*1992	\$63.26 million
*1993	\$66.24 million
1994	\$22.10 million
1995	\$83.00 million
1996	\$68.88 million
1997	\$51.10 million
1998	\$23.90 million

\*Due to carryover from assessments in prior years.



Figure I - 13

Assessments for Property and Casualty  
Guaranty Fund - FY75-FY98

Year	Assessment
1975	\$3.31 million
1976	\$4.12 million
1977	\$0
1978	\$0
1979	\$0
1980	\$0
1981	\$0
1982	\$0
1983	\$0
1984	\$0
1985	\$20.00 million
1986	\$20.00 million
1987	\$41.68 million
1988	\$0
1989	\$41.23 million
1990	\$61.02 million
1991	\$122.60 million
*1992	\$112.33 million
*1993	\$119.26 million
1994	\$194.94 million
1995	\$0
1996	\$0
1997	\$0
1998	\$0

*\*Due to carryover from assessments in prior years.*

Figure I - 14

Summary of Activity — Holding Company

	FY97	FY98
Applications for Affiliate Transactions and Acquisition of Control or Exemptions Received	785	681
Pending Applications Closed	770	691

Figure I - 15

Summary of Closed Applications — Holding Company

	Closed at End of FY97	Closed at End of FY98
Reinsurance Arrangements	* 138	106
Management, Data Processing Service, Cost Sharing Arrangements	200	173
Pledge of Assets and Pooling of Assets	2	6
Investment in, Valuation of, Affiliates	9	17
Purchase of Securities, Real Estate, Treasury Stock	41	33
Affiliate Loans and Mortgage Loan Participation	16	6
Lease Arrangements	26	14
Issuance of Surplus Debentures/Notes	38	24
Payments On Money Advanced	17	16
Dividends and Other Distributions to Shareholders	162	155
Consolidated Tax Returns	* 24	32
Financing Arrangements	9	6
Exemption from Commercially Domiciled	8	9
Acquisitions of Control	31	37
Exemptions from Acquisition of Control	* 43	51
MGA Agreements	4	5
Informational Filing by HC Exempt Insurers	2	0

Disclosure of Material Transactions	0	1
<b>Total</b>	<b>770</b>	<b>691</b>

*\* The total number for 1997 was correct; however, the detail contained typos.*

Figure I - 16

Amount Paid for Control of Domestic Insurance Companies, FY94-FY98

Year	Amount Paid
1994	\$356,875,872
*1995	\$2,550,643,350
**1996	\$6,319,751,750
^1997	\$7,130,712,854
+1998	\$51,194,884,952

*\* The figure for FY95 includes one acquisition with a total purchase price of \$1.1 billion. It also includes a portion of the purchase price associated with the recapitalization of an insurance group.*

*\*\* The figure for FY96 includes one acquisition with a total purchase price of approximately \$4.0 billion and another for approximately \$1.75 billion. This figure does not include the value attributable to several restructurings or mergers involving the issuance of stock.*

*^The figure for FY97 includes one acquisition with a purchase price of \$3 billion and another for \$2.62 billion.*

*+The figure for FY98 includes three acquisitions with purchase prices of \$42.6 billion, \$3.124 billion and \$2.3 billion.*

Figure I - 17

Texas Policyholder Premiums, Claim Payments — CY93-CY97

Year	Premiums	Claim Payments	Payments as % of Premium
CY 1993	\$37.3 billion	\$27.2 billion	72.9%
CY 1994	\$39.7 billion	\$29.0 billion	73.1%
CY 1995	\$42.1 billion	\$33.0 billion	78.4%
CY 1996	\$43.9 billion	\$33.2 billion	76.0%
CY 1997	\$46.4 billion	\$35.0 billion	75.4%

Figure I - 18

Total Capital/Surplus of Insurance Companies Operating in Texas — CY93-CY97

Year	Total Capital/Surplus
CY 1993	\$293.9 billion
CY 1994	\$308.6 billion
CY 1995	\$356.3 billion
CY 1996	\$401.4 billion
CY 1997	\$479.1 billion

Figure I - 19

Number of Examinations — FY94-FY98

Year	Number of Examinations
FY 1994*	213
FY 1995	160
FY 1996	163
FY 1997**	157
FY 1998^	221

*\* Corrects numbers found in 1994 Annual Report.*

*\*\*Includes 21 examinations conducted by third party contractors during FY 97.*

*^Includes 34 contracted examinations and 7 examinations of LRAs.*

Figure I - 20

Number of Quality of Care Examinations — FY97-FY98

<b>Year</b>	<b>Number of Exams</b>
FY 1997*	20
FY 1998*	13

\* New function in FY 97. FY 97 exams produced by third party contractors. In FY 98 staff was retained and procedures developed to perform the function in-house, although this process required over 6 months of FY 98 to implement.

Figure I - 21

Number of Actuarial Opinions Reviewed — FY94-FY98

<b>Year</b>	<b>Number Reviewed</b>
1994	2,012
1995	1,844
1996	2,012
1997	1,937
1998	2,023

Figure I - 22

Number of Actuarial Examinations Performed — FY94-FY98

<b>Year</b>	<b>Number of Exams</b>
1994	93
1995	89
1996	97
1997*	83
1998*	82

\*Does not include examinations conducted by third party contractors.

Figure I - 23

Number of Reserve Valuation Reports Reviewed — FY94-FY98

<b>Year</b>	<b>Reports Reviewed</b>
1994	151
1995	139
1996	*79
1997	*81
1998	*44

\*Reports being reviewed are now limited primarily to life companies under examination and life companies requesting certificates of valuation. For 12/31/97, this function has been eliminated. In the future, these reports will be reviewed as part of the regular triennial examination.

Figure I - 24

Actuarial Projects Completed — FY94-FY98

<b>Year</b>	<b>Projects Completed</b>
1994	286
1995	286
1996	255
1997	281
1998	267

Note: Actuarial Projects are shown as completed when one or more hours are spent on written responses. They also include reports, meetings or other long-term efforts. Long-term efforts spanning several months are counted as a project for each month in which such efforts continue.

Figure I - 25

Number of Reinsurance Arrangements Reviewed — FY94-FY98

<b>Year</b>	<b>Arrangements Reviewed</b>
1994	232
1995	*168
1996	*169
1997	209
1998	200

*\* The number of reinsurance reviews has decreased due to merger of the Financial Analysis, Holding Company and Reinsurance activities in FY94. Prior to the merger, some overlapping of responsibilities led to duplication of reviews.*

Figure I - 26

Continuing Care Retirement Communities (CCRCs) Filings

	<b>FY97</b>	<b>FY98</b>
Applications Reviewed	0	0
Licenses Issued	0	0
Disclosure Statements Filed	19	17

Figure I - 27

Number of Company Licenses Under Commissioner's Jurisdiction

<b>License Type</b>	<b>FY94</b>	<b>FY95</b>	<b>FY96</b>	<b>FY97</b>	<b>FY98</b>
Insurance Companies	2,130	2,108	2,074	2,053	2,027
Health Maintenance Organizations	33	36	62	70	73
Premium Finance Companies	309	304	308	300	290
Continuing Care Retirement Communities	18	18	19	19	19
Third Party Administrators	445	467	513	552	607
<b>Total</b>	<b>2,935</b>	<b>2,933</b>	<b>2,976</b>	<b>2,994</b>	<b>3,016</b>

# Regulation and Safety

**R**egulation and Safety oversees the licensing of insurance agents and utilization review agents; monitors a wide range of insurance lines from auto to prepaid legal; and explores ways of cutting insurance costs by reducing losses.

Primary responsibilities include:

- Regulating policy forms for life, accident and health, credit life and disability, health maintenance organizations, prepaid legal, viatical settlements, and various property and casualty lines, including title, commercial auto, commercial property, general liability, bond, personal auto, homeowners, professional liability and workers' compensation.
- Reviewing rate filings for credit, Medicare supplement, long-term care, HMO and accident and health insurance.
- Licensing of agents, third party administrators, premium finance companies, independent review organizations and utilization review agents.
- Residential Market Assistance Program (MAP) and the Automobile Market Assistance Program (AUTO-MAP) providing safety services to industry, consumers and other government agencies.

Regulation and Safety consists of a General Management section and nine divisions:

General Management, led by a senior associate commissioner, provides management and operational direction for all the activities. Each activity operates independently while sharing information and expertise as needed.

Commercial Property/Casualty Division drafts and presents rules affecting commercial property and casualty insurance; reviews individual insurer filings of forms, endorsements, and rules for all commercial property and casualty insurance (general liability, commercial property, inland marine, crime, bond, glass, professional liability, and other miscellaneous commercial lines); responds to inquiries from insuring agents, consumers and insurers; and resolves complaints. This section will provide the technicians necessary for market conduct review of insurers and will be instrumental in the development of a market conduct program.

Automobile/Homeowners Division drafts and presents rules affecting property, automobile and residential insurance; the Texas Windstorm Insurance Association (TWIA) Plan of Operation; the TWIA manual, forms and endorsements, and general oversight of the TWIA; Residential Market Assistance Program (MAP) and the Automobile Market Assistance Program (AUTO-MAP); approves rules and forms for personal lines; and responds to inquiries and complaints on automobile, homeowners and windstorm insurance. It consists of two groups.

**The Automobile Group** consists of two sections.

Personal Auto Section reviews personal auto form filings; reviews prescribed rules and policy forms; and proposes changes due to changing public need; and provides technical information to consumers, agents, and insurers. This section also administers both the Residential Market Assistance Program (MAP) and the Automobile Market Assistance Program (AUTO-MAP).

Commercial Auto Section reviews commercial auto form filings; reviews prescribed rules, policy forms; proposes changes due to changing public need; and provides technical information to consumers, agents, and insurers.

**Residential Property Group** consists of two sections.

Homeowners Section provides technical assistance to consumers, agents, insurers, and staff members at TDI; reviews residential property form and endorsement filings; and updates and maintains the Texas Personal Lines Manual. Processes and issues premium reduction certificates as per Article 5.33A and 5.33B of the *Texas Insurance Code*, and assists consumers with both telephone and written complaints and inquiries.

Windstorm Section provides technical assistance to consumers, agents, insurers, and staff members; and updates and maintains the TWIA policy forms, endorsements, and TWIA manual.

Inspections Division drafts and presents proposed rules affecting property and casualty insurance and the Texas Windstorm Insurance Association (TWIA) Plan of Operation (Building Codes). Represents the Department on the building code advisory committee required by statute, provides oversight of established fire rates by outside entities, ensures loss control compliance of insurers, renders oversight and approval of establishment of public protection classifications by outside entities and conducts windstorm inspections for compliance with building codes. It consist of four sections.

