Texas Department of Insurance

Agency Strategic Plan

For the
Fiscal Years 2005-2009 Period

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Commissioner of Insurance

July 2, 2004

Document 1 of 2

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The Vision of Texas State Government

Assuring open access to an educational system that not only guarantees the basic core knowledge necessary for citizenship, but also emphasizes excellence and accountability in all academic and intellectual undertakings;

Creating and retaining job opportunities and building a stronger economy that will lead to more prosperity for our people, and a stable source of funding for core priorities;

Protecting and preserving the health, safety and well-being of our citizens by ensuring healthcare is accessible and affordable, and our neighborhoods and communities are safe from those who intend us harm; and

Providing disciplined, principled government that invests public funds wisely and efficiently.

The Mission of Texas State Government

Texas State Government must be limited, efficient, and completely accountable. It should foster opportunity and economic prosperity, focus on critical priorities, and support the creation of strong family environments for our children. The stewards of the public trust must be men and women who administer state government in a fair, just, and responsible manner. To honor the public trust, state officials must seek new and innovative ways to meet state government priorities in a fiscally responsible manner.

Aim High…We are not here to achieve inconsequential things!

The Philosophy of Texas State Government

The task before all state public servants is to govern in a manner worthy of this great state. We are a great enterprise, and as an enterprise we will promote the following core principles:

- First and foremost, Texas matters most. This is the overarching, guiding principle by which we will make decisions. Our state, and its future, is more important than party, politics, or individual recognition.

- Government should be limited in size and mission, but it must be highly effective in performing the tasks it undertakes.

- Decisions affecting individual Texans, in most instances, are best made by those individuals, their families, and the local government closest to their communities.

- Competition is the greatest incentive for achievement and excellence. It inspires ingenuity and requires individuals to set their sights high. And just as competition inspires excellence, a sense of personal responsibility drives individual citizens to do more for their future and the future of those they love.

- Public administration must be open and honest, pursuing the high road rather than the expedient course. We must be accountable to taxpayers for our actions.

- State government has a responsibility to safeguard taxpayer dollars by eliminating waste and abuse, and providing efficient and honest government.

Finally, state government should be humble, recognizing that all its power and authority is granted to it by the people of Texas, and those who make decisions wielding the power of the state should exercise their authority cautiously and fairly.

Relevant Statewide Goals and Benchmarks

The Texas Department of Insurance (TDI) identified the following priority goal and benchmarks from *Vision Texas* that link the agency strategic plan and goals to the statewide mission.

Priority Goal

To ensure Texans are effectively and efficiently served by high-quality professionals and businesses through clear standards, compliance, and market-based solutions.

Relevant Benchmarks

- Average annual homeowners and automobile insurance premiums as a percent of the national average

Texas Department of Insurance
Vision, Mission, and Philosophy

Agency Vision

The Texas Department of Insurance envisions a financially stable and responsive insurance industry that provides insurance at a reasonable cost to all consumers who need it.

Agency Mission

The Texas Department of Insurance regulates the Texas insurance industry firmly, fairly, effectively, and efficiently.

- TDI supports a fair, efficient, and productive industry dedicated to the long term concept of insurance and its contributions to society.
- TDI works for the availability of quality insurance products for all Texans at reasonable prices and under reasonable terms and strives to protect consumers' insurance assets.
- TDI enforces solvency standards and promotes competition in the industry while protecting consumers from fraud, misrepresentation, and unfair practices.
- TDI educates the public about insurance so that Texans can make informed choices, and TDI insists that the industry be responsive to its customers.
- TDI works to make Texas a place where industry will want to do business.
- TDI works to protect the lives and property of the citizens of Texas from fire and fire-related hazards.

Regulatory Philosophy

We believe that our primary responsibility is to the people and businesses that are served by insurance and pay taxes in the State of Texas. We recognize that we are here to serve them and consider that to be an honor.

- In meeting their needs as consumers, we pledge that we will make every effort to ensure that prices are fair and reasonable, that products are available, that claims will be handled fairly, promptly and professionally and that, in dealings with us, consumers will be treated with respect and courtesy. We will continuously strive to improve consumer information and education on prices, services, safety and quality of insurance to help them shop wisely.
- In meeting their needs as taxpayers, we promise to maximize efficiency of TDI operations, to eliminate unnecessary functions and paperwork burdens, and to minimize bureaucracy.
- In earning their trust, we pledge to maintain the highest ethical standards in words and actions.

We believe that we have a responsibility to the people working in the insurance industry.

- We pledge to make Texas a place where industry will want to do business.
- We pledge to support a fair, efficient and productive industry dedicated to the long-term concept of insurance, and its contributions to society.
- We pledge to communicate concerns, problems and issues to the industry. We encourage industry to communicate its suggestions and concerns to TDI.
- We pledge to assist the industry in an efficient and responsive manner in meeting its obligations to the public and its policyholders.

Finally, we believe that we have an equally important responsibility to each other as employees and to all of the people who work with us.

- We respect the dignity and recognize the contribution of each employee.
- We encourage and will be responsive to all suggestions and concerns.
- We are pledged to equal opportunity in employment, retention and advancement. We pledge to encourage and assist employees in developing to their full potential.
- We are committed to a diverse work force.
- We pledge to provide leadership that is fair, responsive and ethical.
- We believe that each employee is an integral part of our team effort to serve the people of the State of Texas. We pledge to share our knowledge and to assist each other in achieving the mission of the agency.
- We believe in decentralizing power and delegating authority to our employees. We pledge to do our best individually and recognize that each of us is responsible and accountable for our actions.

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Serving Texans since 1876

Overview

Regardless of who you are, what you do, or where you live in Texas, the business of insurance touches or impacts everyone's life in one way or another. The current insurance industry business grew out of a common need for Texans to protect themselves, protect their property, and protect the equipment and other assets that helped them to earn a living. In Texas in the 1880's, mutual aid associations began as a safeguard for farmers wishing to insure their property against fire and weather-related damage. Those needs remain just as valid today. Insurance is a stabilizing factor that provides a safeguard as Texans pursue economic prosperity, and it acts as a lubricant to the economic machinery of the world.

While it was the local community that first banded together to self-insure, in 1876 the State of Texas acted to provide for insurance regulation. Throughout 128 years of regulation, a number of trends and issues have come and gone, but one remaining issue is the delicate balance of the department's multiple roles as a regulator, a protector of consumers, and a promoter of competition in the industry.

Insurance is a critical part of the economic development of Texas: business owners rely upon property insurance as a shield against catastrophic loss or to cover employees in case of injuries; an employee relies upon auto insurance to protect a vehicle which provides his means of getting to a job; doctors rely upon medical malpractice insurance to protect them in the case of errors or omissions in the practice of medicine; and families rely upon personal health insurance to help them stay healthy.

Recent market conditions have been challenging. The state of the economy, terrorist events, and high claims volume combined to create a "perfect storm" of insurance conditions; driving up costs and affecting availability in some lines of insurance. Insurance consumers found themselves with fewer dollars to spend on insurance products along with rising costs. Business consumers of health insurance products had employees to insure, escalating costs of health care, and concerns about the financial rating of the companies they may choose.

The insurance industry was especially hard hit. The industry responded to market conditions by looking for ways to operate more efficiently, cutting costs, and seeking changes in the regulatory environment. Congress began considering some of these regulatory changes such as modernization and standardization efforts to achieve uniform regulations among states. Consumers throughout the states turned more frequently to their state commissioners for assistance in holding down escalating insurance costs, protecting them from unauthorized insurers, and assisting them in collecting fair compensation for their claims.

A slowly improving economy and changes recently enacted by the Legislature should impact all aspects of the market, increasing competition, reducing the costs of products, and expanding consumer options.

In addition the globalization of markets is creating a business climate far different from any Texas has ever experienced. Globalization began in the banking and finance markets with mergers and acquisitions creating multinational corporate entities. Because of the close connection between the insurance industry and the finance industry, there was subsequent interest in the structure of insurance markets. In response to globalization, Congress allowed unprecedented affiliations between banks, securities firms, insurance companies, and other financial entities. As a result, the insurance industry is closely linked to global changes.

Congress is reviewing the business of insurance in the global marketplace including the possible establishment of federal standards to be implemented at the state level. While Congress is considering federalizing state insurance laws, state insurance commissioners are aggressively pursuing modernization efforts that retain state regulation while responding to global trends. These modernization efforts will provide for more competition and efficiency and position the state in the worldwide marketplace. Efforts pursued by state insurance commissioners include uniform licensing requirements that will allow multi-state insurers to use standard documents and form approval initiatives that will enable insurers to get new products into the market faster. In addition to these efforts, TDI has increased its scrutiny of the financial condition of the industry and is carefully monitoring the complex relationship between the financial and insurance markets.

Considering the current trends, it is certain that the world of insurance is changing dramatically. This is an exciting time for industry with state regulators implementing uniform standards, streamlining processes, and approving new products. The agency's responsibility toward consumers is even more important now. With so many new products offered, a wider array of choices are available to consumer, and they must be more knowledgeable and prepared to make decisions on those options.

Emerging economic conditions and international market forces suggest that Texas is on the threshold of experiencing a more competitive marketplace. An important factor of competition is willing and educated buyers. An informed public is not only less likely to be harmed in its transactions with insurers, but it helps to keep the market disciplined. As consumers avoid inferior products, the industry will be pressured to offer products of higher value and quality. TDI has a responsibility to help consumers to educate themselves.

Recent events have shown the weaknesses of the new world market. The industry can be affected by innumerable conditions never before considered- even events a continent away. While it is always difficult to forecast the future, there are certain things that can be expected. Insolvencies will occur, and in Texas bad weather will happen. What is unknown is when or where these events will occur. Nevertheless, the agency can be prepared.

Agency History

The Texas Department of Insurance was created in 1876 as the Department of Insurance, Statistics, and History. Since that time, its governance, regulatory authority, and responsibilities have changed dramatically. During the first few decades, this agency served as a catch-all for various duties such as state librarian, public grounds and buildings, agriculture, banking, and fire marshal. In 1913, the agency's name was changed to the State Fire Insurance Commission. And, in 1927 it became the three-member Board of Insurance Commissioners; however, each Commissioner was the head of a different functional area (life, fire, and casualty).

It was not until 1957 that the three-member State Board of Insurance (SBI) was created as a modern board, which operated as a unit without division of duties by line of insurance. The SBI was charged to set or approve rates for certain lines of insurance, adopt rules, and provide policy oversight for the agency. Board members were appointed by the Governor and confirmed by the Senate, and the Board appointed the Commissioner of Insurance to administer daily operations.

The Commissioner also served as State Fire Marshal until 1975, when the 64th Legislature created a separate State Fire Marshal's Office (SFMO). Both the SFMO and the Office of Consumer Protection (OCP), which was created in 1987 to represent consumer interests, became independent of the Board in 1991. The OCP is now known as the Office of Public Insurance Counsel and remains an independent state agency. The SFMO was moved to the Texas Commission on Fire Protection in 1991, but in 1997, legislation again transferred it to TDI where it remains today.

The Legislative Session of 1991 resulted in 800 pages of insurance reform legislation, and the SBI issued 145 orders in implementing those mandates. Reforms included a new rate regulation system for property and auto insurance to encourage competition, eliminate rating swings, and enhance the availability of insurance. The previous system of yearly promulgated rates was changed to a flexband rating system with a promulgated "benchmark" rate and provisions for insurers to deviate or "flex" up or down a certain percentage from that rate. Although originally designed as a 4-year experiment in rate regulation, the flexband system would remain in place for twelve years until 2003, when the 78th Legislature implemented the file and use system.