**Commercial Property Oversight Inspections Section** ensures consumers receive fair and equitable commercial property rates through random statewide spot-check inspections. It works to mitigate fire losses through evaluation of building codes, classification of building materials and construction techniques and commercial property rating schedules; and provides complaint resolution in the case of-inspections, classification or a base fire rate assigned by a private inspection entity. Additionally, this section issues licenses to individuals conducting underwriting inspections for determining insurability of residences. Oversight inspectors inspect and classify residential property for superior fire resistive construction.

**Windstorm Inspections Section**, through 7 field offices and 1 satellite office, inspects and certifies any property constructed, repaired or modified in the 14 counties along the Gulf of Mexico and certain specified areas in Harris County. Inspectors in 7 field offices and one satellite office ensure compliance with the building specifications and standards set forth in the Texas Windstorm Insurance Association (TWIA) Plan of Operation in order for the property to be eligible for coverage written through the TWIA.

**Engineering Services Section** provides support to all sections in the Inspections Division. Staff adopts public and private fire suppression rating schedules; evaluates and approves designs for compliance with TWIA building codes, including wind load designs; reviews and develops TWIA building codes; evaluates building products; assesses commercial and residential automatic sprinkler systems; and reviews calculation and building design plans certified by engineers.

**Loss Control Section** conducts mandatory inspections of insurance companies licensed in Texas and those seeking to be licensed to ensure that loss control and accident prevention services for policyholders of general liability, professional liability, medical professional liability for hospitals and commercial automobile lines of insurance. Reviews and registers loss control and field safety representatives who meet the qualifications of loss control statutes. The staff also administers and

oversees the Amusement Ride Safety Inspection and Insurance Act to monitor compliance of approximately 250 amusement ride operators and 1800 amusement rides. In addition, the Loss Control staff develops and implements the agency's catastrophe response plan to provide maximum assistance to Texas insurance consumers who are victims of a natural or technological disaster, and monitors Y2K issues as they relate to Loss Control.

Filings Intake Division consists of three sections.

**P&C Intake Section** receives all rule, rate and policy form filings for all property and casualty lines, including workers compensation and conducts an initial screening of the filings for compliance with basic filing requirements.

**Life/Health and HMO Section** receives all rate and policy form filings for the Life, Health, Credit, Accident and HMO lines and conducts an initial screening of filings for compliance with basic filing requirements.

**Micrographics Section** microfirms closed rate, rule and form filings for Property and Casualty Lines and field reports for the Windstorm Section.

Title Division regulates policy forms for title insurance and oversees licensing and financial examination of title agents. The Title Division consists of two sections.

**Title Insurance Section** oversees licensing of title agents, direct operations, and escrow officers.

**Title Examinations Section** conducts comprehensive examinations of title agents licensed in Texas.

Workers' Compensation Division regulates insurance companies writing workers' compensation insurance in Texas. This group determines the appropriate workers' compensation classification for employers' businesses, handles inquiries and complaints, oversees the calculation of experience modifiers by insurance companies, administers job safety incentive programs for employers and reviews group purchase plans. It consists of three sections.

**Oversight** oversees calculation of experience modifiers, resolves workers' compensation complaints, and processes general inquiries about workers' compensation.

**Classifications** determines appropriate classification codes for policyholders and processes classification inquiries about workers' compensation.

**Retrospective/Group/Deductibles** reviews group purchase plans and deductible filings and administers loss control incentive programs (retrospective ratings plans) for employers.

Licensing Division oversees the licensing and regulation of insurance agents, adjusters, risk managers, life insurance counselors, reinsurance intermediaries, third party administrators, premium finance companies and vehicle rental companies. It consists of five units.

**Applications Unit** reviews and processes applications for new licenses for agents and adjusters, oversees the agent criminal history review process, registers additional trade names, and trade locations and records sponsors of solicitors and insurance service representatives.

**Customer Service and Data Management Unit** responds to written and in-office inquiries, and responds to phone calls from agents, companies, and the public, including questions about licenses, appointment status, and general inquiries about the licensing process. This unit also produces certificates and other records on license status, cancels licenses when requested by the licensee, records address and name changes for all licensees, processes open record requests, prepares records for microfilm processing, and manages division files. The unit also oversees the self-service modem access program that allows agents and companies to check the status of individual licenses directly from our agent license database.

**Renewals, Appointments and Continuing Education Unit** reviews and processes renewals, records and cancels agent appointments, registers continuing education providers and courses, processes reciprocal agreements and oversees training courses for agents and adjusters.

**Administrative Review Unit** researches and reviews all applications with a criminal history and makes recommendations on issuance or denial of a license and recommends appropriate action on all non-routine agent applications, renewals and cancellations for cause.

**Miscellaneous Lines Unit** licenses, regulates, and examines TPAs, which administer plans under contract with insurance companies, HMOs, and/or self-funded plans (ERISA or non-ERISA). TPAs often handle claims processing and the collection of premiums for life, health, accident, annuities, disability, pension, and other employee benefits. TPAs that administer only single-employer ERISA self-funded plans may apply for an exemption from regulation. In FY 98, 88 new TPAs were licensed and 33 TPAs received exemptions. The unit also licenses independent finance companies, insurance agents, insurance companies, banks, and savings and loans that engage in the business of financing insurance premiums. In FY 98 the Licensing Group issued 24 new premium finance licenses and renewed 280 licenses.

Life/Health Division consists of four sections, the Accident and Health Division, the Life, Annuity and Credit Division, the Actuarial Unit, and Administration staff.

**Accident and Health** reviews and analyzes form filings for Medicare supplement, Medicare select, long-term care, and individual and group accident and health products, including large and small employer groups and non-employer groups; reviews combination life and accident and health products; reviews and analyzes rate filings for accident and health, long-term care, and Medicare supplement policies and small employer plans; and reviews documents for Multiple Employee Welfare Arrangements. Accident and Health consists of three teams: the Employer Team, the Non-Employer Team, and the Senior Products Team.

**Life, Annuities and Credit** reviews and analyzes form filings for life, annuity, credit life, disability insurance policies, and prepaid legal insurance filings; reviews and analyzes rate filings for credit insurance; reviews various filings involving name changes, assumptions, mergers, and viatical settlements; registers viatical settlement companies and brokers and charitable organizations issuing charitable gift annuities; analyzes credit life and disability data; and tracks annual certifications for appointments of actuaries and lists of forms subject to the life illustration rule. Life, Annuity and Credit consists of the Life Team, the Annuity/Prepaid Legal Team, and the Credit/Policy Approval Team.

**Actuarial** reviews, analyzes, and evaluates individual accident and health, credit insurance, and HMO premium rate filings, actuarial memoranda and justifications, and certifications for individual and group life, accident and health insurance policies, and small employer health benefit plans; reviews, analyzes, and evaluates nonforfeiture values/benefits for life insurance and long-term care policies/certificates, and long-term care; reviews Medicare supplement and long-term care actuarial data and loss ratios; acts as a resource at public hearings and committee meetings involving life, health, credit insurance or Medicare supplement insurance; examines and certifies



competitive bidding under the Texas Employees Uniform Benefits Act; communicates with insurance industry representatives and consumers concerning actuarial matters; and acts as a resource for statutory rate making.

**Administration** directs the activities of Life/Health, coordinates legislative analysis and implementation, collects and analyzes health insurance industry data, oversees the development and implementation of the business plan and special projects, and provides automation and administrative support for all of Life/Health.

Health Maintenance Organization/Utilization Review Agent/Independent Review Organization (HMO/URA/IRO) Division regulates health maintenance organizations (HMOs), utilization review agents (URAs), and independent review organizations (IROs). The Division also investigates complaints against these licensed entities and reviews HMO and URA form filings. The HMO/URA Division consists of three sections.

**Compliance Section** reviews and analyzes HMO form filings such as evidences of coverage, provider and administrative services contracts, and other related filings for HMOs writing commercial, Medicare risk, and small employer coverage, to ensure compliance with state and federal statutes and regulation. In addition, staff participates in rule development and industry education.

**Quality Assurance Section** investigates all complaints against HMOs and, where necessary, initiates enforcement actions having to do with the availability, accessibility, and quality of health care provided through HMOs. Most complaints are resolved through negotiations with the HMO. However, when excessive or particularly severe complaints are received, the section conducts on-site examinations to determine whether an HMO is fully complying with quality standards. This section also conducts other quality of care examinations that are required prior to the agency issuing certificates of authority and approving HMO service area expansion requests. Clinical staff also provides consultation to other divisions in rule development and educates consumers about industry issues.

**Program Development and Administration Section** consists of three distinct units.

Utilization Review Unit certifies utilization review agents to conduct business in Texas, registers insurers and HMOs to conduct utilization review, reviews form filings, issues renewals of certifications and registrations (every two years), and works with the utilization review advisory committee to develop rules.

Independent Review Organization (IRO) Unit reviews IRO applications for certificates of authority, reviews form filings required of IROs, and processes IRO requests received from utilization review agents, insurers and HMOs.

Administration Unit rule development and implementation, processes Open Records requests, data compilation and statistical analysis, tracks legislation, and responds to public inquiries.

## Highlights

Major accomplishments by the Regulation and Safety Program during Fiscal Year 1998 included:  
General Management

- Representing each division at various formal and informal public functions.

- Assisting each division with disseminating information, clarifying rules and regulations, and providing interpretations of rules and regulations that pertain to the areas of jurisdiction of the Regulation and Safety Program.
- Coordinating and assisting with the development and implementation of the Regulation and Safety Program's Business Plan.
- Providing technical assistance to Divisions with Business Projects.
- Coordinating and assisting with the reporting requirements of the Regulation and Safety Program's Strategic Plan Performance Measures.
- Providing technical support with the drafting of an Administrative Review Procedures Manual.
- Providing technical assistance, coordinating, and assisting with the Regulation and Safety Program's human resource needs, budgets needs, purchasing needs, and various other reporting requirements.
- Assisting with the development of forms to implement the federal Violent Crime Control & Law Enforcement Act.

#### Commercial Property/Casualty Division

- Implementing applicable provisions of Senate Bill 1499, which eliminates the "equivalent coverage" requirement for property insurance policy forms and endorsements that differ from the standard Texas forms approved prior to 1991.
- Recommending adoption of an amendment to rules relating to Inland Marine Insurance providing for regulation of credit property insurance.

#### Automobile/Homeowners Division

- Monitoring and assisting availability and affordability issues for homeowners and auto insurance through the Residential Market Assistance Program (MAP) and the newly created Automobile Market Assistance Program (AUTO-MAP).
- Providing technical assistance to the Public Information Office, Consumer Protection (Complaint Resolution and Public Education), the public, governmental agencies, insurance agents, and insurance companies.
- Assisting with adoption of several staff recommendations, including:
  - Amendments to the *Texas Automobile Rules and Rating Manual* concerning physical damage rating symbols, rental car companies, installment plans, certified risks, young driver training credit, youth group discount, youthful operator classifications for the Texas Driving Insurance Plan, and elimination of preprinted dates.
  - Amendments to standard provisions for auto policies involving waiver of deductible for glass repair in lieu of glass replacement, rental liability coverage, and mobilowners policy declarations
  - Amendments to the *Texas Administrative Code* requiring notice about repair shops and parts.

#### Inspections Division

- Increasing windstorm resistance standards by adopting a new building code effective September 1, 1998, for the 14 counties along the Gulf Coast and parts of Harris County.
- Assisting in the implementation of the countywide class rating schedules and specific commercial property rating schedules for commercial property.
- Conducting target reviews of individual insurer's loss control measures to address Year 2000 exposures for policyholders.
- Providing numerous public education meetings on the new building code through the Windstorm Inspections Section.
- Creating two quality control positions for providing assistance to Windstorm Inspections Section field office personnel.
- Streamlining the Windstorm Inspections Section by closing the Port Lavaca field office. Port Lavaca inspections are now handled by the Bay City field office.
- Reducing data entry workloads by allowing two field offices to enter data directly into the agency's Oracle databases.

- Approving for Texas the Nationwide Specific Commercial Property Evaluation Schedule (SCOPEs) now used nationwide. The Texas Specific Commercial Property (GBS) rating schedule remains in effect until January 1, 1999, to give insurers additional time for implementation and to solve Y2K issues.

#### Filings Intake Division

- Acquiring an optical storage and retrieval system (OSRS) to minimize file retrieval time, unify the mechanism used to electronically process closed files and control accessibility to the paper documents for all Regulation and Safety groups.
- Completing Phase I of the SERFF project and beginning implementation of Phase II ("Quickstart") of SERFF.

#### Title Division

- Completing a three-year project for staggering all title insurance agent, direct operation and escrow officer license renewal dates.
- Uploading to the TDI Internet site the complete *Basic Manual of Rules, Rates and Forms for the Writing of Title Insurance in the State of Texas*.

#### Workers' Compensation Division

- Participating in the P&C Compliance Workshop by providing information to insurance companies, including filing requirements for workers' compensation policy forms, endorsements and rating plans.
- Monitoring the recalculation of workers' compensation experience modifiers as a result of corrected statistical data filed by a workers' compensation insurer.
- Continuing the random review of workers' compensation policies to determine compliance with rules and regulations in accordance with TDI's Business Plan.
- Assisting with adoption of several staff recommendations to the classifications contained in the *Texas Basic Manual of Rules, Classifications and Experience Rating Plan for Workers' Compensation and Employers' Liability Insurance*.
- Participating in the settlement of a lawsuit several insurance companies brought against TDI concerning a rule allowing the pass-through of deficits and surpluses from the Texas Workers' Compensation Insurance Facility to retrospectively-rated policyholders in the voluntary market.
- Continuing to expand the workers' compensation information available on the Internet, including the *Workers' Compensation Manual* and the *Workers' Compensation Rate Guide* and *The Dangers of Going Bare* brochures.
- Developing Workers' Compensation Intranet homepage.

#### Licensing Division

- Issuing the first license to a vehicle rental company/franchisee of a vehicle rental company on September 3, 1997, as provided for by House Bill 3563, adopted during the 75<sup>th</sup> legislative session.
- Issuing the first funeral prearrangement life insurance agent license on November 26, 1997, as provided for by House Bill 1356, adopted during the 75<sup>th</sup> legislative session.
- Successfully combining the health maintenance organization (HMO) agent licenses with the group I life, accident and health, and group I accident and health agent licenses by December 31, 1997, as provided for by House Bill 219, adopted during the 1997 session.
- Conducting a licensing compliance workshop on March 25, 1998, to inform the insurance industry of licensing issues and requirements.
- Coordinating the Licensing Advisory Committee meetings held on a regular basis from February 13, 1998 to August 25, 1998 to assist the Commissioner in performing a review and evaluation of agents and agents' licensing statutes pursuant to Senate Bill 206, adopted during the 1997 session.
- Issuing the first Bank Selling Annuities License on July 30, 1998 pursuant to Commissioner's Bulletin No. B-0051-97. The December 18, 1997 bulletin was issued to comply with a federal court ruling declaring that national banks are authorized under 12 U.S.C. § 24 (Seventh) to sell annuities as agents in Texas, and that *Insurance Code* provisions prohibiting national banks' exercise of authority are preempted.
- Making the insurance agent license form available for downloading from TDI's Web site.

## Life/Health Division

- Reviewing and analyzing 26,691 life, accident, and health related form filings.
- Developing and adopting rules implementing legislation, including:
  - Notice rules for insurers, HMOs, and MEWAs required by (1) Article 21.52G, Texas Insurance Code (House Bill 349), relating to minimum hospital stay following performance of mastectomy and certain related procedures; (2) Article 21.53F, Texas Insurance Code (Senate Bill 258), relating to certain tests for detection of prostate cancer; and (3) Article 21.53F, Texas Insurance Code (House Bill 102), relating to minimum hospital stay following childbirth.
  - Creditable coverage, Article 21.52G, Texas Insurance Code (House Bill 1212).
  - Amendments/additions to small employer carrier rules, Chapter 26, Texas Insurance Code (primarily House Bill 1212).
  - Large employer carrier rules, Chapter 26, Texas Insurance Code (primarily House Bill 1212).
  - Accelerated life insurance benefits to include the implementation of federal law provisions, Article 3.50-6, Texas Insurance Code (House Bill 1865).
  - Notice rule relating to eligibility for Texas Health Insurance Risk Pool Coverage.
  - Amendments and additions to individual minimum standards (primarily House Bill 710 and the federal Health Insurance Portability and Accountability Act of 1996).
- Assisting with development of rules for utilization review (Senate Bills 385 and 386), independent review organizations (Senate Bills 385 and 386), health maintenance organizations (numerous bills relating to HMOs) and life insurance illustrations (28 *Texas Administrative Code* §§21.2201-21.2214).
- Proposing for adoption rules implementing federal legislation on mental health parity.
- Developing Commissioner's Bulletins to the insurance industry on a summary of legislation enacted by the 75th Legislature, provider claim and capitation payment requirements under Senate Bills 383 and 385, prompt payment of first party claims, telemedicine data that accident and health carriers are required to report, marketing of Roth Individual Retirement Accounts and business practices related to individual and small group coverage and election to be a small or large employer carrier.
- Cosponsoring a compliance workshop with the Consumer Protection Program.
- Surveying insurance companies on coverages and payments for the prescription drug Viagra.
- Participating in the NAIC Working Group on Viatical Settlement Model Regulation.
- Assisting with establishing the Texas Healthy Kids Corporation (House Bill 3) by participating in drafting the articles of incorporation, the application for non-profit corporation status, the business plan and the health benefit plans.
- Assisting with establishing the Texas Health Insurance Risk Pool by developing the draft plan of operation; assisting in drafting the health benefit plans and pool application; assisting in developing premium rates, assisting in developing the list of conditions that automatically qualify a person for coverage; reviewing and approving the health benefit plans, applications, and endorsements; and processing purchases and monitoring the use of state-appropriated start-up funds.
- Assisting Consumer Protection in developing consumer brochures, including Understanding Life Insurance, Insurance Decisions for Texas School Districts, Questions About your Health Care Coverage, What Texans Should Know About Long-Term Care Insurance, Medicare Supplement Insurance Rate Guide and The Small Employer Health Insurance Availability Act: Questions & Answers on the New Law.
- Updating resource materials for use by industry in complying with statutes and rules, including various checklists and a mandated benefit chart, a filing manual for credit insurance and guidelines for Roth IRAs.
- Representing the Commissioner of Insurance on the Health Care Information Council.
- Serving as NAIC's representative on the National Uniform Claim Committee, which advises the U.S. Secretary of Health and Human Services on HIPAA issues.
- Assisting Senate Health and Human Services Committee in reviewing patient billing issues.
- Serving on the Texas Department of Health Hospital Data Advisory Committee.

- Participating in the Texas Tele-Health Education Consortium.
- Commenting on the Employees Retirement System (ERS) rules (34 Texas Administrative Code §§ 31.1, 81.3, 81.5, 81.7, 81.9, and 81.11) adopted by the ERS Board of Directors.
- Health Maintenance Organization/Utilization Review Agent/Independent Review Organization (HMO/URA/IRO) Division
- Developing rules to implement legislation (Senate Bills 385, 384, 382 and 1246) affecting major portions of the *Texas Insurance Code* and *Texas Administrative Code* regulating HMOs.
- Developing rules certifying Independent Review Organizations (IRO) as required by Senate Bill 386.
- Developing and implementing two new strategic plan performance measures the used in tracking the number of complaints against HMOs that are resolved, and the average time to resolve HMO complaints.

Figure I- 28

Summary of Activity — Personal Property

	<b>FY97</b>	<b>FY98</b>
Requests for Information	15,217	15,480
Certificates Issued	9,786	9,721
Complaints Processed	1,140	823
Rules, Rates and Policy Forms Processed	432	*157

*\*Lower figure attributed to more companies writing in their Lloyds and SB 1499 moving farm and ranchowners to commercial*

Figure I - 29

Summary of Activity — Professional Liability

	<b>FY97</b>	<b>FY98</b>
Individual Risk Submissions	*5	0
Commissioner Orders	0	3
Written Complaints	24	34
Letters, Memos and Bulletins	1,172	1,398
Rate and Form Filings	529	737
Multi-Peril Filings	325	470

*\* Converted to Article 5.13-2 in FY96. Individual rate applications no longer accepted.*

Figure I - 30

Summary of Activity — Personal & Commercial Automobile

	<b>FY97</b>	<b>FY98</b>
Total Experience Rating Files Processed	61,855	70,638
State Agency Auto Policies	25	32
Processed Telephone Calls	14,446	35,082
Resolved Complaints	5	298
Visitors	86	285
<i>Total Consumer Inquiries/Complaints</i>	<i>15,841</i>	<i>35,831</i>
Rate and Form Filings Processed	523	1,303
Individual Risk Submissions (IRS)	3,158	2,482
Bulletins/Mailings	16,861	13,154
Hearings/Meetings (In Hours)	703.25	631.5

Figure I- 31

Summary of Activity — Commercial Property

	<b>FY97</b>	<b>FY98</b>
Requests for Information	8,882	9,140
Number of Complaints Processed	56	26
Rules, Rates and Policy Forms Processed	2,292	3,106