By 1993 the insurance industry was a $41.1 billion business. That year sunset legislation passed to replace the three-member SBI with a single Commissioner of Insurance and to change the agency's name from the State Board of Insurance to the Texas Department of Insurance. In December of 1993, the SBI transferred its authority to the Insurance Commissioner, marking a new era in insurance regulation. The Commissioner assumed all rate-setting and policymaking duties related to the administration and enforcement of state insurance and other applicable laws. Similar to the old SBI, the Governor appoints the Commissioner for a two-year term, subject to Senate confirmation. Many attribute the new organizational structure with improving the accountability and efficiency of the agency.

This system remains in place today. The Commissioner also represents the state as a member of the National Association of Insurance Commissioners (NAIC), which operates as a means for the interstate coordination of regulation activity. As a member of the NAIC, the Commissioner also represents the state in international forums such as the International Association of Insurance Supervisors (IAIS).

The 1993 Sunset legislation also transferred the agency's tax collection function to the Comptroller's Office and the administrative hearings function to the State Office of Administrative Hearings. Transferring these duties removed functions which were more suited to the two other agencies, allowing TDI to focus its efforts on insurance regulation. TDI's mission continues to include the regulation of various types of insurance, including life, health, title, property and casualty, and worker's compensation.

In spite of the previous comprehensive insurance reform, various issues would continue to concern the agency throughout the 1990s. Those issues included fair regulation, educating consumers, insurance availability, insurance rates, managed care, and later, fraud. In addition, throughout the decade various insurance availability crises occurred; hail claims in Fort Worth resulted in insurers restricting new homeowners business, slab foundation problems in the Houston and Corpus Christi area resulted in legislation eliminating its coverage (later restored, then modified by rulemaking), and more recently mold claims have caused restrictions in market availability.

Also during the 1990s, the managed care system of health care delivery experienced a dramatic increase in enrollment as large numbers of employers began using this lower-cost system. In one year alone, FY 1995, enrollment in basic HMOs increased 19 percent to total 2 million enrollees. The Texas Legislature and the agency became concerned that appropriate safeguards were in place and that cost savings concerns did not override quality of care. And, during the 1994-95 biennium, the Legislature took up these issues for review. Legislative committee members traveled throughout the state holding public hearings for testimony from citizens, consumer advocates, and the industry. Subsequent legislative sessions called for dramatic changes in managed care regulation and in TDI's regulatory duties. As a result of these changes, TDI reorganized its programs, increased staff in its health care division, and incorporated additional performance measures specifically related to managed care.

In 1995, TDI staff conducted a comprehensive review of the agency. Staff analyzed the agency's key regulatory functions and its administrative processes. Implementation began on 44 issues designed for cost savings, improved customer service, and the reorganization of staff into essential functions. Implementation efforts included streamlining rulemaking, form filings, and application processes and removing obsolete rules from the books. During the late 1990s and FY 2000, the agency continued reorganization as it reviewed and fine-tuned further to increase efficiency and improve processes.

National issues played a larger role in the new millennium. By 2000, the Texas insurance industry was a $60 billion business. Computer problems related to the arrival of the year 2000 and globalization turned the focus to technology and more complex skills.

The insurance industry is currently a $79.6 billion business, and this recently passed biennium began another new era for TDI, as legislative changes resulted in major regulatory reforms. In the coming years, consumers can expect to see more choices, more options, and fairer rates in a healthier, competitive, and more stable marketplace. Nationally, pressure continues for the states to develop nationally standardized processes or to relinquish control to the federal government. The agency is continuing to work with the NAIC and other states to modernize processes and to provide standardized services throughout the nation.

TDI, with its stable leadership and skilled professional staff, is uniquely positioned to anticipate and respond to the challenges that present themselves during these changing times. Beginning his 5th year of service as the Texas Commissioner of Insurance, Jose Montemayor continues a tradition of efficient stewardship of this 128-year old institution. Commissioner Montemayor has been a key decision maker at TDI since 1992 as the Associate Commissioner for the Financial Program, and he was appointed Commissioner of the agency in 1999. He has sustained a tradition of leadership and accountability. The agency staff is a highly qualified, committed, and caring group. They have distinguished themselves among the states as leaders, coordinating national regulatory efforts on insurance company bankruptcies and mergers, receiving the prestigious Robert Dineen Award for "outstanding service and contribution to the state regulation of insurance," and playing a key role in developing international accounting standards.

As we go forward, we will continue to balance agency roles as regulator, consumer educator, and advocate of competition. We look forward to serving the State of Texas during these exciting and challenging times.

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Demographic, Economic, and Market Trends

Population Changes

The United States 2000 Census showed continued population shifts to the South and the West and to large metropolitan and suburban areas.[1] Between 1990 and 2000, the population of Texas grew by almost 23 percent, compared to the national average of only 13.2 percent. The Texas Comptroller of Public Accounts estimates that Texas' population is 22.5 million in 2004 and projections indicate that the 2006 population will rise to over 23 million and to approximately 25 million by 2009.[2]

Notably, three of the ten fastest growing metropolitan areas in the United States during the 1990 to 2000 period were found in Texas – McAllen-Edinburg-Mission (48.5 percent), Austin-San Marcos (47.7 percent), and Laredo (44.9 percent). Not only are our Mexico border metropolitan areas burgeoning, but the Hispanic population in Texas is growing, as well. In the next 10 years, Texas Hispanics are estimated to experience a robust 20 to 35 percent growth.[3]

Like the rest of the nation, the Texas population is aging. Between 2004 and 2009, the Texas population over age 65 is expected to increase 14 percent to a total of almost 3.5 million. In comparison, the state's population of those under the age of 65 is expected to grow by only 9 percent.[4]

An estimated 1 million of our nation's elderly now live in assisted living facilities. These facilities are heavily preferred over nursing homes by the elderly. But, they are priced at a cost that may be unavailable to 80 percent of the elderly population.[5]

Data show that at least 20 million working Americans have no health insurance, and unfortunately, Texas has the highest percentage of working uninsured (27 percent) in the country. In addition, working Hispanics are even more likely to lack health insurance. Nationally, 35 percent of working Hispanic adults are uninsured compared to 18 percent of working Black and 11 percent of working White adults.[6]

[1] Population Change and Distribution, Census 2000 Brief, April 2001, U.S. Census Bureau.
[2] Texas and the U.S. Economic and Population Forecast, FY 2000-2009, Spring 2003 Forecast, Texas Comptroller of Public Accounts.
[3] 2001 Population Projections, Texas State Data Center and Office of the State Demographer.
[4] Texas and the U.S. Economic and Population Forecast, FY 2000-2009, Spring 2003 Forecast, Texas Comptroller of Public Accounts.
[5] American Association of Retired Persons
[6] "Characteristics of the Uninsured: A View from the States," May 2004, Robert Wood Johnson Foundation.

These trends and changes in the size and composition of the population will affect the insurance industry, Texans' insurance needs, costs, and insurance-related policy decisions made by Texas lawmakers. For example:

- Our aging population will likely mean a greater need for health care services and increased health care costs within both the public and private sectors.
- Working Texans' inability to afford health insurance will require more effort to bring costs within the reach of employers or to within reach of Texans whose employers do not offer coverage.
- Interest in alternative living facilities for the elderly may drive interest in new or innovative insurance products.

Economic Conditions

Economic conditions have a tremendous effect on both insurance consumers and the insurance industry. These effects include affordability of health insurance for the unemployed, increased risk of insurer insolvencies, insurance fraud, and unpaid insurance claims.

During the several years leading up to 2004, the economy weakened with higher unemployment and low interest rates affecting the business of insurance throughout the state. Fortunately, the economy of the nation and Texas appears to be improving. The April 2004 national unemployment rate is at 5.6 percent, and Texas is reporting an unemployment rate of 6.2 percent. These figures are improved from the previous April when the nation's unemployment was 5.8 percent and Texas was 6.9 percent. The Texas unemployment rate has been at or above 6 percent since January of 2002.[7]

Early indications of Texas' economic improvement are encouraging. The state added over 87,000 jobs from September 2003 to April 2004, culminating in 7 consecutive months of job gains.[8] In addition, sectors such as education and health services have expanded and Texas exports have increased.[9] In general, economic forecasters are cautiously optimistic for slow but steady growth throughout the next few years. While conditions appear to be improving, it will take time for all insurance markets to stabilize.

The availability and affordability of health care coverage for Texans has been a highly volatile issue for the last few years, and the changes in the economy and high unemployment made the situation even worse. With the unemployment rate above 6 percent, providing health insurance for the uninsured remains an urgent need. Economic conditions, combined with dramatic increases in health care

[7] Labor Market and Career Information, Texas Workforce Commission
[8] Labor Market and Career Information, Texas Workforce Commission
[9] Texas Economic Update, Summer 2003, Texas Comptroller of Public Accounts

costs and insurance premiums, have influenced the decisions of many small businesses, which employ the majority of Texans, as they evaluate their ability to maintain employees while also affording health coverage.

Another unfortunate consequence of the earlier economic downturn was an increase in insurance fraud. While insurance fraud occurs in all economic environments, higher unemployment and increased premium rates tend to bring increased offenses. To help combat fraud, TDI formed the Texas Committee on Insurance Fraud discussed on Page 28. In addition, TDI brings the Texas perspective to national forums as the chair of the Database Working Group on the Anti-Fraud Task Force, established by NAIC.

Insurers also were affected by the changing economic conditions. Insurance companies experienced decreased profits and, in some cases, financial losses due to the ripple effect of the September 11 terrorist attack; the declining stock market and resulting decline in investment income; claims associated with litigation; an increase in mold claims; and rising health care costs. As a result, consumers saw homeowner, auto, and health care rates increase; doctors experienced increased medical malpractice premiums and fewer available insurers; and businesses experienced an increase in workers' compensation premiums. An improving economy and legislative changes are expected to improve business conditions for insurers, and consequently, consumers should see a benefit, such as improved rates and increased availability. Recent legislation addressed property, casualty, health, and medical malpractice issues, and consideration of workers' compensation is ongoing.

Another effect of the changing economic conditions was the adjustment that insurance companies had to make in order to continue to operate profitably. During the economic boom of the 1990s, many insurance companies relaxed their underwriting practices because of intense competition among property and casualty insurance companies. Subsequently, changing economic conditions and the terrorist attacks of September 11, 2001, forced them to strengthen reserves to pay for losses associated with the attacks and other increased losses. In addition, decreased yields from conventional investments tempted many in the industry to try riskier investment vehicles. All of these factors required even greater vigilance from TDI in its analyses and examinations of companies to carefully monitor the financial condition of insurers doing business in Texas. While conditions appear to be easing, the agency will continue to be vigilant.

During periods of declining financial stability and increased vulnerability to insolvency within the insurance industry, TDI's role in analyses and examination of companies is especially crucial because insolvencies have an adverse impact on the policyholders of the insolvent company, as well as on state revenue. When an insurance company is insolvent and is put into receivership, the appropriate guaranty fund pays the claims that cannot be paid with the assets of the insolvent company. To replenish its reserves, the guaranty fund then imposes an assessment on its affiliated companies. The companies paying the assessment can, in turn, deduct the assessment from their premium taxes, which causes a reduction in the state's general revenue fund. Because of the complex interplay between insurance industry solvency, the well-being of Texas insurance consumers, and revenue to the state, TDI and the Legislature have traditionally placed high importance on the examination function. This emphasis must continue as the state’s economic condition slowly improves.