Figure I - 32

Summary of Activity — Bond

	<b>FY97</b>	<b>FY98</b>
Rules, Rates and Policy Forms Processed*	899	681
Experience Ratings Processed	115	0
Commissioner Orders Processed	0	0
Consent to Rate Applications Processed	4,813	3,040
General Information Requests ** ^	1,483	113

\* *Multi-Peril has been combined with Rules, Rates and Policy Forms Processed.*

\*\* *Includes requests/inquiries received through the mail and by telephone.*

^ *All data not available for FY98 because it was determined that the data was not required to monitor operations of this section.*

Figure I - 33

## Summary of Activity — General Liability

	<b>FY97</b>	<b>FY98</b>
Individual Risk Submissions Processed	*0	**
Call/Visitors Processed	6,836	5,892
Form/Rule Filings Processed	2,289	3,708
Complaints Processed	24	13

\* *Converted to Article 5.13-2 in FY96. Individual rate applications no longer accepted.*

\*\* *All data not available for FY98 because it was determined that the data was not required to monitor operations of this section.*

Figure I - 34

## Summary of Activity — Title Insurance

<b>Activity</b>	<b>FY97</b>	<b>FY98</b>
Annual Escrow Audits Reviewed*	525	589
Field Examinations/Audits Conducted*	184	282
Technical Examinations*	59	0
New Agency Contracts/Revisions*	405	324
Complaints	175	152
General Information Requests	3,827	4,385
Rates, Rules and Policy Forms	9	10
Commissioner Orders	1	3
Hearings**	2	46
Meetings**	142	108
Licenses Issued (includes renewals) *	4,212	4,899
Licenses Cancelled*	1,259	2,391

\*\**Reported in hours.*

Figure I - 35

Numbers of Agents/Licenses Under Commissioner's Jurisdiction -  
Title Insurance

<b>Agents/Licenses</b>	<b>FY97</b>	<b>FY98</b>
Title Agents	533	538
Title Agent Licenses	1,422	1,487
Direct Operations	24	24
Direct Operation Licenses	24	24
Escrow Officers	4,032	4,324
Escrow Officer Licenses	4,211	4,521

*NOTE: Title agent licensing functions were moved to Title from the Licensing Group in September 1994. Licensing Group tables do not show title insurance activity.*

Figure I - 36

Summary of Activity — Intake Unit Filings Received/Processed		
	<b>FY97</b>	<b>FY98</b>
<b>Flex-Rate Filings</b>		
Personal Auto	741	837
Commercial Auto	709	637
Homeowners	430	205
<i>Total</i>	<i>1,880</i>	<i>1,679</i>
<b>Other Rate Filings</b>		
Commercial Property	635	837
Workers' Compensation	254	110
General Liability	2,302	2,566
Professional Liability	768	926
Bond, Burglary, Title	322	369
Multi-Peril	1,625	1,795
<i>Total</i>	<i>5,906</i>	<i>6,603</i>
<b>Policy Form, Endorsement and Rule Filings</b>		
Personal Automobile	77	93
Commercial Automobile	390	439
Intake Unit	9	4
Homeowners	64	74
Commercial Property	1,312	1,627
General Liability	2,003	2,793
Bond, Burglary	487	573
Workers' Compensation	242	155
Professional Liability	545	809
Multi-Peril	3,117	3,738
<i>Total</i>	<i>8,246</i>	<i>10,305</i>
<b>Rating Manual</b>		
Bond, Burglary	1	0
Commercial Automobile	0	0
General Liability	6	6
Homeowners	0	0
Intake Unit	0	0
Multi-Peril	9	0
Personal Automobile	0	0
Professional Liability	3	0
Commercial Property	2	0
Workers' Compensation	0	0
<i>Total</i>	<i>21</i>	<i>6</i>
<b>Rating Plans*</b>		
Bond, Burglary	0	0
Commercial Automobile	0	0
General Liability	0	0
Multi Peril	0	0
Personal Automobile	0	0
Professional Liability	1	0
Commercial Property	0	0
Workers' Compensation	5	0
<i>Total</i>	<i>6</i>	<i>0</i>
<b>Total P &amp; C Filings Received</b>	<b>16,059</b>	<b>18,593</b>

Intake Unit Filings Processed 347 479  
 \* Effective 10/1/96, Rating Manuals and Rating Plans were merged into the "Rates" Category.



Figure I- 37

Summary of Activity — Commercial Property Oversight Inspections (formerly Inspection and Fire Safety)

	<b>FY97</b>	<b>FY98</b>
Property Inspections Conducted*	961	1,193
Telephone Calls Processed	1,703	1,706
Number of Requests for Fire Rate Information**	9,690	0
Number of VIP Licenses/Certificates Issued***	70	41

*\*Includes dwellings and special request inspections.*

*\*\* Transferred Fire Rate Files to ISO in March 1997.*

*\*\*\* Under the VIP (Voluntary Inspection Program), a home receives a "certificate of insurability" if it passes an inspection by a credentialed inspector, qualified by TDI.*

Figure I- 38

Summary of Activity — Windstorm Operations

	<b>FY97</b>	<b>FY98</b>
Applications	21,591	24,555
Inspections	57,110	45,936
Certificates of Compliance	20,200	23,270
Windstorm Fees Received	\$158,861	\$77,035

Figure I- 39

Summary of Activity — Engineering Services

	<b>FY97</b>	<b>FY98</b>
Supplements Published*	505	28
Key Rates Reviewed	363	288
Building Code Interpretations	1,415	1,909
Product Evaluations	523	804
Visitors Served	117	205
Telephone Calls Processed	3,738	4,729

*\*As of January 1998, this data is no longer gathered due to transition of TDI Key Rate to ISO's Public Protection Class. The program is currently working on the development of a tracking system to collect this new data. The anticipated completion date is 11/30/98.*

Figure I - 40

Summary of Activity — Loss Control

	<b>FY97</b>	<b>FY98</b>
Total Evaluations Completed	201	201
Companies Rated Adequate	192	192
Companies Rated Less Than Adequate	9	9
Number of Companies Evaluated for Licensure	12	15
Loss Control Representative Applications Reviewed	121	97
Field Safety Representatives with a Specialty in Hospitals	22	28

Figure I - 41

Summary of Activity — Amusement Ride Safety and Insurance Act

	<b>FY97</b>	<b>FY98</b>
Policies Approved	320	296
Inspection Certificates Approved	1,401	1,315
Number of Injuries	83	55
Inspector Applications Approved	46	10
Number of Owners Under Compliance Monitoring	251	263

Figure I - 42

Summary of Activity — Workers' Compensation Oversight Group

	<b>FY97</b>	<b>FY98</b>
Written Inquiries Processed	189	136
Complaints Processed*	444	83
Letters Written	1,186	1,055
Telephone Calls Processed	10,208	6,385
Number of Experience Rating Modifiers Reviewed	461	380
Brochures Distributed by Mail**	856	0
Number of Policies Reviewed	661	991
Complaints Referred to Texas Workers' Compensation Commission	330	648

\*Includes referrals to the Texas Workers' Compensation Commission.

\*\* In FY98, distribution of brochures was transferred to Publications..

Figure I - 43

## Summary of Activity — Workers' Compensation Classification

	<b>FY97</b>	<b>FY98</b>
Number of Inspections	528	343
Number of Days Traveled	191	125
Total Miles Traveled	40,819	27,860
Average Travel Cost Per Inspection	\$44.27	\$47.47
Letters & Telephone Calls	21,984	19,331
Visitors	32	13
<b>Types of Inspections Made:</b>		
Insured Requests	41	22
Insurer Requests	183	104
Agent Requests	63	43
Department Requests	241	174

Figure I - 44

Summary of Activity — Workers' Compensation  
Management/Retrospective Rating/Group  
Purchase/Deductibles

	<b>FY97</b>	<b>FY98</b>
Number of Telephone Calls	1,589	1,206
Number of Letters	803	728
Number of Visitors	97	51
Number of Groups Certified	46	62
Number of Circular Letters Distributed	13,200	3,300
Number of Rate Guides Distributed	208	283
Number of Open Records Requests:	216	150
<b>Forms Received:</b>		
Retro Option V	522	326
Retro Large Risk Option	345	283
Retro Tabular Option	9	7
Deductible Notifications	3,374	*
<b>Filings Reviewed:</b>		
Group Programs	52	75
Rate Filings	168	38
Rating Plans & Misc. Filings	151	129
Retro Election Notices	876	616
ARRP Adjustments	9	**

*\*Forms for this item are no longer collected due to a rule change during FY98*

*\*\*Filings for this item are no longer collected in FY98 because policies for this item are no longer written.*

Figure I - 45

Number of Licenses and Certificates Under Commissioner's Jurisdiction

License Type	FY94	FY95	FY96	FY97	FY98
Agents*	189,042	187,070	203,603	216,493	231,680
Adjusters	26,317	26,958	28,897	31,458	32,620
Vehicle Rental**	N/A	N/A	N/A	N/A	30
Life Counselors	86	91	98	113	120
Risk Managers	941	1,012	1,084	1,115	1,127
Reinsurance Intermediary	786	919	1,054	1,125	1,184
Premium Finance Companies	309	304	308	300	290
Third-Party Administrators	445	467	513	649	710
Title***	1,531	N/A	N/A	N/A	N/A
Escrow Officers***	4,916	N/A	N/A	N/A	N/A
Direct Operations***	9	N/A	N/A	N/A	N/A
<b>Grand Total</b>	<b>224,382</b>	<b>216,821</b>	<b>235,557</b>	<b>251,253</b>	<b>267,761</b>

\* An agent may hold more than one type of license; these statistics do not represent numbers of individual agents.

\*\*License type created by the 75<sup>th</sup> Legislature.

\*\*\* FY95-FY98 Title, Escrow, Director licenses are reported by Regulation and Safety's Property and Casualty Division. See Page 50.

Figure I - 46

Summary of Activity - Licensing Group

	FY97	FY98
Total Filings Processed by Licensing Group*	500,141	599,577
Telephone Inquiries Answered	202,071	201,439

\*Includes filings processed for new and renewal license applications, appointments and termination of appointments, certification and clearance letters, solicitor transfers, trade style registrations, name or address changes required by code, certified records provided.