Insurance Industry Trends

During the next five years TDI’s regulation of the state’s insurance industry will be significantly affected both by general national trends and by issues specific to the Texas marketplace. The combination of these factors may present challenges to the agency as it attempts to provide effective regulation while also operating efficiently.

Key nationwide issues include the ongoing effects of the 2001 terrorist attacks, the continuing trend toward larger national insurers, and the potential for decreased availability of reinsurance. In Texas, legislative changes increased flexibility for the insurance industry and economic improvements should provide further benefits. TDI will assess these trends during FY 2005-2009 with the goal of continuing to provide responsive and efficient service.

Nationwide Influences

Because the insurance marketplace is increasingly national and international in scope, events and trends outside of Texas have a substantial impact on the regulatory operations of TDI. For example, a key factor in the insurance industry is the availability of capital for investment in insurance and reinsurance markets. Major losses such as those incurred during the 2001 terrorist attacks can negatively affect the solvency of insurers operating in Texas. Additionally, the trend toward larger insurers doing business in multiple states will require TDI to work more closely with other regulators and to modify its operations within Texas.

Effect of Terrorist Attacks

The events of September 11 had an enormous impact on the insurance industry. Current estimates of the direct insured losses are in the range of $40 billion to $50 billion. Concerns with these losses, as well as possible future terrorism losses, resulted in significant financial solvency concerns for the insurance industry.

Insurers initially reacted by excluding future coverage for property and casualty losses from terrorist events by attaching very broad terrorism exclusions to certain insurance policies. A significant increase in premium rates also resulted, particularly as the increased cost of reinsurance was passed on to consumers.

To avoid a national crisis, Congress enacted the Terrorism Risk Insurance Act (TRIA) in 2002. TRIA established a temporary federal program that provides for a system of public and private compensation for certified insurer losses resulting from acts of terrorism. Unless extended by Congress, TRIA sunsets, or lapses, on December 31, 2005. TRIA essentially establishes a federal reinsurance safety net administered by the U.S. Department of the Treasury. The Treasury has been working closely with NAIC, particularly the Terrorism Insurance Implementation Working Group, to determine if capacity exists in the market for terrorism insurance or if TRIA needs to be extended.

Although the program appears to have made commercial property and casualty insurance for terrorism risk more widely available, it is not certain that it has successfully addressed the issue of affordability. The NAIC, as well as certain industry trade groups, has petitioned Congress to extend TRIA beyond 2005.

Federal Regulation of Insurance

The McCarran-Ferguson Act in 1945 delegated the regulation of insurance to the states, except in instances where federal law specifically supersedes state law. Nevertheless, Congress has historically maintained an interest in insurance regulation because the insurance industry plays an important financial role in the nation's economy. The performance of insurance markets also affects interstate commerce and a number of areas of public policy staked out by the federal government, such as environmental pollution and health care. The role of Congress has increased since the 1999 passage of the federal Financial Modernization Act, which allowed unprecedented affiliations between banks, securities firms, insurance companies, and other financial intermediaries, particularly since many of these entities were already subject to federal regulation.

Certain insurance and banking industry trade groups have suggested that the federal government should take a larger role in the regulation of insurance. These groups assert that it is too difficult for national companies to comply with 50 separate state regulatory systems. Congress' interest has increased in response to these concerns, and legislation has been considered to federalize the regulation of insurance and take its regulation out of the hands of state officials. Other influential members of Congress have called for the establishment of mandatory national regulatory standards that would be implemented at the state-level.

Some large insurance companies have argued that they should have the option of choosing a federal charter and regulatory structure, just as banks can do now. This has resulted in increased discussion in Congress on the possible need for legislation that would: 1) create an optional federal charter for insurance companies; or 2) establish mandatory national regulatory standards for insurers and agents. The large federal budget deficit and current international efforts related to fighting terrorism may reduce the political desire to adopt sweeping changes and to establish a federal insurance regulatory agency, particularly since a substantial state regulatory infrastructure already is in place. Indeed, previous proposals were related primarily to the establishment of an optional federal charter, but recent federal hearings have focused on state modernization efforts and the role the federal government could play. The Chairman of the House Financial Services Committee has spoken favorably on using federal statutory standards to compel all states to adopt uniform standards in specific areas, such as the licensing of companies and agents, rate and form regulation, and streamlining market conduct reviews. If this approach is taken, the regulation of insurers would remain at the state-level, although the states may be required to adopt certain legislative changes.

Modernization and Standardization: Financial Services, Licensing, Multi-State Companies, New Products, Speed to Market

Financial Services

While TDI and other state insurance regulators favor state regulation, they recognize the need to modernize insurance regulation to achieve more uniformity from state to state. Examples of modernization efforts already implemented include the standardization of statutory accounting practices and procedures (codification) and requiring uniform financial statement disclosures by insurers. State regulators have also streamlined company license filings across the nation by implementing a Uniform Certificate of Authority and a related electronic Expansion Application for insurers wishing to enter new jurisdictions. Texas and other states have also implemented reciprocity in insurance agent licensing and have been working on multi-state agreements regarding product (policy form) approval.

TDI, in coordination with state regulators from across the nation, has developed a uniform Insurance Regulatory Modernization Action Plan that provides a blueprint for more uniformity among the states. This plan is in response to concerns by the industry that national companies must comply with 50 different state regulatory systems. The plan addresses a wide range of issues, such as market conduct regulation and "speed to market" initiatives which, if approved by the Legislature, would allow for the uniform application of standards for long-term care, annuity, life, and disability income products. It will allow insurers to bring products into the market more quickly by applying similar requirements in every state. Through the adoption of model laws and the possible use of interstate compacts, TDI and other state regulators hope to continue to make progress in standardizing requirements for insurers. TDI will continue to keep the Legislature apprised of any national developments affecting the state regulation of insurance.

Licensing

The automated and electronic processes that TDI's Licensing Division has implemented in concert with the National Insurance Producer Registry (NIPR), NAIC, SIRCON.COM (a website for electronic letter of certifications for agents), Texas Online, and other outside vendors has allowed the department to become increasingly better able to provide efficient and effective licensing processes. The industry benefits from these more efficient processes in Texas and the nation, because they make it easier for companies to license and maintain the sales force needed to market insurance to the public.

Examples of some of the automated and electronic processing successes that have been achieved in Texas include:

- The online Electronic Nonresident Licensing process through the NIPR results in reducing processing time by 66 percent.
- The high utilization of the electronic processing of agent appointments has improved the division's processing time from an average of 5.2 days to only 2.3 days for the half-million filings processed each year.

Multi-State Companies

The continuing trend of insurance companies joining large, multi-state groups requires TDI and other insurance regulators to adapt to this changing environment. Because additional acquisitions, consolidations, and mergers among insurers are expected to occur during FY 2005-2009, it is likely that changes may be needed for TDI to address future conditions. Since insurance companies operating within groups often share risk through pooling agreements or reinsurance agreements, a catastrophic loss occurring anywhere in the world may directly affect the financial condition of an insurer located in, or doing business in, Texas.

These factors necessitate a more comprehensive approach to insurance regulation. State regulators must share more information with their peers and pay greater attention to events at the holding company level affecting parent or affiliated companies, which may not themselves be regulated by insurance laws.

To minimize the duplication of efforts, TDI has been working with other insurance departments to implement the concept of designating one state as the "lead regulator" in connection with certain complex multi-state transactions such as mergers and acquisitions. As these transactions become larger and more complex, such cooperation is essential in order for TDI to be able to handle its workload in light of the increased depth and scope of financial regulation.

Also TDI is exploring the use of custom-designed computer software programs. These programs will review the financial condition of an entire group of insurers on a consolidated basis to determine overall reserve adequacy and other factors.

New Products

In accord with the spirit of modernizing insurance processes, TDI has approved new products filed in response to legislative changes, and will continue to consider for approval various new products filed in response to industry innovations. Newly approved products include Medicare Select for prescription drugs; high-deductible plans used in connection with Health Savings Accounts; variable life insurance policies which offer guarantees while the underlying assets are held in a separate account; drug discount cards; and health benefit policies that provide self directed accounts.

Another notable approved product is the Consumer Choice Plan. Effective January 2004, SB 541 gave carriers the opportunity to offer consumer choice plans (CCPs). These are health plans that, in whole or part, do not offer or provide all state-mandated health benefits. The legislation is meant to increase the availability of more affordable health benefit plans. The CCPs are discussed further on page 23 of this report.

Speed to Market

Interstate Compact (IC)

TDI, as well as other states, have long recognized the need to modernize insurance regulation to achieve speed to market in an increasingly dynamic and competitive financial services marketplace. Insurance regulators recognize that the current system involves a variety of state laws, practices, and standards of product review, as well as regional differences in population. As a result of discussions on cooperative solutions to these multi-state challenges, the Interstate Compact Model Law was developed. This law delegates the authority for setting standards and reviewing and approving policy forms to an Interstate Compact Commission. Regulators hope that these standards will be enacted in the states.

The IC becomes operational when 26 states representing 40 percent of the premium for life, annuities, disability, and long-term care insurance join the compact. The IC will create the commission, which will include one member from each member state. The commission will adopt bylaws to govern its activities, and a management committee will oversee the day-to-day activities. The management committee will include one member from each of the six largest states, including Texas, four members from mid-sized states, and four members from small-sized states.

The IC will set product standards that, in order to be adopted, must receive approval by the Management Committee and a majority of the states participating in the compact. Many states have requested that the NAIC begin developing product standards, so they may review them for consumer protections. TDI has actively participated in the product standards development for all products.

Multi-State Review (MSR)
The agency fully supports the IC efforts and recognizes that it may take some time to enact the implementing legislation in 26 states. Meanwhile, it has agreed to enter into a Memorandum of Understanding (MOU) to create an MSR with Florida and California. The MOU commits to developing standards that reflect the three states' combined laws and regulations. It provides for a one-stop multi-state filing and review process for annuity products pursuant to its recent pilot project. Similar standards for life insurance are also under development, which would allow those products to be filed with the MSR.

Reinsurance

Reinsurance is essentially "insurance for insurance companies." It is important because it spreads risk within the insurance industry, just as insurance spreads risk within a group of policyholders. This spreading of risk among insurers provides financial stabilization and protection from catastrophic losses to individual insurance companies. Stabilization and protection is essential to the solvency of individual insurance companies and ultimately essential to the protection of individual policyholders.

While in certain areas the reinsurance markets had already experienced increased costs and decreased availability prior to September 11, the insured losses of September 11 had a dramatic impact on the reinsurance industry worldwide. Many of these losses were passed along to reinsurers, and reinsurers responded, in turn, by raising the rates they charged, which were ultimately passed along to consumers in the form of higher premium rates.

The decreased availability and increased cost of traditional reinsurance has resulted in an increased use of non-conventional reinsurance that can result in problematic accounting and financial statement disclosure issues. Market conditions have also placed new emphasis on alternative methods of risk transfer. The recent difficulties in the reinsurance market, coupled with an increased use of non-conventional reinsurance contracts, will require greater scrutiny by TDI to assure that companies are financially protected and setting aside sufficient reserves. TDI will also need to review whether reserve credit requirements are met since insurers may decrease their reserves under certain reinsurance arrangements. TDI will also continue to monitor the reinsurance situation to ensure that the solvency of the regular insurance market is not adversely impacted.