Figure I - 47

Five-Year Summary of Agents License Statistics

Total Licenses	FY94	FY95	FY96	FY97	FY98
Issued	44,202	48,801	54,522	49,785	51,330
Renewed	70,491	61,752	89,906	71,253	97,242
Total Appointment Transactions	210,542	269,633	303,430	287,785	237,761
Total Current Licenses Agents & Adjusters	215,359	214,028	232,500	232,500	247,951
	264,300				
Other Licenses	*9,023	**2,793	3,057	3,302	3,461
<b>Grand Total of Licenses Regulated</b>	<b>224,382</b>	<b>216,821</b>	<b>235,557</b>	<b>251,253</b>	<b>267,761</b>

\*Includes title, escrow, direct operation, counselor, risk manager, reinsurance, TPA, premium finance.

\*\*Title, Escrow and Direct Licenses are now reported by Property and Casualty.

Figure I - 48

Numbers and Types of Agents' Licenses FY97-FY98		
<b>Agents</b>	<b>FY97</b>	<b>FY98</b>
Group I Life	94,598	104,129
Group II Life	29,819	32,460
Variable Contracts	23,580	27,561
Local Recording	23,309	25,168
Solicitor	14,087	16,405
Insurance Service Rep	1,704	2,273
Non-Resident Fire/Casualty	7,040	7,097
Managing General	3,575	3,897
State/Salary/Special	4,915	5,395
Agricultural	237	280
Surplus Lines	2,147	2,368
Prepaid Legal	3,296	4,647
HMO	8,186	0
<b>Total</b>	<b>216,493</b>	<b>231,680</b>

Figure I - 49

Summary of Activity - Miscellaneous Lines		
	<b>FY97</b>	<b>FY98</b>
TPA On-Site Examinations	29	31
TPA New Licenses Issued	91	88
TPA License Exempt Granted	33	38
New Premium Finance Licenses Issued	21	24
Premium Finance Licenses Renewed	297	280

Figure I - 50

Number of Premium Finance Companies, Loans, Value - CY93-CY97*			
<b>Calendar Year</b>	<b>Number of Companies</b>	<b>Number of Premium Loans</b>	<b>Value of Loans</b>
1993	309	636,550	\$1.75 billion
1994	307	645,682	\$1.83 billion
1995	308	563,364	\$1.46 billion
1996	306	404,532	\$1.65 billion
1997	300	443,278	\$1.76 billion

\*These figures are reported in calendar year, and 1997 is last full calendar year available.

Figure I - 51

Summary of Activity — Life/Health Policy Forms Reviewed

	<b>FY97</b>	<b>FY98</b>
Filed	24,401	26,807
Accepted	23,080	25,115
Approved	7,809	8,749
Disapproved	2,540	3,441
Exempt	7,992	7,123

Figure I - 52

Health Maintenance Organization (HMO) Filings

	<b>FY97</b>	<b>FY98</b>
New Forms Received	3,323	3,433
Forms Completed	3,347	3,340

Figure I - 53

Utilization Review Filings

	<b>FY97</b>	<b>FY98</b>
Applications Received	39	46
Applications Incomplete	17	*
Applications Pending Review	8	79
Registered Utilization Review Agents Approved	2	3
Certified Utilization Review Agents Approved	40	37

*\* This data is no longer required to be collected, due to rule changes.*

# Consumer Protection

Consumer Protection addresses consumer complaints filed with the agency, coordinates the delivery of insurance information to consumers and reviews insurance advertising. In carrying out these tasks, Consumer Protection assists consumers in resolving disputes and prepares cases for enforcement actions, provides insurance information to consumers by telephone, over the Internet and through presentations, and coordinates production of a wide range of publications.

The Consumer Protection Program consists of five activities:

Complaints Resolution seeks to resolve consumer disputes with insurance companies, agents and other regulated insurance businesses. Complaints Resolution staff examine complaints for violations of the *Texas Insurance Code* and the *Texas Administrative Code* and recommend enforcement action when appropriate. The complaints resolution process routinely results in the return of millions of dollars in premium refunds and additional claims payments to consumers. Complaints Resolution Property and Casualty handles complaints involving mostly home and auto coverage; Complaints Resolution Life, Accident and Health handles mostly life and health coverage complaints.

Information Assistance responds to calls to the agency's toll-free Consumer Helpline, 1-800-252-3439. These phone lines are staffed from 8 a.m. to 5 p.m., Monday through Friday. Staff members answer common questions regarding most lines of insurance, furnish information about the license status of companies and agents, provide other company information – complaint histories, financial information and financial ratings from a nationally recognized rating organization – and advise consumers about filing complaints. Staff members also process requests for complaint forms, rate guides and other consumer publications.

Information Assistance assists non-English speakers through (1) its Spanish-speaking operators, (2) automated telephone service messages and instructions in Spanish and (3) use of the AT&T Language Line. Service for the hearing or speech impaired is provided through Relay Texas at 1-800-735-2989 (TDD/TTY).

Public Education, in cooperation with other TDI activities, develops informational materials to increase consumers' understanding of insurance products, encourage wise insurance shopping and promote TDI consumer services. Publications include rate guides, brochures and fliers available in English and Spanish. Many publications also are accessible through the Internet. Consumers may order complaint forms and information brochures 24 hours a day, seven days a week, by calling a toll-free automated telephone attendant at 1-800-599-SHOP (7467). Public Education also coordinates a Speakers Bureau that delivers public presentations, workshops and information displays to civic and community organizations, minority groups and business and industry associations. In partnership with other state and federal agencies, Public Education operates the federally funded Health Information, Counseling and Advocacy Program (HICAP), which provides statewide training to volunteer benefits counselors who assist senior citizens in their local communities with insurance concerns.

Advertising reviews industry marketing materials to evaluate compliance with rules governing solicitation and trade practices. Those materials include brochures, phone and sales scripts, agent presentations, newspaper, magazine, radio and TV ads, form letters and illustrations. Violations are referred to TDI's Legal and Compliance Program for possible enforcement action.

Special Work Assignments Team (SWAT) enhances the program's business processes by developing means of improving efficiency and effectiveness. SWAT coordinates the program's budgeting, planning, legislative tracking, NAIC and business planning activities and oversees production of program information published on the agency's website.

## Highlights

Major accomplishments by Consumer Protection during Fiscal Year 1998 included:

- Responding to more than 342,800 inquiries – including more than 320,000 calls handled by Information Assistance, and more than 21,400 handled by Complaints Resolution. Complaints Resolution also processed more than 18,800 written complaints.
- Producing nearly \$22.7 million in additional claims paid and premium refunds to consumers through intervention in consumer complaints. The total is an increase of 24.4 percent from FY 97.
- Recommending administrative action against three major HMOs for advertising violations. The recommendation from the Advertising unit ultimately resulted in \$240,000 in fines. Another recommendation, from Complaints Resolution, against a property and casualty insurer for claims regarding rental vehicles resulted in a \$27,500 fine and more than \$64,000 in restitution to consumers.
- Initiating, in cooperation with the Regulation and Safety program, an automobile Market Assistance Program for consumers residing in certain underserved ZIP codes.
- Publishing the agency's first Vietnamese consumer publication, a translation of our Market Assistance Program brochure; this publication joins our existing 18 Spanish consumer publications.
- Initiating or expanding partnerships with governmental agencies to promote the Market Assistance Program (MAP) and other TDI services, including partnerships with:
  - Department of Public Safety to mail MAP information to 30,000 Texas drivers in their license renewal packets and include MAP information in the Texas Drivers Handbook section on insurance
  - City of Arlington to distribute MAP information in utility bills
  - Texas Library and Archives Commission to promote MAP and other information on TDI's website through the Texas Library System network
  - County tax assessor-collectors to distribute MAP information at tax offices.
- Conducting a record 304 Speakers Bureau presentations throughout Texas on insurance issues and reaching an estimated 3.25 million consumers. Twelve percent of these presentations promoted the Market Assistance Program.
- Continuing an educational outreach program to older Texans, reaching more than 350,000 individuals.
- Distributing nearly 1,287,000 publications, a record high, including more than 227,300 rate guides. Rate guides provide information that can help Texans obtain the best value for their insurance dollar.
- Initiating, in cooperation with the Financial and Legal programs, an outreach campaign to assist Holocaust survivors and their heirs with information about how to file a claim for unpaid insurance settlements from policies issued in Europe between 1928 and 1945.
- Improving staff's ability to provide consumers with superior customer service and accurate information by enhancing technological supports for staff. This included implementing a new telephone call monitoring system that records all incoming calls to Information Assistance and to Complaints Resolution's Public Assistance staff. The monitoring of calls serves as an excellent training tool and provides the valuable feedback to staff. Additionally, the Consumer Protection Infobase (CPI), an on-line information database, was expanded to include 365 property and casualty policies and endorsements. Other CPI enhancements facilitated navigation within the database.
- Working with other TDI programs to create the Internet Complaint Inquiry System. This system provides access through TDI's Web site to downloadable databases including auto, home, life and HMO consumer complaints resolved between January 1996 and June 1998 for use by researchers, businesses, journalists and consumers.
- Maintaining the Consumer Protection page on TDI's Internet Web site. The page recorded nearly 262,000 hits in FY98. Items accessed most frequently were company profiles, auto rate guides and the Internet Complaint Inquiry System.
- Developing a "mini-Web site" specifically for school risk managers and administrators, containing insurance information and links to useful sites selected specifically for their needs. The content of this site derived from input obtained through a focus group with school administrators.
- Dedicating 87 percent of Consumer Protection's printing contracts to historically underutilized businesses (HUBs). Consumer Protection, in cooperation with the TDI Purchasing Division and other



TDI programs, also hosted a HUB fair to acquaint HUB vendors with opportunities for bidding for TDI contracts.

- Assisting Del Rio and Eagle Pass consumers by deploying staff to areas affected by the August 1998 floods from tropical storm Charley.

Figure I - 54

Total Number of Complaint Cases Closed — FY94-FY98

Year	Cases Closed
FY94	23,083
FY95	20,847
FY96	16,709
FY97	17,650
FY98	18,829

Figure I - 55

Additional Claim Payments to Consumers — FY94-FY98

Year	Claim Payments
FY94	\$11.3 million
FY95	\$10.6 million
FY96	\$14.8 million
FY97	\$17.0 million
FY98	\$21.3 million

Figure I - 56

Restitutions/Refunds to Consumers — FY94-FY98

Year	Restitutions/Refunds
FY94	\$1.1 million
FY95	\$1.9 million
FY96	\$1.2 million
FY97	\$1.2 million
FY98	\$1.3 million

# Technical Analysis

Technical Analysis reviews and analyzes statistical data, reviews Property and Casualty rate filings and prepares reports on insurance rates and markets to assist policy makers and consumers with insurance-related decisions. In addition, it supports agency efforts to detect problem insurance companies and helps contract with special deputy receivers, private sector contractors who act as liquidators for insolvent insurance companies.

Technical Analysis consists of five activities.