Texas Marketplace

During the past few years the Texas insurance marketplace has weathered significant challenges. While it is expected that the most severe effects from many of these issues may be nearing an end, an easing of conditions will take some time. Specifically, TDI is likely to continue to face challenges on the issues of affordability of homeowners, workers' compensation, and health insurance. Forecasters are cautiously optimistic that our economy is improving, which will ease availability and affordability problems in the insurance market.

Many major insurance issues were addressed by the 78th Legislature. Governor Perry's designation of insurance as an emergency issue moved it to the forefront and allowed its consideration before other legislative issues. Legislative actions included rate regulation, prompt payment of health provider claims, prompt settlement of water damage claims, and efforts to increase the number of Texans with health insurance. The changes enacted should provide the state with the tools to foster a more competitive market and give consumers more choices. The agency will continue to monitor for compliance with state law, and it expects to see a more favorable market emerge.

Availability and Affordability: Health Care, Homeowners Insurance, Workers' Compensation

Health Care

Access to affordable health care and the increasing number of Texans without health insurance remains a high priority for TDI. Texas continues to have one of the highest rates of uninsured in the country. Since 2002, more than 5.5 million Texans were uninsured, and the number is expected to continue to climb due to increasing insurance costs.

Several factors contribute to the high uninsured rate in Texas. The state has a high proportion of illegal citizens, who represent 27 percent of the uninsured. The state has a high proportion of small businesses, which are much less likely than large employers to offer coverage. Texans are also frequently employed in service-related jobs and industries, such as agriculture, retail, and construction that often do not offer coverage. In addition, insurance rates have increased significantly because of rising health care costs. Both small and large employers, as well as individual consumers, have experienced significant rate increases, and many simply cannot afford the cost of coverage. Although coverage is widely available through a very competitive insurance market, the cost is often unaffordable for people with lower incomes, and nearly one half of the uninsured have income levels below 150 percent of the federal poverty level.

In 1993, the Legislature passed comprehensive small-employer health insurance reforms. By 2000, the number of businesses offering health insurance nearly tripled, from 36,952 to 97,793. Since then, however, the number has declined. By calendar year 2002, the number had dropped to 78,741. Nonetheless, the vast majority of small-employers – 80 percent – still do not offer coverage to their employees.

A survey of small-business owners conducted by TDI in 2001 indicates that affordability is the primary reason why most small companies do not offer insurance. Group insurance rates for small businesses have increased significantly in recent years. While most small employers surveyed report they can pay no more than $100 a month per employee, the estimated average cost of health insurance in 2003 was $353 per employee.

State Planning Grant on Health Care
The agency is conducting research related to uninsured health care with funding from a federal grant. In 2001, TDI was awarded a $1.3 million federal State Planning Grant (SPG) to research the problem of Texans without health insurance and develop options for expanding coverage. The first phase of the grant involved extensive survey work, data collection, a statewide conference, statewide focus groups, and small-business health fairs. TDI worked closely with a diverse group of stakeholders who participated in the SPG Oversight and Implementation Working Group. Recommended options include informing the public of recent small employer reforms; minimizing language barriers in CHIP and Medicaid; publishing a small employer rate guide; and creating small employer purchasing alliances. Several of the resulting recommendations have been implemented, and other ideas are still under development.

To continue the progress made under the SPG program, Congress authorized a limited number of supplemental grants. In 2003, TDI received an additional $175,000 to assist in the ongoing effort to expand health insurance coverage. The department is conducting a follow-up survey of 20,000 small employers and is studying the Texas Health Insurance Risk Pool to evaluate the effectiveness of the pool and determine whether changes would make coverage more affordable and accessible.

The agency is also evaluating changes enacted by the 78th Legislature, such as new health care cooperatives and consumer choice health care plans to determine whether those efforts have been effective in providing more options for affordable coverage for both employers and individuals. The agency held a statewide conference in May 2004 to further discuss and evaluate options related to both public and private insurance programs. The results will lead to additional recommendations that will enable more Texans to obtain health insurance. As with the initial grant, study results will be provided in a comprehensive report that will be available on TDI's website and delivered to the Legislature.

Recent Legislation
The 78th Legislature enacted legislation to provide more options, increase availability, and reduce costs in the health insurance market. The Legislature passed SB 541 to give consumers more coverage options by allowing carriers to offer plans that exclude some or all state-mandated benefits. SB 541 addresses a need for the opportunity to choose health coverage plans that are more affordable and flexible than existing market policies, thereby increasing the availability of health coverage.

TDI was inclusive in the implementation of this innovative legislation, working with all interested parties through the issuance of draft rules and the public hearing process. The proposed rules on CCPs included a list of state-mandated benefits not subject to the CCPs, as well as notice and disclosure requirements for insureds. In addition, SB 541 changed the definition of HMO basic health care services to allow the Commissioner to determine the basic set of services that an enrolled population might reasonably need to be maintained in good health. In response, TDI issued a rule that lists such basic healthcare services, and required them to be included in HMO plans. Final rules were adopted May 2004.

Since 1993 private purchasing cooperatives have been an option for employers seeking to purchase employee health insurance coverage, but relatively few have taken advantage of this mechanism for pooling their buying power. The 78th Legislature enacted two bills that seek to make cooperatives more attractive to employers and carriers alike.

Senate Bill 10 created one of two new methods for employers to group together to purchase health coverage. The new legislation authorizes small and large employers to form health group cooperatives. This allows members to reduce the cost of coverage through the purchasing power of a larger group and to be treated as a single employer for the purpose of rating. Carriers insuring these cooperatives also benefit from a tax abatement for premiums paid for persons insured through the cooperative that did not previously have health insurance.

Carriers will also appreciate measures aimed at promoting the stability of cooperative membership. Once a health group cooperative is operating, certain employers in the service area may join during the next open enrollment period. TDI is committed to assisting interested parties in forming health group cooperatives to increase options for employers to provide employee health coverage. The agency has worked directly with groups inquiring about the requirements and procedures for setting up a health group cooperative and obtaining coverage from carriers. TDI staff also participate in educational seminars across the state to inform persons of the opportunities presented by both SB 541 and SB 10.

House Bill 897 added to the options of employers selecting to form groups for the purposes of health care by creating small-employer health coalitions. This new type of small-employer purchasing cooperative allows multiple employers to band together to create greater purchasing power in the small-employer health insurance market. These health coalitions must meet the size definition of a small-employer, but are treated as a single employer and enjoy all the protections afforded a small-employer under the law. TDI has actively assisted businesses interested in taking advantage of the availability of small-employer health coalitions. As these and other cooperatives form, TDI will list them on its website so that employers may have easy reference to an additional option in purchasing health care coverage.

The agency will continue to work with the legislature and stakeholders to seek improvements in the health care market. Several legislative changes were enacted to provide more affordable options, and TDI is monitoring the impact of those changes. The agency will continue to evaluate additional actions that can be taken to ensure that all Texans have health insurance.

Homeowners Insurance

After back-to-back years of rising rates, the Texas homeowners insurance market has turned the corner and is regaining momentum to be more competitive, according to 2003 year-end reports that carriers filed with TDI.

The top Texas homeowners insurance companies reported a loss ratio of 58 percent, compared to 108.6 percent in 2002 and 118 percent for 2001. Loss ratios reflect losses on claims as a percentage of total earned premium. The loss ratio does not reflect agent commissions, overhead, and other administrative costs, which could add 30 to 35 percentage points to this number. While these loss ratios are not predictors of rates, they do demonstrate that the homeowners market has stabilized following the upheavals of recent years.

TDI credited SB 14 rate and form regulation reforms passed by the 78th Legislature with restoring competition to the Texas homeowners insurance marketplace. The legislation restored competition by expanding coverage options. TDI approved a number of national forms that allow Texas consumers to select the coverages they most need. In addition, the Commissioner authorized the Texas Fair Access to Insurance Requirements (FAIR) plan as a safety net for Texas consumers having difficulty obtaining homeowners insurance. Additional information about the FAIR plan is available on page 35.

Workers' Compensation

TDI continues to monitor the affordability and availability of workers' compensation insurance for Texas employers. While increasing workers' compensation costs in Texas in 2004 are primarily related to the discontinuance of discounts and credits, medical costs appear to be exerting upward pressure on rates. TDI reviews the rate filings made by companies licensed to write workers' compensation insurance for actuarial soundness and to determine compliance with the file and use statute. Additionally, TDI monitors the industry's use of various competitive rating tools through special data calls. Insurance companies use such competitive rating tools to calculate workers' compensation premiums for Texas employers. With information obtained through the rate filings and the special data calls, the agency continues to analyze changes in the price of coverage for Texas employers and the competitiveness of the Texas workers' compensation insurance market. Finally, TDI's Financial Program reviews solvency issues concerning the insurance companies that are writing workers' compensation coverage. TDI will continue to use these methods to address affordability and availability issues during FY 2005-2009.

In addition to monitoring the availability and affordability of workers' compensation insurance, TDI is charged with providing objective information and data on the operational effectiveness of the Texas workers' compensation system to policymakers and stakeholders. HB 28 (78th Legislature, third called session) created a new workers' compensation research function at TDI by transferring the statutory research duties of the former Research and Oversight Council on Workers' Compensation (ROC) to the agency. This new research function has provided findings and testimony at several House and Senate interim committee hearings on issues such as:

- Medical cost and utilization of care trends in Texas;
- Return-to-work outcomes for injured Texas workers;
- Income and medical benefit comparisons of the various state workers' compensation insurance programs;
- Managed care network standards and certification requirements in other state workers' compensation systems; and
- Comparisons of income and medical benefit structures in other state workers' compensation systems.

Given the inclusion of workers' compensation interim charges for several legislative committees and the timing of the Texas Workers' Compensation Commission's Sunset Review in 2005, it is anticipated that comprehensive workers' compensation system reforms will be the subject of legislative debate during the 79th legislative session. Specifically, legislative interim committees are currently studying various options for reducing medical costs and improving the quality of medical care for injured workers in Texas, including the possibility of introducing managed care networks in the workers' compensation system. TDI will not only continue to provide objective research data on workers' compensation issues, but also monitor the progress of various workers' compensation reform efforts during the upcoming legislative session and TDI's potential role in the implementation of these reforms.

Consumer Education

As Texas deregulates insurance, consumer education becomes even more critical. In the emerging market, consumers will have a vast array of products to choose from. The options available now are unprecedented, and their number should only increase. For example, national standardization trends and statewide responses to market pressure have resulted in the replacement of the familiar homeowners policy form H-O-B with a variety of national policies. More than ever consumers will need to educate themselves about available products, options, and needed coverage. The agency takes seriously that a part of its regulatory role is to educate the public.

TDI educates consumers in a number of different ways:

- A Consumer Help Line is available to respond to any insurance question in English, Spanish, and other languages via AT&T's Language Line service.
- Detailed information about more than 2,000 licensed insurance companies is posted on TDI's website.
- Consumer publications are distributed via TDI's website, in print form via an automated telephone order line, and at exhibits and outreach events.
- Benefits counselors at the 20 Area Agencies on Aging located across the state provide one-on-one counseling with seniors.
- TDI conducts more than 50 outreach events annually such as speaking to local community groups, neighborhood association meetings, and other community events.

Providing information about available insurance products and services, how insurance works, how to shop for a policy that fits a consumer's particular needs, how to compare coverages and pricing, how to file a claim, and other topics helps consumers make informed decisions about the insurance products they purchase.

Credit Scoring

Senate Bill 14 established limitations on the use of credit scoring in underwriting and rating auto and homeowners insurance and required insurers to file credit models used in underwriting or rating these lines. The agency has approved administrative rules that set rate differential requirements and specify actuarial justifications under certain conditions. TDI is conducting a study of credit scoring in Texas and will prepare a report for the legislature by January 2005. The primary focus of the report will be to:

- Analyze whether the use of credit scoring results in a disproportionate impact on any class of individuals such as race, income, ethnicity, age, gender, etc., and,
- Determine whether there is a correlation between insurance scores and losses in the existing models used by insurers. If there is a correlation, establish how much of it is beyond what is explained by existing rating variables.

The agency anticipates that credit scoring will be an ongoing issue with the results of the study affecting public policy decisions. The challenge facing the agency is to be prepared to respond to those policy decisions.

Fire Safety

During the upcoming biennium, the State Fire Marshal's Office (SFMO) anticipates expansion of its traditional mission of providing fire investigations, safety inspections, and industry licensing to include helping local communities identify and provide for their own fire safety and prevention needs. This effort will concentrate on increased educational efforts, greater collaboration with local officials, and use of fire data to assist the industry in addressing safety and rating issues.

The SFMO will help communities implement programs that suit their specific local needs. The agency will assist communities in evaluating the need for local fire marshal offices and adopting appropriate fire codes. As a result, communities should be safer from the dangers of fire and fire-related crimes and better educated and equipped to address fire safety issues. They may also benefit from reductions in property insurance rates.

This new vision will ensure that the SFMO remains a relevant fire prevention resource for Texas communities and becomes a catalyst for improving fire safety and prevention efforts in communities across the state.

Insurance Fraud

Various studies have estimated that insurance fraud in the United States costs as much as $230 billion per year.[10] TDI has seen an increase in fraud related to, among other things, auto theft, false disability, and mold-related claims and conversion of consumer insurance premiums by agents to their personal use. It has also identified a trend in increasing unauthorized insurance schemes, such as unauthorized health plans, workers compensation insurance, and commercial liability insurance. The agency currently chairs the Database Working Group on the Anti-Fraud Task Force that was established to help reduce insurance fraud.

A combined effort to fight insurance fraud resulted in the development of the Texas Committee on Insurance Fraud. In conjunction with TDI, this committee consists of legislators, insurance industry representatives, interested state agencies, law enforcement agencies, and industry trade associations. The committee identified the need to enhance insurance fraud awareness in Texas, specifically regarding the cost associated with insurance fraud and its impact on consumers. Additional initiatives taken by TDI include:

- Enhanced working relationships with the Workers' Compensation Commission and professional licensing agencies in Texas; and
- Sponsored training for state agencies, law enforcement agencies, and special investigative units of the insurance industry; and
- Added a special prosecutor position in the Dallas County District Attorney's Office to assist in the investigation and prosecution of cases in that jurisdiction.

Licensing Public Insurance Adjusters

The devastating impact of mold claims in the homeowners market over the past few years prompted the 78th Legislature to enact legislation, SB 127, that requires the licensure of public insurance adjusters. Texas joins over half of the nation's insurance departments in the licensing of these adjusters.

[10] "Coalition Against Insurance Fraud"

The new legislation and accompanying rules were adopted in order to provide effective regulation of public insurance adjusters. Senate Bill 127 added, for the first time, licensing requirements for public insurance adjusters and a structure to regulate the activities of such adjusters, who are defined as those persons who, for compensation, take certain actions, including negotiating or settling claims on behalf of insured, for loss or damage covering real or personal property. The adopted sections enhance the requirements of Article 21.07-5 of the Texas Insurance Code, consistent with the statute's public protection goals, by establishing requirements for registering public insurance adjuster trainees; licensing resident and nonresident corporations, partnerships, and individuals; maintaining and demonstrating financial responsibility; setting license and certificate fees; completing continuing education; reporting criminal history and providing fingerprints; prescribing contract terms; and defining the term "advertisement."

Because of the level of interest in this issue, it is likely to be reviewed by the Legislature during FY 2005–2009.

Prompt Pay

Texas law requires HMOs and insurance companies writing preferred provider benefit plans to pay physician and provider "clean claims" timely and in accordance with the law and TDI rules. The original clean claim statute was enacted in 1999. TDI adopted and amended implementing rules in 2000 and 2001, and the Commissioner appointed the senior associate of the consumer protection program as the provider ombudsman in 2001. In 2003, new legislation, SB 418, amended many of the clean claims statutory provisions and added new provisions. Among other things, the new law set requirements for payment deadlines based on the type of claim. It also required the agency to specify by rule the information that must be contained in electronic and non-electronic claims. In 2003, TDI adopted rules implementing these provisions.

In addition, as required by SB 418, the Commissioner appointed a Technical Advisory Committee on Claims Processing (TACCP) to advise the Commissioner on technical aspects of various processes such as the coding of health care services, claims development, and the impact on those processes of various contractual relationships within the industry. The TACCP met in 2003-2004 to discuss issues, hear technical presentations, and review draft rules. The TACCP consisted largely of representatives of the provider and payer communities, who served on TDI's existing Clean Claims Working Group. Also as required by SB 418, the TACCP will issue a report to the Legislature by September of each even-numbered year. Therefore, SB 418 will require continued oversight and scrutiny in future years.

The Provider Ombudsman project also has continued to provide educational opportunities about prompt pay around the state and to monitor complaints by physicians and providers and compliance by carriers. TDI also has developed a Physician/Provider Resource Page and a Managed Care Payer Resource Page on its website with valuable information including summaries of legislation, TDI rules, and frequently asked questions.

Rate Regulation

Credit Life and Disability and Accident and Health Insurance

The 77th Legislature's passage of HB 2159 amended credit life and disability and accident and health statutes regarding the setting of presumptive rates, or rate projections. The bill requires that the Commissioner set presumptive premium rates by rule, rather than through a contested case proceeding. The current presumptive rates became effective in 2000. In 2003, TDI rules also established procedures consistent with HB 2159 to:

- Strengthen reserve requirements
- Allow insurers to set rates deviating from the presumptive premium rate without seeking written approval
- Add flexibility to the agency's process for the annual data call for statistical data and experience reports

The agency is preparing to publish data for the years 2000 through 2002 so that interested parties may file rate recommendations and identify issues of importance in developing a rate rule proposal. TDI will then propose a presumptive rates rule, as well as provide guidance, to identify whether a reasonable degree of competition exists with regard to classifications and whether a proposed rate is likely to substantially impair competition. During FY 2004-2007, TDI plans to continue evaluating data call results submitted by companies, and if warranted, will revise the rates through additional rulemaking.

Medical Malpractice Insurance

The Legislature enacted HB 4 in order to reduce high rates in medical malpractice insurance by limiting non-economic damages to $250,000 in medical malpractice lawsuits. The passage of HB 4 and its constitutional amendment, Proposition 12, impacted the availability and affordability of these products in the market. The largest medical malpractice insurer reduced its rates by 12 percent across the board on January 1, 2004. Within months of passage of the new legislation, more than two dozen companies contacted the agency for information on entering the malpractice insurance market, and an insurer who had announced plans to pull out of the Texas market began expanding and writing new business. Additionally, TDI took action to deny rate increases that did not take into account the reduced exposure to frivolous claims. As required in HB 4, TDI will also prepare a quarterly legislative report on medical malpractice insurance rate changes, claims, and insurers entering or withdrawing from the Texas marketplace.

Private Passenger Auto and Residential Property Insurance

Senate Bill 14, enacted by the 78th Legislature, significantly changed both rate and form regulation, particularly for auto and residential property coverage. In addition to replacing the flex band rating system for rate regulated auto and property insurers, the legislation moved all insurers - including formerly non rate regulated insurers - under a file and use system. Non rate regulated insurers included county mutuals for auto and Lloyds carriers and reciprocal exchanges for residential property. The legislation also allowed all companies to file alternative residential policy forms for TDI approval. Auto writers may file alternatives to the present standard auto forms on a prior approval basis.

In addition to handling the expanded rate and form review workload, staff increases authorized under the legislation will allow the Commissioner to continue to monitor the marketplace. Rate changes, which began with reductions ordered by the Commissioner on homeowners insurance in August 2003, will be based on information gathered in both the rate review and marketplace monitoring process. Implementing these changes to rate and form regulation while maintaining a stable marketplace will require modifications to both internal and external processes and effective communication on new procedures and requirements.

Windstorm Oversight

The agency regulates building code requirements along the Texas Gulf Coast in order to reduce windstorm risk exposure because the cost of a catastrophic windstorm along the coast could have a major impact on homeowners, the insurance industry, and ultimately the state's General Revenue fund (GR). Currently, a total of approximately $19.4 billion is at risk. The agency certifies the insurability of residential structures through its windstorm inspection program and the Texas Windstorm Insurance Association (TWIA) and issues insurance coverage to eligible structures. Structures must comply with building codes adopted by the Commissioner.

The property and casualty (P&C) insurance industry faces liability exposure along the Texas coast in the event of a major hurricane. Currently TWIA is responsible for claims up to $1.1 billion. In this scenario, P&C insurers would be assessed up to $300 million to help cover claims. A larger loss, over $1.1 billion, would result in additional assessments against all P&C insurers, and these assessments can be claimed against premium taxes, which are deposited into the state's GR fund. Consequently, the state's GR fund could be negatively affected by a single catastrophic storm or by multiple storms during the same year.

Effective in 2003, TDI began using the 2000 edition of the International Residential Code and International Building Code as the standard(s) for windstorm certification. In tandem with the adoption of the new codes, every TDI windstorm inspector successfully passed exams and became certified by the

International Code Council to inspect for new code compliance. TDI also performs oversight on the work of local inspectors who may be either professional engineers or other inspectors who meet legislative training requirements. In addition to oversight inspections, TDI staff provide training on the applicable building code standards for engineers, builders, architects, and homeowners to promote compliance with building code requirements in order to mitigate losses to structures and reduce financial exposure to the TWIA and the GR Fund.

Influences on Agency Strategies

The agency's goals are divided into ten broad strategies. Within each strategy several agency programs work together to provide services. While TDI funding remains relatively stable, changes in the market and other influences can impact the need for various services. The agency responds to these changes by prioritizing and reallocating resources as necessary.

1.1.1 Consumer Education and Market Analysis

Consumers help drive competition in the insurance market. TDI supports competition by educating consumers when they call TDI's consumer help line, visit TDI's website, or use a TDI publication. In addition, the agency provides outreach to communities by making presentations to civic and consumer groups.

The market influences described in the previous chapter impact the agency's work with consumers because they drive a demand for information. Any changes or hot issues in the insurance market result in a consumer's need to educate themselves, and TDI has a reputation as being a reliable and knowledgeable source. The visits to publications and guides on the agency's website continue to increase every year, indicating that more and more people want information delivered on demand. In this way technology has had a dramatic effect upon consumer education efforts. The agency is constantly updating the consumer information available on its website. Interestingly, the number of visits to the online application used to look up profiles of more than 2,000 insurance companies has surpassed the number of phone calls made to TDI's consumer helpline – more people are choosing to look up the information than receive it from a live person over the telephone.