Property and Casualty Actuarial provides actuarial review of rate and rating plan filings and conducts in-depth analyses of the Texas insurance market. The division also makes sure that file-and-use rates meet applicable legal standards, verifies their appropriateness, makes recommendations on prior-approval rate filings and verifies that flex-rate filings either fall within the flexibility band or receive prior approval to go outside the band. The flexibility band is a percentage range within which companies may charge more or less than benchmark rates without receiving prior approval. To go outside the band, a company must receive TDI approval.

Property and Casualty Actuarial monitors the industry's implementation of tort reform rate reductions and measures the impact of those rate reductions. Tort reform legislation passed by the 1995 Legislature was aimed at curbing lawsuit abuses and unreasonably high judgments in cases affecting liability insurance. *Texas Insurance Code* Article 5.131 directs the Commissioner of Insurance to issue an order by October 1 each year through 1999, reducing liability insurance rates to reflect the anticipated impact of tort reform on losses. Insurers are required to file reductions with TDI. The first Commissioner's order under this statute was issued September 29, 1995.

During FY 98, actuarial staff reviewed more than 2,600 tort reform rate adjustment filings. Analysis of these adjustment filings showed that Texas liability policyholders will save more than \$650 million in calendar year 1998 premiums. In addition to monitoring these filings, actuarial staff assisted in preparing for the fourth tort reform rate adjustment hearing. As a result of the August 25, 1998 hearing, the Commissioner ordered an estimated \$697.9 million in tort reform rate cuts for Calendar Year 1999. Because the reductions are expressed as a percentage of rates, total 1999 savings will depend on the premium volume. Based on the 1999 estimate, Texas liability policyholders will have saved more than \$2 billion during the first four years of tort reform.

In addition, Property and Casualty Actuarial intensified scrutiny of rate filings with particular emphasis on private passenger auto rate filings. This scrutiny, followed by negotiations between staff actuaries and insurer actuaries, resulted in significant rate reductions by major Texas rate-regulated auto insurers. These reductions applied to rate filings submitted with an effective date on or after January 20, the effective date of the first overall statewide average reduction in auto benchmark rates since the "flexible rating system" was created in 1991<sup>25</sup>. These negotiated reductions combined with voluntary reductions by other companies on initial rate filings, resulted in an overall 7 percent rate reduction for the 20 companies with the largest Texas auto insurance marketshare.

Property and Casualty Actuarial continued to assist in obtaining a series of consent orders between the Department and various car rental firms dealing with the alleged unauthorized sale of liability insurance. A new law passed by the Texas Legislature and effective on September 1, 1997, settled the dispute by setting up a method for rental car companies or their franchises to be licensed to sell insurance related to their rentals. Refunds were ordered for sales made prior to licensing.

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<sup>25</sup> Under the flexible rating system, rate-regulated insurers are allowed to set their own rates without prior approval so long as the rates fall within a flexibility band of 30 percent above and 30 percent below the benchmark set by the Commissioner.

Property and Casualty Actuarial also works with Data Services to improve the quality and reliability of data and with the Special Projects unit on market analysis projects.

Data Services collects and maintains statistical data, produces statistical reports for the Legislature, the agency, the public and the insurance industry and oversees the agency's workers' compensation statistical agent. Data is obtained through statistical plans, data calls or downloads from the NAIC computer database. Data collection activities include:

***The Quarterly Call for Experience***, which collects premium and loss data for the following lines of coverage: general liability, commercial fire and allied lines, product liability, commercial multi-peril, private passenger automobile, homeowners multi-peril, boiler and machinery, crime, glass, miscellaneous professional liability, medical professional liability and workers' compensation insurance. The information is checked for reasonability and is used to produce the ***Quarterly Legislative Report on Market Conditions***.

***Texas Liability Closed Claim Report***, which includes data on the final disposition of Texas claims of \$10,000 or more under general liability, medical professional, other professional liability and commercial automobile liability policies and the liability portion of commercial multi-peril policies. Insurers also are required to file a report to reconcile their annual statements with the closed claim reports they have submitted. Findings developed from this data are used for the ***Texas Liability Insurance Closed Claim Annual Report***.

***Texas Title Insurance Agents and Underwriters Reports***, which collect information on income and expenses in the title insurance industry.

***Disallowed Expense Report***, which collects data on insurer expenses that, by statute, may not be considered in the determination of rates.

***Credit Call***, which collects credit insurance data to be analyzed by TDI's Life/Health Group for use in credit insurance rate hearings.

Additional reports include the *State of Texas Property and Casualty Insurance Experience by Coverage and Carriers* (often called the *Texas Page 15 Report*) and the *Insurance Expense Exhibit*, which are compilations of data downloaded from the National Association of Insurance Commissioners (NAIC).

Data Services also oversees compliance with quality standards in the collection of the state's workers' compensation data by the National Council on Compensation Insurance (NCCI). The data is collected for use with the Texas Workers' Compensation Statistical Plan, the Texas Detailed Claim Information Statistical Plan and the Texas Workers' Compensation Financial Call Plan. Oversight includes modifying statistical plans, ensuring compliance with TDI performance standards, overseeing statistical agent audits, resolving problems between reporting companies and the statistical agents and ensuring the delivery of data for developing class code relativities, research and other regulatory purposes. Data Services publishes standard workers compensation reports developed by NCCI for TDI.

Special Projects provides data analysis, collects information through special calls and surveys, produces data compilations and oversees the agency's residential property, private passenger automobile and commercial lines statistical data collection agents.

Special Projects also oversees compliance with quality standards in the collection of the state's residential property and private passenger automobile data by the Texas Insurance Checking Office (TICO) and commercial lines data by the Insurance Services Office (ISO). The data is collected for use with the Residential Property Statistical Plan, the Private Passenger Automobile Statistical Plan and the Commercial Lines Statistical Plan. Oversight includes modifying statistical plans, ensuring compliance with TDI performance standards, overseeing statistical agent audits, resolving problems between reporting companies

and the statistical agents and ensuring the delivery of data for benchmark rate hearings and other regulatory purposes.

In addition to seeing that data is prepared for the residential property and auto benchmark rate hearings, Special Projects provides statistical plan and special call data for market analysis and other projects. These include:

- Analyzing market data used in identifying underserved areas for both residential property and auto insurance.
- Providing data for calculating assigned risk auto quotas.
- Providing data for calculating insurer participation levels in the Texas Catastrophe Property Insurance Association.
- Providing data for determining the effect of the newly adopted fire suppression rating system.
- Calculating the impact of special programs designed to improve auto insurance availability.
- Evaluating market trends.
- Providing data for pricing newly adopted residential property and auto endorsements.
- Overseeing calculating of division performance measures.

Early Warning supports agency-wide efforts to detect potentially troubled insurance companies quickly.

The unit administers the Early Warning Information System, a computer database that provides quick and effective sharing of information among agency divisions and that identifies favorable and unfavorable trends within companies. In addition to collecting and providing information to various TDI divisions, the Early Warning unit participates in Recommendation Committee meetings and Rehabilitation Task Force activities coordinated by TDI's Financial Program.

Early Warning staff analyzes companies that have triggered indicators of potential trouble. This analysis may result either in referral to another TDI division with a recommendation for appropriate regulatory action or in further review. In addition, Early Warning gathers information on the status of regulatory actions taken throughout the agency, provides training presentations on the Early Warning system and conducts solvency related studies.

Special Deputy Receiver (SDR) Contracting Process Unit oversees the SDR and subcontractor application process. This oversight includes determining eligibility through background and reference checks and scoring and processing applications. A total of three new SDR applications and 22 new subcontractor applications were reviewed in FY 98. Additional responsibilities include assisting the Commissioner of Insurance Selection Committee, handling bid solicitations and contract negotiations and overseeing contract compliance for the 17 SDRs under contract who manage 31 active receiverships.

## Highlights

Major accomplishments by Technical Analysis for Fiscal Year 1998 included:

- Negotiating and encouraging voluntary auto insurance rate reductions that resulted in an overall 7 percent rate cut for the 20 companies with the largest Texas rate-regulated auto insurance marketshare.
- Reviewing more than 2,600 tort reform rate adjustment filings, reflecting that Texas liability insurance policyholders will save more than \$650 million in premiums during the third year of tort reform.
- Assisting in the fourth annual tort reform hearing that resulted in the Commissioner ordering rate reductions that will save Texas liability policyholders an estimated \$697.9 million in premium. That brings the four-year premium savings total to more than \$2 billion.
- Negotiating with insurers for significant rate reductions by major Texas rate-regulated auto insurers, which will result in auto premium savings for many Texas auto policyholders. The reductions followed

the first overall statewide average reduction in auto benchmark rates since creation of the "flexible rating system" in 1991

- Implementing an automated system for title agent statistical data call that reduced agent-reporting errors by half.

Figure I - 57

Premium and Saving Reported by Line of Insurance (in millions) \*

	1995**	1996	1997	1998***	1999
	Direct Written Premium	Actual Savings	Actual Savings	Actual Savings	Projected Savings
Farmowners/ranchowners liability	\$53.7	\$0.8	\$0.9	\$0.8	\$0.8
Medical malpractice	\$320.8	\$32.7	\$34.9	\$43.2	\$51.8
General liability	\$1,087.2	\$115.8	\$105.8	\$197.5	\$203.3
Commercial multi peril	\$431.7	\$36.0	\$48.3	\$73.3	\$75.5
Products liability	\$95.6	\$11.9	\$11.1	\$21.1	\$27.0
Commercial automobile	\$588.8	\$59.8	\$62.3	\$73.1	\$92.1
Private passenger automobile					
Rate-regulated companies	\$2,121.5	\$142.9	\$141.0	\$191.7	\$191.7
Non rate-regulated companies	\$588.6	\$35.6	\$36.9	\$55.7	\$55.7
<b>Totals</b>	<b>\$5,287.9</b>	<b>\$435.5</b>	<b>\$441.2</b>	<b>\$656.4</b>	<b>\$697.9</b>

\* October 2, 1998 summary of tort reform filings received by the Texas Department of Insurance.

\*\* Estimates are based on 1995 Direct Written Premium.

\*\*\* Because reductions are expressed as a percentage of rates, total 1999 savings will depend on the premium volume.

Note: Some liability coverages have been combined under one grouping. Medical Malpractice includes doctors' and hospital malpractice; Commercial Auto includes garage liability; General Liability includes personal umbrella, farm liability, commercial umbrella, other professional liability, pollution liability, fire, legal and contractual liability and owners and contractors protective railroad and liquor liability. Two other lines -- employers' liability of workers' comp and homeowners liability -- are not shown because no rate adjustment was made in those lines.