The deregulation of insurance policies has had a significant impact on consumer education efforts because consumers now face a wider range of choices when shopping for policies. In the past, auto and home insurance policy language and coverages were the same regardless of the company, with price being the key variable. Now, coverages as well as price, may vary tremendously from company to company. Consumers need different information to identify the kinds of coverage that will meet their needs and make a purchasing decision. More than ever consumers look to TDI as a source of accurate information about an increasingly complex product.

In addition, the property and casualty program conducts in-depth analyses of the Texas insurance market and performs special studies to assist the agency, policy makers, and the public. In addition to data collected in the agency's statistical plans, actuarial staff use data calls and information requests to prepare market analysis and to provide answers to a variety of questions related to the marketplace.

Texas' population and demographic changes also impacts consumer education efforts. As the population becomes more diverse and older, TDI will modify its outreach. In order to reach elderly Texans and Texans who speak and read languages other than English, TDI must make information available in alternate formats and languages.

In response TDI will need to provide information in both traditional ways, e.g., via the consumer help line, print publications, and speaking engagements, as well as innovative ways, e.g., via the Internet. The agency remains committed to meeting these challenges with accurate, accessible, and timely information.

1.1.2 Rates, Forms, and Licenses

The agency encourages competition in the insurance industry in part by expeditiously processing company license applications to admit new insurers into the Texas market. Several influences may impact the licensing process, particularly the state of the general economy and legislative initiatives at the state or federal level. As an example of economic influences, the number of company license applications generally increases when the economy is thriving but decreases when the economy is struggling. Consequently, agency staff may experience changes or pressures in certain areas of their work activities.

Legislative action may influence licensing workloads as evidenced by the increase in license applications in response to market reforms in the areas of homeowners, automobile, and medical malpractice insurance. Activity at the federal level may also impact TDI's company licensing functions, particularly if the federal government creates an optional federal charter for insurance companies, extends federal pre-emptions for specialized insurers known as risk retention groups, or creates new pre-emptions for other entities.

Cooperative actions among the various state insurance departments may also impact competition. To efficiently manage the expanding geographic scope of insurer operations and insurance markets and to enhance the way insurers do business throughout the United States, state regulators across the nation have developed a regulatory modernization action plan whose objective is to streamline insurance product filing and review processes nationwide. This plan will benefit consumers and industry by providing quicker access to a broader choice of products. Regulators will be able to share best practices and use their resources more effectively. Insurers will experience a more level playing field in competing with banks and securities firms.

Competition has caused insurers to develop some innovative marketing strategies. This in turn, requires regulators to complete a more complex evaluation in an expedient manner. In addition, this increase in license applications affects program staff and its allocation of resources.

1.1.3 Promote Coverage for Underserved Markets

The promotion of coverage for underserved markets includes the improvement of availability by identifying underserved markets, creating incentives, and implementing requirements for insurers to write business in those areas. There are a number of factors, such as economic and market conditions and legislative actions that affect the agency in its efforts.

The agency continues to address insurance availability in residential property and automobile insurance through its Market Assistance Programs for underserved markets and the Fair Access to Insurance Requirements (FAIR) Plan. In late 2002, market availability conditions affected residential property insurance by triggering the implementation of the Fair Access to Insurance Requirements (FAIR) Plan. The FAIR Plan is the insurer of last resort for Texas consumers who are unable to secure coverage in the standard market. It is operated by the Texas FAIR Plan Association (Association) as an insurance pool with the Association assuming all liabilities for policies written. FAIR Plan premiums are set to be adequate to cover the losses and expenses of the Association. In the event of a shortfall, certain insurers pay assessments to cover the deficit.

The 78th Legislature also affected efforts to promote coverage for underserved markets. Legislation provided companies with flexibility to encourage them to write policies in both property and health markets. By the summer of 2004, participation levels in the FAIR program had begun to decline, an indication that SB 14 regulatory changes were having a positive impact. While it is still early, it appears that SB 14 is impacting residential property markets in a positive manner.

In the health market, the legislature addressed the need for greater access to health coverage, particularly for small employers. New legislation authorized the issuance of health plans that exclude some state-mandated benefits. Health group cooperatives of small employers were authorized to allow small employers to join together to pool their buying power and enjoy a more favorable rating.

In the property markets, legislation (SB 14) introduced flexibility into the property and casualty lines. National forms have supplemented the existing promulgated Texas policy form, and rating allowances have been put into place for smaller companies. In addition, rating regulation changes have moved the agency's focus from setting rates to reviewing rates. There has been a dramatic increase in the number of rates to be reviewed as a result of the inclusion of county mutuals in the regulatory system,

The agency believes the market will continue to improve and the flexibility in forms will increase availability. The agency will be required to increase its rate and policy form reviews and remain vigilant on all consumer products to ensure that pricing is appropriate for the policies offered.

1.2.1 Resolve Complaints
1.2.2 Investigating and Enforcing

These two strategies are concerned with complaints, recovering valid claims for consumers, and reviewing questionable trade practices. Five agency programs: consumer protection; fraud; legal; life, health, and licensing; and property and casualty work together to accomplish strategic goals and measures. The Consumer Protection Program resolves complaints, the Fraud Program investigates allegations of fraud such as those arising from complaints, and the Legal Program enforces rules and takes action against violators. These programs, together with divisions within the Property and Casualty Program and the Life, Health, and Licensing Program, respond to complaints, assist consumers in recovering valid claims, investigate patterns of questionable trade practices, and bring enforcement actions as appropriate.

While the agency's staffing and funding remains relatively stable, various conditions or changes in the market can dramatically increase the need for services in a particular strategy. As these conditions occur, the program's budget requires the reorganizing of priorities.

A number of challenging events occurred during FY 2003 and 2004 that affected these two strategies. Economic factors and increases in mold claims resulted in changes in the market. These market changes included: 1) increased insurance rates; 2) increased unauthorized health insurance activity; and 3) companies became more restrictive in writing new policies and in claims reimbursement. As a result, programs reviewed and investigated an increased number of complaints, investigated questionable practices, and, where appropriate, brought enforcement actions. In addition, during this period the programs responded to a larger number of consumer inquiries, referred more fraud cases for prosecution, and assessed more penalties for unfair practices.

Because of recent legislation and slight improvements in the economy, TDI does not expect a continuation of these trends. Legislation such as SB 14 allows a more flexible regulatory environment for insurers, and as a result insurance rates are beginning to decrease. TDI will continue to be vigilant to ensure that rates and claims payments reflect these improvements.

1.2.3 Insurer Fraud
3.1.2 Provider/Consumer Fraud

These strategies implement the agency's authority to investigate and take action in cases involving fraud and increase cooperation with other agencies and law enforcement authorities to combat fraud. The TDI Fraud Unit investigates potentially fraudulent activities reported by the public, the industry, or other enforcement agencies. The TDI Fraud Unit is a law enforcement agency employing both commissioned and non-commissioned investigators and peace officers.

The Fraud Unit performs investigations primarily in two areas - Claimant and Provider Fraud and Insurer Fraud. Claimant and Provider Fraud focuses on fraud committed against the insurance industry. The majority of the reports received are for fraudulent claims perpetrated against insurers such as: caused or staged accidents; multiple policies; fraudulent billing by health care providers; fraud rings involving health insurance claimants, providers, and attorneys; and staged burglaries or claim inflation for a legitimate burglary.

Insurer Fraud investigations focus on fraud committed within and by the insurance industry. The fraudulent activity may be committed by insurance company officers, directors, agents, or other employees in the insurance industry. Fraudulent activity can include misuse of funds by officers or employees of a company and misuse of customer premiums paid to insurance agents. Investigations are also conducted into the submission of false information on licensing applications and financial statements provided by insurers to the Texas Department of Insurance.

During weaker economic periods, fraud tends to rise. The agency's strategy is to work to discover fraudulent acts and to educate consumers and industry to protect them from insurance fraud and to deter them from committing fraud.

Factors affecting the agency's efforts to combat fraud include public perceptions, education, resources, reporting requirements, and the economy. Public perception acts as an impediment to fighting fraud because of the broad perception that fraud is a victimless crime. A recent study revealed that 33 percent of individuals consider padding a claim acceptable.[11] The costs of claims are passed down to consumers, and when the consumer is a business, that cost is rolled into the price of goods or services. We all end up paying for inflated claims; directly in higher premiums and indirectly through the cost of goods or services.

In addition, consumer education affects the agency's efforts to reduce fraud. Another victim of fraud is the small-business employer or insurance agent. TDI must educate small-business owners on verifying the legitimacy of the insurance products before they buy. These entities are a natural prey for the unlicensed sale of health and other insurance because affordability is a key factor to their ability to purchase these

[11] Insurance Research Council: A Public View, June 2003.

products. Insurance agents also have an obligation to know what they are selling. Many unlicensed, unauthorized companies will use insurance agents to market unlicensed products. In an attempt to reduce fraud, the agency is educating the public through its website, public presentations, and the distribution of pamphlets and information.

The availability of resources affects the agency's ability to investigate and take action against fraudulent actors. The agency enhances its resources by working with prosecutors, insurers, and anti-fraud organizations. For example, TDI recently adopted an initiative with the Dallas County District Attorney's Office to hire a special prosecutor to prosecute insurance fraud cases. The Fraud Unit maintains close working relationships with law enforcement entities in the larger urban areas where most of the cases originate. In addition, expectations are high that the efforts of the Texas Committee on Insurance Fraud will bring more interest on fraud problems. The agency is also pooling its resources by working with Texas medical profession licensing boards and the Texas Workers' Compensation Commission. These agencies meet quarterly to share information and to aid in the fight against insurance fraud.

Another effective tool in stopping insurance fraud would be early reporting requirements. Often, the agency does not hear about insurance fraud. While insurance companies are required to report these incidences, they can report it to any law enforcement agency. Many choose to report to local law enforcement agencies. Because there is no central reporting repository, TDI may not be aware of all incidences of insurance fraud.

2.1.1 Insurers Financial Condition

The state of the economy has a substantial influence on TDI's solvency efforts since the financial health of the insurance industry generally parallels the nation's general economic health. For example, the number of regulatory interventions such as receivership actions generally decreases when the economy and investment markets are healthy but increases as the economy struggles. This was evidenced by the relatively low number of insurer receivership actions initiated during the economic expansion that preceded 2001. Conversely, the number of receivership actions across the nation materially increased in 2001 and 2002. Recent economic improvements generally appear to have benefited insurance companies, although some life companies writing interest sensitive products (e.g., annuities, variable life insurance) are experiencing some pressure due to insufficient income from their investments. This affects their competitive edge in marketing their products and ability to generate gross revenue and net income.

State or federal legislation regarding financial solvency standards for insurers may also impact TDI's solvency efforts. For example, possible federal action to create an optional federal charter for insurance companies may impact the number of insurers subject to TDI's jurisdiction for financial regulatory purposes and/or limit TDI's ability to intervene in troubled company scenarios.

Competitive pressures have caused insurers to take on increased financial risk and, along with the expanding geographic scope of insurer operations and markets, makes state regulators' oversight more challenging and increases the need for coordination among states. This interdependence encourages individual states to continue their efforts to retain accreditation standards and to continue to push other standardization initiatives such as international accounting standards.

The insurance market continues to show strong consolidation tendencies and, ultimately large national insurers will have the lion's share of the insurance market. These trends are attributed to:

- the need to reduce expenses to improve profit margins;
- the need to divest low-return, non-core businesses;
- restructuring of health insurers to position for reform measures;
- capital needs;
- excess capacity;
- increased liquidity to fund mergers and acquisitions;
- globalization of insurance markets; and
- management strategies aimed at improving returns for owners.

3.1.1 Loss Control Programs

This strategy specifically addresses the need to find methods to reduce claims against insurers through reduced losses, resulting in lower premiums for consumers. It should be noted that TDI's role in reducing losses is primarily oversight responsibilities to ensure compliance with effective risk control practices such as reviewing insurers loss control programs or compliance with wind resistant building codes. In general, there are four areas of loss control that are monitored by the agency; windstorm protection, commercial lines, commercial property oversight, and amusement rides. The agency reviews insurer required loss control programs for certain commercial lines of insurance, reviews fire rating risk classifications for commercial property, oversees inspection and licensing requirements for amusement rides, and issues certificates of compliance for wind resistant structures in coastal areas. The certificates of compliance issued by the Windstorm Inspection Division are an eligibility requirement for wind and hail coverage with the Texas Windstorm Insurance Association (TWIA) and are designed to mitigate potential losses. Factors outside the control of the agency may play a significant role in potential windstorm related property losses. These factors include the trend toward global entities; demographic and lifestyle changes; and weather patterns.

Current mergers and acquisitions have resulted in larger, more global insurance entities. This is a positive in the loss control arena. These larger companies tend to have more sophisticated loss control programs that adopt more effective programs and provide better results for the insured.

Demographics, weather, and the law of averages affect potential windstorm related losses. Reports by the insurance industry and a variety of weather researchers indicate that increases in weather-related losses in the past few years are not so much a result of climate extremes as increasing exposure related to societal changes, "including a growing population in higher risk coastal areas and large cities, more property subject to damage, and lifestyle and demographic changes subjecting lives and property to greater exposure.[12]" As population density increases, the probability of a hurricane striking a relatively unpopulated area decreases.

Population changes have an effect on this strategy. The growing population in coastal areas, coupled with local governments' need to expand tax bases, has caused both developers and muncipalities to seek out undeveloped tracts of land. In some cases, the tracts may be located in Coastal Barrier Resource Zones as defined by the US Department of the Interior. As provided in SB 14, the TWIA is prohibited from providing coverages for structures in these areas that are permitted after June 11, 2003, the effective date of SB 14."

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[12] *Bulletin of the American Meterological Society*: Vol. 80, No. 6, pp. 1077-1098, "Temporal Fluctuations in Weather and Climate Extremes That Cause Economic and Human Health Impacts; A Review."

Texans living in hurricane-prone areas may have been lulled into complacency by the relative calm of the past decade. With only two hurricanes striking Texas during that period, many meteorologists are projecting that the state is overdue for a major hurricane, particularly in light of the Department of Atmospheric Science's 2004 hurricane prediction that the probability of a major hurricane landfall in the U.S. is 40 percent above the long-term average probability.

The strategy also includes loss control inspections performed by TDI. These inspections involve reviewing the programs insurance companies' established to aid commercial policyholders in reducing losses. Mergers and acquisitions within the industry also affect this activity. As smaller companies are merged with existing groups, the loss control program used by the parent group is usually adopted. As larger insurance companies tend to have more sophisticated, effective loss control programs, mergers tend to result in policyholders having access to more effective loss control programs that may result in reduced losses for the policyholder and reduced claims against the insurer.

A related loss control issue is the oversight of commercial property inspections by the Insurance Services Office (ISO) to set commercial property risk classifications and the resulting premiums. The agency provides oversight to ensure that commercial property owners are charged the appropriate rate for the risk, which relates to a variety of issues, including construction materials and safety measures such as sprinklers and hazards associated with the use of the property. While oversight of commercial inspections does not directly impact potential losses, it ensures that commercial property owners' rates accurately reflect risk, providing an economic incentive for the property owners to implement policies and procedures to lower that risk.

The agency has limited authority over the regulation of amusement rides. The agency is authorized to review the inspections or certificates held by ride operators. The enforcement of amusement ride inspections and insurance requirements rests with law enforcement authorities. Previously legislation has been introduced to extend enforcement authority to the agency or to move this function to another agency with enforcement authority. At this time, no immediate legislative changes appear likely and the agency's challenge is to work within this limited framework to ensure amusement rides in Texas are maintained and operated in a safe manner.

In preparing for the future, the key to effective loss control oversight is to work with insurers to develop initiatives that retain effective policies and procedures while adopting new technologies and safety features that can lead to reduced losses.

4.1.1 Fire Protection

This strategy is related to reducing the loss of life and property due to fire. The State Fire Marshal's Office is statutorily charged with protecting the public against fire loss by enforcing statutes and rules relating to fire investigations, inspections, licensing and regulating the fire protection installation industries and increasing the public's awareness of fire safety and prevention.

A number of factors can affect the efforts of this strategy. Economic conditions, demographics, and the capabilities of local jurisdictions can impact the State Fire Marshal's fire safety and prevention programs.

During periods of weak economy, the likelihood of arson-related fires may increase. People in dire financial circumstances may choose to intentionally burn residences or commercial establishments to cover losses or to fraudulently collect insurance. Similarly, a weak economy may reduce commercial building construction, thus decreasing the number of permits and licenses issued for the fire alarm, fire extinguishers, fire sprinkler, and fireworks industries. A slower economy may also cause entities to delay or limit spending on fire protection improvements. The State Fire Marshal's Office works with organizations to help them prioritize fire safety projects to optimize scarce funding. During economic upturns, expansion in construction can affect the agency, as well, increasing the number of licenses for safety equipment installation companies. In addition, SFMO staff may receive more complaints resulting from an increase in building projects. Regardless of the economic climate, the agency remains diligent in its fire safety responsibilities.

Demographic changes may also affect this strategy. As our state grows and becomes more urbanized, the number of lives at stake rises and the number of buildings that must be inspected increases.

Indications show that the economy is improving, and a denser, urbanized population in the state is developing. The State Fire Marshal's Office has been working through a system of education, training, and inspections to put its resources into building expertise at the local level. As a result, the agency is working with the local communities to ensure that they have qualified, trained personnel and are able to adequately enforce laws and regulations.

The State of the Agency

Agency Structure and Functions

The Texas Department of Insurance is headed by the Commissioner of Insurance. The Governor appoints the Commissioner to a two-year term, subject to Senate confirmation.

TDI is organized into eight functional areas, in addition to the Commissioner's Office. An Associate Commissioner, Senior Associate Commissioner, or the State Fire Marshal, report directly to the Insurance Commissioner and lead each of the programs listed below.

- Financial,
- Legal and Compliance,
- Life, Health and Licensing,
- Consumer Protection,
- Insurance Fraud Unit,
- Property and Casualty, and
- State Fire Marshal's Office, and
- Administrative Operations.

A brief description of the purpose of each program follows. For more information, see TDI's Organizational Chart in Appendix B.

Commissioner's Office supports the activities of the Commissioner. As the agency's chief administrator, the Commissioner enforces state insurance laws, establishes agency operating procedures, and oversees agency regulatory activities. The Commissioner's Office includes: General Counsel and Chief Clerk, Executive Services, Commissioner's Ombudsman, Internal Audit, Government Relations, and the Public Information Office.

Fiscal Year 2003 activities include:

- The General Counsel/Chief Clerk's office advised Commissioner Montemayor on 51 contested cases heard by the State Office of Administrative Hearings, 37 hearings and public meetings conducted by the Commissioner, 251 consent orders, and 56 default orders in connection with agents and insurers.
- The Internal Audit Office conducted 5 financial-related or performance audits, including a statutorily-required audit of seized/forfeited property and served as TDI's liaison to the State Auditor's Office.

Financial enforces solvency standards for insurance companies and related entities. This enforcement encompasses an entity's entire life cycle from initial formation/licensure through subsequent surveillance, to implementing regulatory interventions involving troubled entities. The Financial Program seeks to rehabilitate companies that fall short of solvency standards, and through a court-sanctioned receivership process, it eventually liquidates the few that cannot be rehabilitated. The Program's over-arching objective is to ensure that insurance companies are financially capable of paying claims owed to policyholders when the claims come due. The Financial Program also promotes competition in the industry while identifying suspected fraud, misrepresentation, and unfair practices. These responsibilities encompass over 2,200 insurance companies, HMOs, and related entities that are licensed or otherwise eligible to operate in Texas. These firms reported collections over $79.5 billion in Texas premiums and payments over $49.2 billion in Texas claims in their 2003 financial statements. The Financial Program's five core processes are: company licensing and registration, financial analysis, examinations, conservation, and liquidation oversight.

Fiscal Year 2003 activities include:

- Coordinated national regulatory efforts on the bankruptcy of a certain holding company that represented the third largest bankruptcy in U.S. history and which involved insurers domiciled in six states that did business in all 50 states.
- Oversaw the recovery of $36.5 million (net of expenses) through the receivership process.
- Worked with the NAIC to make it possible for the general public to access the financial statements of insurance companies online. As a result, Texas consumers can now access this information from TDI's Website.

Legal and Compliance provides legal support to the agency; responds to national and international trends in the various insurance lines; develops and enforces industry rules; acts against those entities and individuals engaging in fraud, misrepresentation, or unfair practices; and takes appropriate action to safeguard policyholders from operationally and financially troubled insurance companies.

Fiscal Year 2003 activities include:

- Represented the agency in rate hearings resulting in a 12 percent average reduction in homeowners rates for insurers representing 95 percent of the market.
- Negotiated a record-breaking settlement between Farmers Insurance Group and the State of Texas including $117.5 million dollars in restitution and savings to policyholders.
- Assisted with rules allowing physicians to complete a single application (electronic or paper) for submission to all hospitals, HMOs, PPOs, and preferred provider benefit insurers.

Life, Health, and Licensing regulates policy forms and related documents for life, accident, and health insurance; health maintenance organizations (HMOs); credit life insurance; credit accident and health insurance; viatical/life settlements; annuities; and pre-paid legal plans. The program licenses and regulates utilization review agents (URAs), insurance agents, adjusters, third party administrators (TPAs), and other entities. The program licenses independent review organizations (IROs) and viatical/life settlement companies and brokers. The program receives and performs an initial screening of filings for property and casualty lines, as well as the lines listed above. In addition to implementing state legislation, the program monitors the extensive federal activities related to its areas of responsibilities. The program also investigates and resolves complaints related to HMOs and conducts quality of care examinations of HMOs.

Fiscal Year 2003 activities include:

- Implemented a new agent fingerprinting process to improve its quality and prepare for the possibility of electronic transfer capabilities with the Department of Public Safety.
- Completed its second year of federally-funded studies on expanding health care to uninsured Texans. Findings were submitted to the U.S. Secretary of Health and Human Services and included details on the uninsured population and options for the expansion of health coverage.
- Assisted in the implementation of privacy “opt-in” rules, which provide for consumer privacy of certain information that is collected by insurers and HMOs. In addition, the agency continues to serve on the Attorney General’s Task Force to ensure that state standards do not conflict with federal privacy standards.