Figure I - 58

Closed Claim and Quarterly Market Data Reports Collected

	FY97	FY98
Individual closed claim reports	*10,401	**19,596
Summary closed claim reports	662	642
Closed claim reconciliation reports	848	843
Supplemental Closed Claim Data Call Responses	*829	958
Special Closed Claim Survey Forms Collected	2,789	2,730

\* The processing of responses to the Supplemental Closed Claim Data Call and the Tort Reform Special Data Call caused a delay in the second quarter processing of Individual Closed Claim Reports.

\*\*Includes 6,861 electronically processed reports (CNA asbestosis claims).

Figure I - 59

Other Statistical Reports Collected

	FY97	FY98
Title insurance agents	535	538
Title insurance underwriters	15	16

Figure I - 60

Rate and Rating Plan Filings in FY97-98

	Filings Processed FY97	Filings Processed FY98	Processed In 90 Days FY 97	Processed In 90 Days FY 98
Regular filings	3,889	3,502	48.2%	42.4%
Tort reform filings	4,055	2,631	73.8%	45.7%
Total filings processed	7,944	6,133	61.3%	43.8%

Figure I - 61

Summary of Activity - Early Warning

<b>Company review performed by staff</b>	<b>FY97</b>	<b>FY98</b>
Referrals to other TDI divisions for appropriate regulatory action	35	12
Follow-up memoranda regarding prior referrals	1	0
FYI memoranda to other TDI divisions regarding companies already subject to regulatory activity	44	23
Reviewed by Early Warning staff and deferred to other divisions' prioritization schemes	477	587
Reviewed by Early Warning staff and "passed" in accordance with agreed criteria*	1,505	1,020
<b>Totals</b>	<b>2,062</b>	<b>1,642</b>

\* "Passed" means referral to other TDI division was not required.

# State Fire Marshal's Office

The State Fire Marshal's Office aids Texans in protecting lives and property against fire and related hazards. The Office works in cooperation with the public, regulated fire service industry, all branches of the fire service, local governments and other state governments. In addition to staff located in the headquarters office, the State Fire Marshal's Office maintains regional offices at the Capitol Complex in Austin, Conroe, Corpus Christi, Duncanville, Lubbock and Tyler. Several field personnel also are located in satellite offices throughout the state, allowing for rapid response for investigations and inspections and reduced travel expenses.

The Office consists of five divisions:

Administration coordinates handling of open records requests, purchases, budgets, planning and personnel and provides support services for all divisions, including regional and satellite offices.

Licensing includes two sections, Licensing Administration and Licensing Investigation.

**Licensing Administration** issues registration to organizations and licenses to individuals working in the fire extinguisher, fire alarm, fire sprinkler and fireworks industries and issues permits for all public fireworks displays in the state. This section also administers examinations, performs criminal history background checks, analyzes insurance compliance and reviews corporate documents to ensure compliance with statutory licensing requirements.

**Licensing Investigation** conducts investigations of existing fire alarm, sprinkler and extinguisher systems to ensure that they are installed by licensed entities and comply with adopted technical standards. In addition, this section inspects retail fireworks stands in accordance with adopted safety standards.

Public Education and Information provides fire protection information and education, including school district curriculum material on fire prevention. That includes developing and distributing brochures on home fire safety, presentation of fire safety skills to school children using the "Fire Safety House," administration of a statewide Juvenile Firesetter Intervention Program and maintenance of the Texas Fire Incident Reporting System (TEXFIRS), which collects data from local fire departments and compiles statistics on Texas fires.

Fire Safety Inspections conducts fire safety inspections of public buildings and private facilities throughout the state. Included are 24-hour care facilities, state buildings, day care centers, hotels and motels and other buildings upon request or complaint. Inspections of storage, handling and use of flammable liquids also are conducted at retail service stations throughout the state.

Fire/Arson Investigations. investigates fire scenes throughout the state upon request. The division maintains five equipment trailers supplied with various investigation tools, an "Arson Response Command" vehicle, four accelerant detection canine teams and a forensic arson laboratory. The lab provides accelerant testing services and analyzes fire scene debris for all law enforcement and public safety organizations in the state.

## History

The Legislature established the position of State Fire Marshal in 1910 and charged the State Board of Insurance members to select one of its members to be "Fire Marshal of the State Insurance Board." Duties included investigating fires to determine their cause, inspecting buildings to identify fire hazards and requiring the removal and correction of identified fire hazards. The Fire Marshal's duties were redefined by the Legislature seven more times between 1913 and the early 1970s, with the Commissioner of Insurance handling the State Fire Marshal duties for many years. In 1975, a separate Office of the State Fire Marshal

was established, and in 1991, the Legislature removed the office from the Texas Department of Insurance (TDI) and merged it with the Texas Commission on Fire Protection. In 1997, the Legislature returned the Office of State Fire Marshal to TDI.

## Highlights

Major accomplishments by the State Fire Marshal's Office for Fiscal Year 1998 included:

- Relocating offices and moving operations from the Texas Commission on Fire Protection to TDI.
- Replacing old, outdated laptop computers for field staff, allowing use of TDI compliant software, network connections and improved communication.
- Replacing Arson Laboratory equipment needed to ensure Year 2000 (Y2K) compliance.
- Conducting 1,120 initial and follow-up fire investigations.
- Referring 124 arson cases for prosecution.
- Processing 813,756 fire and non-fire incident reports from Texas fire departments.
- Conducted 1,811 educational/informative fire safety education presentations.
- Conducting 8,222 initial inspections and reinspections of buildings for fire safety hazards.

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### Summary of Activity - Fire Marshal's Office

	<b>FY97</b>	<b>FY98</b>
TEXFIRS incident reports processed	*	813,756
Informational/educational presentations conducted	*	1,811
Percentage of public schools using fire prevention education	*	86%
Number of requests for engineering assistance	*	162
Number of initial and follow-up fire investigations	*	1,120
Number of samples analyzed in the arson laboratory	*	2,156
Number of Juvenile Firesetter Intervention programs formed or expanded	*	12
Percent of fires investigated that involved insurance claims	*	63%
Average response time to requests for fire safety inspections	*	3.65
Number of companies and personnel licensed for fireworks, extinguisher, alarm and sprinkler	*	9,820
Number of tests administered to industry personnel	*	2,914
Number of criminal background checks conducted	*	4,573
Number of investigations of complaints against fire protection equipment and fireworks industries	*	1,244

*\* FY97 activity was not reported due to transfer of the State Fire Marshal's Office to TDI from the Texas Commission on Fire Protection.*



# Administrative Operations

Administrative Operations is headed by the agency's chief of staff. It performs the agency's internal financial functions and provides operational support ranging from computer and database services to professional development and training.

The program consists of five activities.

Information Services (IS) provides automation and computer support for all agency programs and activities and is managed by the agency's Information Resource Manager. The activity's primary goals are to ensure that automation applications and technology are maintainable, available, of good quality and meet agency standards. IS supports agency programs by:

- providing advice and assistance in applying technology to solve business problems.
- building new applications to meet agency needs.
- recognizing that data is a valuable agency asset and working to manage it efficiently and effectively.
- providing appropriate and timely training to employees who require it.
- planning and implementing agency-wide automation and information technology projects.

IS consists of four sections.

**Planning and Administration** develops and implements the IS planning process, manages system security and the IS disaster recovery plan, oversees the IS budget, tracks division spending, provides technical writing and technical librarian functions and handles other administrative duties, including IS personnel matters. The section also works closely with the agency's business planning function to ensure all automation projects are supported and funded based on agency-wide business needs.

**Development** develops new software applications and enhancements, maintains existing computer software applications, resolves production problems and handles "rapid response" assignments. The Rapid Response Unit oversees day-to-day operation of the Internet web server and handles short-term automation tasks that are, by their nature, difficult to anticipate.

**Customer Support Center** includes the Help Desk, Desktop Support and Telecom Services units. It offers on-site computer consulting and classroom training in computer basics and various software products. The Help Desk acts as an intake unit for all requests for IS service. The center also manages the agency's telephone and telecommunications needs.

**Production** maintains and repairs the automation systems, including local area networks (LANs), wide area networks (WANs), cabling, desktop computers and printers. The section manages the Sequent/UNIX operating system and the office automation systems, database support, network and software management, production control and operations and hardware repair, as well as quality assurance and acceptance testing.

Administrative Services, led by the Chief Financial Officer, supports the agency in the areas of budget and planning, accounting, purchasing, mail services and building and records management. It also monitors TDI's compliance with oversight requirements set for state agencies by the Legislature. Late in FY 98, the publications function transferred from Administrative Services to the Public Information Office in the Commissioner's Office.

It consists of three divisions.

**Financial Services** maintains the agency's financial books and records, prepares supporting documents required for a proper audit trail, establishes internal financial controls to detect errors and irregularities, prepares the agency's annual financial report and develops and recommends rates for maintenance taxes,

examination overhead assessments and premium finance assessments needed to fund the agency, and the maintenance tax surcharge rate to service the bonded indebtedness of the Texas Workers' Compensation Insurance Fund. It also handles budget and planning functions, including the Legislative Appropriations Request (LAR), the agency's Strategic Plan every two years, the agency's annual operating budget and the agency's monthly performance reports.

The division also monitors expenditures, develops projections to help programs stay within budget, monitors the agency's performance against targets in the Strategic Plan and monitors the agency's compliance with certain Article IX provisions of the General Appropriations Act.

**Staff Services** deals with all building-related services, including space planning and management, security, employee parking, records retention, property inventory and warehousing, copy center, and administers the agency's Risk Management Program. It also handles, tracks and delivers all mail, including inter-agency memos and correspondence.

**Purchasing, Contracting and Graphic Design** purchases goods and services for the agency. The division also produced agency publications and materials, including various designs and illustrations until August 1998 when the function was transferred to the Commissioner's Office.

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Comparison of Maintenance Tax Rates - FY89-FY98

Type	Max legal rate	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
Motor Vehicle	.2	.067	.133	.091	.07	.058	.069	.068	.055	.066	.056
Fire	1.25	.729	.711	.711	.574	.525	.606	.656	.436	.418	.370
Workers' Compensation	.6	.163	.467	.268	.217	.200	.386	.120	.093	.096	.085
Casualty	.4	.343	.318	.297	.210	.210	.295	.319	.209	.251	.197
Title	1	.156	.464	.322	.178	.132	.187	.171	.110	.135	.174
Life, Accident and Health	.04	.032	.040	.040	.040	.040	.040	.040	.040	.040	.040
Third-Party Administrators	1.0	1.0	1.0	1.0	.8	.5	.222	.235	.310	.339	.313
HMO Multi-Service*	\$2.00	\$0.98	\$1.21	\$1.21	1.25	\$0.78	\$1.23	\$1.27	\$0.68	\$0.80	\$1.21
HMO Single Service*			\$.61	\$.60	\$.62	\$0.42	\$0.62	\$0.38	\$0.22	\$0.27	\$0.41
HMO Limited Service*											\$0.41
Prepaid Legal	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0

\*HMO rates reflect an amount per enrollee. Other rates are given as a percentage.

Human Resources promotes agency goals primarily by developing, implementing and interpreting agency personnel policies and procedures, handling personnel and benefit needs and assisting in the professional development of employees and managers.

It consists of Administration and two sections or centers.

**Program Administration** includes the Director and Assistant Director and management team personnel. It analyzes and researches human resources issues, develops human resources initiatives, including coordinating and implementing the division's business plan. In addition, it administers the Americans with Disabilities Act (ADA), agency recruitment and the Employee Assistance Program. TDI switchboard personnel also are included in this area, as are support personnel for the management team.

**The Personnel and Benefits Center (PBC)** handles personnel, payroll, benefits and other day-to-day operations, including managing and monitoring agency hiring, payroll records, employment records,

personnel actions, time records and leave programs, employee insurance and benefits, the agency performance management system, employee exit interviews and the agency's Human Resources Information System (HRIS) that maintains employment statistics required by agency policy and state and federal law.

**The Professional Development Center (PDC)** assesses employee and agency training needs; provides technical insurance training; designs, coordinates and conducts management and employee training, including new employee orientation; tracks and maintains employee training records; produces various statistical training reports; coordinates the agency's Tuition Reimbursement Program; and coordinates the agency's Wellness Program.

The Business Planning and Redesign Division works with other agency planners and managers to:

- critically examine the agency to identify areas for improvement.
- establish processes for developing and implementing business plans.
- facilitate the agency planning process by integrating the strategic planning and business planning processes.

In FY 98, Business Planning and Redesign led several projects designed to improve program or agency-wide operations, including the development of a survey that will help TDI assess customer satisfaction and fulfill the mandate of Article IX, Section 68 of the Appropriations Act. The division also evaluates employee suggestions for agency improvements and develops implementation plans for approved suggestions. Business Planning and Redesign worked closely with the programs, individually and through the Planning Work Group, to monitor progress on current year Business Plans, to develop TDI's FY 99 Business Plans, and to reinforce the value of business planning as a tool that helps achieve TDI's strategic goals. Business Planning and Redesign staff also supported the programs by developing grant proposals to implement projects, providing advice and consultation on project proposals, and refining and communicating the process for developing project proposals for approval.

Employee Ombudsman and Ethics Advisor gives employees an outlet to discuss their concerns and problems in private. The ombudsman also is charged with helping encourage positive communication between agency managers and employees, helping resolve workplace complaints, grievances or disputes and helping agency employees with ethics questions.

## Highlights

Major accomplishments by Administrative Operations during Fiscal Year 1998 included:

### Information Services

- Helping TDI plan ahead for information technology investments that support the program area business plans.
- Streamlining processes and workflow to make IS more responsive to agency business.
- Assessing and updating the State Fire Marshal's computer software, network and printing capabilities. Merging its automation into TDI's environment and beginning the process to bring the Fire Marshal's automation up to TDI standards.
- Developing automation support for certifying Independent Review Organizations (IROs).
- Implementing an Internet-based Auto Map system to track and assist in providing auto insurance to underserved Texans. Eligible participants are listed on a password-protected portion of TDI's Web site that can be accessed by participating insurance companies.
- Developing automation in support of Agents Licensing legislative changes.
- Assessing TDI field staff computing needs.

- Continuing to enhance the agency's Internet presence. TDI has rapidly become a leader among the nation's insurance regulatory agencies through the scope and breadth of information that it maintains on its Web site for public access. On-line consumer complaint capability and direct public input to the Commissioner of Insurance keep TDI at the forefront of consumer protection and industry regulation.
- Purchasing a new and enhanced webserver that will be operational in the first quarter of FY99.
- Upgrading the agency's network, servers, printers, client PCs and software including moving to Oracle 7.3, replacing Type 1 cabling with Category 5 cabling, replacing obsolete network printers, upgrading 500 PCs and replacing limited hard drives with 3-gigabyte devices, providing for storage of more applications on the PC and improving response time.
- TDI was 88 percent complete with year 2000 at the end of FY98. Remediation of TDI applications will be completed by the end of November 1998 with additional testing of third party software scheduled for calendar year 1999.
- Conversion of 14 Oracle applications from Forms 3.0 to Forms 4.5 to provide TDI's on-line databases with a user-friendly Graphical User Interface (GUI).
- Converting and moving data from three different automation systems into the Human Resource Management System. Various agency employee and EEO reports also were developed and implemented.
- Working with the National Association of Insurance Commissioners (NAIC) to enhance national regulatory automated systems.
- Receiving the "Technology of the Year" award from the National Association of Insurance Commissioners (NAIC) in recognition of TDI's early efforts in alerting the regulated insurance community to the issues and dangers of the Year 2000 problem.
- Chairing the System for Electronic Rate and Form Filing (SERFF) consortium, serving on the Board of the Insurance Regulatory Information Network (IRIN) and implementing SERFF and the Producer Database (PDB) in Texas. These NAIC-sponsored automation projects seek to improve the regulatory process nationwide.
- Implementing a modest data replication project that allows end-users to access up-to-date but non-production enterprise data without fear of corrupting production data.
- Completing the project scope and initial analysis of a new for BPR and program areas to reassess their requirements.

#### Administrative Services

- Conducting, at the request of the State Auditor's Office and the Legislative Budget Board, an "Activity Based Costing" pilot project pursuant to Article IX, Section 69 of the General Appropriations Act.
- Preparing the FY 97 Annual Financial Report and the Binding Encumbrance and Accounts Payable Report for FY 97.
- Developing requirements for a new Financial Management Information System.
- Developing rates for maintenance tax, examination/overhead assessment, premium finance assessment and the workers' compensation maintenance tax surcharge.
- Processing 7,504 payment vouchers and 30,589 cash receipts during FY 98.
- Developing and producing the agency's FY 99 Operating Budget.
- Coordinating projects and preparing documentation in support of the agency's FY 2000/01 Legislative Appropriations Request (LAR) and five-year Strategic Plan (FY 99- 2003).
- Monitoring and projecting agency expenditures by strategy, object of expense and organizational unit.
- Developing and maintaining a salary and travel cap tracking system that enabled the agency to operate in compliance with the General Appropriations Act, Article IX, Section 64 (Travel limitations) and Section 16b (Salary cap).
- Assisting in preparation of the quarterly FTE State Employee Reports to the State Auditor's Office, pursuant to the General Appropriations Act, Article IX, Section 36.
- Developing and publishing monthly and quarterly performance reports to monitor and evaluate progress on strategic plan performance measures.

- Participating in internal audits of strategic plan performance measures and assisting with corrective actions.
- Completing an internal performance measure benchmarking process, pursuant to the General Appropriations Act, Article IX, Section 67.
- Processing more than 3,033 purchase orders and procuring 5,546 line items.
- Posting procurement opportunities on TDI's Internet Web site.
- Processing 1.2 million pieces of agency mail.
- Filling 381 graphic design requests and producing more than 12.2 million pages of agency publications.
- Microfilming 2,289,484 documents and storing 2,399 cubic feet of records through the Texas State Library for records retention.
- Coordinating planning, necessary renovations and purchase of modular furniture to meet the Legislature's mandate on space utilization.
- Assisting in planning and implementing transfer of the State Fire Marshal's Office from the Texas Commission on Fire Protection to TDI on April 24, 1998.
- Moving the Arson Lab on July 20, 1998, to its new home at the Cameron Road facility. This completed the division transfer. The moves were all accomplished within TDI's ~~own~~ existing allocation of space. No additional space was added.

#### Human Resources (HR)

- Receiving Texas Commission on Human Rights approval of TDI's Human Resources Personnel Policies and Procedures and Affirming EEO Action Plan.
- Completing the Career Advancement Planning System Guide, an employee career development tool for managers and employees.
- Achieving 100 percent compliance with a Commissioner's mandate that performance evaluations be completed on all employees, marking the third consecutive year for accomplishing this directive.
- Evaluating, testing and installing a Human Resources Information System (HRIS) that provides a central repository for employee data. Conversion from multiple systems to a single system was completed in FY98.
- Delivering 128 hours of enhanced management training, including segments on discrimination, sexual harassment, coaching, counseling and documentation.
- Delivering 509.75 hours of employee training, including segments on new employee orientation, Spanish, communication, sexual harassment and discrimination.
- Delivering 253 hours of insurance training, including in-house Chartered Property Casualty Underwriter (CPCU) and insurance regulation courses.
- Providing orientation for approximately 217 new employees as part of the New Employee Orientation program, including sexual harassment and discrimination training.
- Processing 1,143 personnel actions for the agency, including merit raises, promotions, transfers, releases and other forms of separation in FY98.

#### Business Planning and Redesign Division (BPR)

- Monitoring and reporting on the status of FY 98 business plan initiatives.
- Coordinating Planning Work Group meetings that provide an agency-wide forum for discussing and prioritizing projects requiring Administrative Operations support.
- Leading the agency through the business planning process for FY 99.
- Helping agency work groups plan implementation of legislative and business projects.
- Assisting programs in doing cost-benefit analyses on projects requiring Administrative Operations support.
- Working with Information Services, Administrative Services and program areas to refine the agency-wide process for developing and seeking approval of proposed projects.

- Assisting programs in developing grant proposals to be submitted to the Foundation for Insurance Regulatory Studies in Texas.
- Developing a customer satisfaction survey to assess ways to improve customer service and fulfill the legislative mandate in Article IX, Section 68 of the Appropriations Act.
- Working with Human Resources to conduct a job classification/work process improvement analysis of the Agents Licensing Division.
- Working with Human Resources to successfully administer the State Employee Incentive Program, with HR responsible for overall program administration and BPR responsible for evaluating the suggestions and preparing implementation plans for approved suggestions.
- Working with Information Services, Administrative Services and program areas to begin development of disaster recovery/business continuity plans for each work group and the agency as a whole.

#### Employee Ombudsman and Ethics Advisor

- Assisting TDI employees to effectively resolve a variety of workplace issues and conflict through counseling, coaching, mediation and facilitation.
- Creating and providing effective management skills assistance as requested by specific divisions and departments within TDI.
- Representing TDI as a speaker and presenter at conferences, workshops and seminars that addressed various workplace issues and behaviors.
- Starting the process of conducting sexual harassment workshops for all agency employees, as required by legislative mandate.

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