Consumer Protection answers general insurance inquiries, resolves consumer complaints, reviews insurance advertising, and coordinates public education efforts. Staff provides information to consumers through a consumer help line, TDI’s Website, publications, and presentations. It also helps to identify unfair practices through the review of consumer complaints and industry advertisements.

Fiscal Year 2003 activities include:

- Resolved more than 41,000 consumer complaints and returned more than $48 million to consumers in additional claims payments and refunds.
- Helped physicians and providers with inquiries regarding prompt payment statutes and rules. Co-chaired the Clean Claims Working Group and the Technical Advisory Committee on Claims Processing.
- Reviewed more than 6,100 insurance advertisements to ensure their compliance with state laws and TDI rules.

Insurance Fraud Unit is a law enforcement agency, employing licensed peace officers pursuant to Texas Insurance Code, Article 1.10D and the Texas Code of Criminal Procedure, Article 2.12 (28). Fraud Unit professionals investigate insurance fraud cases for referral to criminal district attorneys and federal prosecutors.

Investigators have law enforcement, investigation, and litigation experience.

Fiscal Year 2003 activities include:

- Reported 100 criminal indictments, obtained 69 criminal convictions, and garnered over $13 million dollars in restitution ordered from referrals.
- Assisted in the prosecution of a Houston-based homeowners' claim fraud ring, resulting in seven criminal convictions.
- Added convenient online reporting forms for industry and consumers to report suspected insurance fraud.

Property and Casualty regulates form and rate filings for property and casualty lines, including workers' compensation and title; oversees safety and loss prevention services; handles field examinations of title agents; performs the agency's research, statistical data collection and analysis duties; and assists homeowners and drivers in underserved areas with finding insurance coverage.

Fiscal Year 2003 activities include:

- Assisted with hearings which resulted in new title insurance coverage and endorsements and the largest rate cut in Texas title insurance history.
- Assisted in promoting the affordability and availability of residential property insurance including the following:
    - a rate review of the homeowners insurance market, resulting in consumer savings of more than $510 million
    - the development and implementation of rules prohibiting the use of certain water-damage claims when determining the issuance and pricing of insurance coverage
    - the approval of several new homeowners policy forms
    - the activation of the Texas FAIR (Fair Access to Insurance Requirements) Plan to provide insurance to those who cannot find coverage.

State Fire Marshal's Office develops and promotes methods of protecting the lives and property of the citizens of Texas from fire and related hazards through direct action and coordination with the public safety community.

Fiscal Year 2003 activities include:

- Continued comprehensive investigations of firefighter line-of-duty deaths, focusing on recommendations to the Texas fire service to enhance firefighter safety and to reduce the number of deaths.
- Developed rules to enhance safety at indoor events using pyrotechnics or flame effect displays by requiring certain licenses and permits, fire safety announcements, insurance coverage, and local fire authority notification.
- Sponsored the annual State Fire Marshal's Conference with more than 150 local fire marshals in attendance. Conference focus on enhancing local understanding of the state's regulatory process and on increasing interaction among fire marshals statewide.

Administrative Operations supports the agency's regulatory duties through planning, accounting, and budgeting; information services, building and records management, purchasing, mail services, personnel and benefits, professional development; and the employee ombudsman and ethics advisor who is charged with helping encourage positive solutions to workplace problems.

Fiscal Year 2003 activities include:

- Increased the agency's Historically Underutilized Business participation to 32.4 percent in FY03.
- Received the Gold Safety Award for reducing injury-related workers' compensation expenditures by 19 percent.
- Administered an agency-wide test of TDI's business continuity/disaster recovery plans and identified areas for improvement.
- Met with program areas to provide workforce planning information, including retirement data and specific workforce plan goals for each program in the agency's business plans to improve customer service and agency operations.

Human Resources

Equal Employment Opportunity

TDI is committed to equal employment opportunity and strives to maintain a diverse workforce reflective of the customers we serve. As of March 31, 2004, TDI's workforce was 12.06 percent African-American, 21.9 percent Hispanic, 60.95 percent Caucasian, and 5.09 percent other ethnic groups. Fifty-seven percent of TDI's workforce is female and 43 percent is male.

TDI's workforce continues to reflect the diversity of the state's population. Although the agency experienced a reduction in force and high number of retirements in FY 03, TDI has maintained a diverse workforce that continues to exceed state workforce percentages in several EEO categories.

As of March 31, 2004, TDI compares favorably with the latest Texas Commission on Human Rights (TCHR) state civilian workforce analysis. Most importantly TDI exceeds civilian workforce percentages for African Americans, Hispanics, and women among the Officials/Administration and Professional job categories. The shaded areas in the chart represent categories in which TDI exceeds the state civilian workforce percentages.

	State Civilian Workforce			**Texas Department of Insurance**			
	African Americans	Hispanic Americans	Females	African American	Hispanic Americans	Females	Total Positions
Officials, Administration (A)	7.2%	11.61%	31.63%	14%	15%	44%	110
Professional (P)	9.31%	10.85%	46.93%	11%	20%	55%	594
Technical (T)	13.67%	18.89%	39.36%	11%	13%	34%	62
Para-Professional (Q)	17.94%	31.41%	55.81%	15%	37%	94%	117
Administrative Support (C)	19.59%	25.62%	79.87%	18%	53%	65%	17
Skilled Crafts (S)	10.36%	29.51%	10.20%	0%	100%	50%	2
Service & Maintenance (M)	18.36%	44.15%	24.86%	0%	50%	0%	2

TDI continually exceeds workforce availability in the percentage of minorities in the Official/Administrator and Professional EEO job categories. Women and minorities continue to be well represented among TDI management staff.

Employee Satisfaction

The agency must retain quality employees in order to carry out its mission. TDI relies on employee input to continually improve services and increase employee satisfaction. The University of Texas Survey of Organizational Excellence is one method TDI uses to collect employee input and measure satisfaction. The survey, conducted in odd number years, is administered by the School of Social Work. This survey uses five workplace dimensions including organizational features, accommodations, exchange of information, work group, and personal aspects. Sixty nine percent of TDI employees responded to the 2004 survey and indicated that they continue to view their workplace positively. Detailed survey information is included in Appendix F.

Appendix E, Workforce Plan, lists other benefits which TDI provides in order to increase employee satisfaction and retention. This list includes employee and management training, employee exit interviews, and access to an employee assistance program.

Staffing Strengths and Challenges

The agency recognizes that the quality of its staff is critical to the organization's mission and success. TDI continually strives to maintain the staff competencies required to serve its customers and to assess skills to meet future needs. The agency Workforce Plan (Appendix E) documents that assessment by requiring that program areas review key economic and environmental factors facing their areas, staffing challenges, customer demands affecting staffing, and skills and competencies needed for critical functions.

Agency staff understand the needs of the customers they serve and work to continually improve services. Responses to the recent UT Survey of Organizational Excellence indicate that TDI employees have a high degree of job satisfaction. TDI has an experienced and capable staff. Its employees have an average of 12 years of state service with 10 years here at TDI. Consequently, turnover at TDI continues to be lower than other state agency turnover rates. However, future turnover may be affected by the high percentage of potential retirees. Thirty percent of the staff is eligible to retire in the next five years. The vacancies created by retirements has caused TDI to implement succession planning projects in all program areas.

Two major factors affecting retention—fair pay and benefits for state employees—continues to be an issue for TDI, as confirmed in the most recent UT Survey of Organizational Excellence where fair pay and benefits were the lowest scoring constructs for TDI. This dissatisfaction with fair pay and the recent reduction of insurance and retirement benefits may negatively affect recruitment and retention in the future.

TDI has undertaken and is currently researching additional efforts to address recruitment issues related to certain hard to fill positions. These positions are described and recruitment efforts are discussed in the TDI Workforce Plan.

The 78th Legislature passed HB 3442 which required that state agencies achieve a management-to-staff ratio of one manager for every 11 employees (1:11) by August 31, 2007. The ratio, which is adjusted each year, required a 1:8 management-to-staff ratio by March 31, 2004. TDI achieved this benchmark with a ratio of 1:8.72. Future ratios of 1:9 by August 31, 2005; 1:10 by August 31, 2006; and, 1:11 by August 31, 2007 will require the agency to closely monitor staffing patterns to ensure compliance.

Historically, TDI has rarely used consultant services, and it does not anticipate the need for consultants in the future. The agency uses TDI staff rather than contracting with consultants.

Staff and Workforce Diversity

TDI relies on a skilled workforce of administrators who set broad policies; professionals with specialized and theoretical knowledge usually acquired through college training or work experience; and employees with specialized knowledge and technical expertise. In addition, TDI's workforce includes classified para-professionals, administrative support, and technicians.

Geographic Location of Services

The Texas Department of Insurance maintains its offices at the William P. Hobby State Office Building located at 333 Guadalupe, Austin, Texas. In addition, some TDI employees work "in the field" spread throughout the state as required by various agency programs. TDI maintains offices in Dallas, Houston, San Antonio, the Gulf Coast, and the Rio Grande Valley and satellite offices throughout the state.

Geographic Regions

The agency serves all geographic areas of Texas; however, the services required in different regions may vary. Insurance consumers throughout the state purchase basics such as automobile or homeowners insurance; however, the Texas Gulf region may require additional services on windstorm-related protection, and North Texas may require attention resulting from weather-related events that may lead to roof damage claims or other losses. Although the agency provides service statewide, regions are singled out by the characteristics or insurance events they have in common rather than by their geographic boundaries. The Texas Government Code, Section 2056.002[b][8], requires the agency to identify geographic regions that it serves including the Texas-Louisiana border region and the Texas-Mexico border region.

The Texas-Louisiana border region is the area set out in law as encompassing the following 18 Northeast Texas counties: Bowie, Camp, Cass, Delta, Franklin, Gregg, Harrison, Hopkins, Lamar, Marion, Morris, Panola, Red River, Rusk, Smith, Titus, Upshur, and Wood. Some ZIP codes within three of these counties (Harrison, Smith, and Titus) are included as Commissioner-designated underserved areas for automobile insurance, and some ZIP codes within five counties (Camp, Lamar, Red River, Titus, and Upshur) are included as underserved areas for property insurance. As underserved, they are determined to encompass populations with difficulties obtaining insurance through the standard market, and are therefore eligible for assistance from the state's Automobile Market Assistance Program (Auto MAP) or the Residential Property Market Assistance Program (Residential MAP). These programs link Texans who are unable to find insurance with participating insurance companies. The MAP programs are discussed in more detail on page 54 of this report. Additionally, residents of all areas are eligible to participate in the Fair Access to Insurance Requirements (FAIR) Plan, the insurer of last resort that provides residential property insurance to certain individuals as discussed on page 35.

The Texas-Louisiana border area is prone to weather-related events somewhat different than those experienced in other parts of the state. Tornados, ice storms, and hail include the types of weather-related events that may occur in the area. In December 2000 a Presidential disaster declaration was issued in response to an ice storm that affected Bowie, Cash, and Red River counties. Since that storm there have not been any insurance catastrophes in the Texas-Louisiana border region. However, TDI's Disaster Recovery Team is prepared to provide assistance anywhere in the state when disasters occur.

The Texas-Mexico border region is the area set out in law as encompassing the following 43 South Texas counties: Atascosa, Bandera, Bexar, Brewster, Brooks, Cameron, Crockett, Culberson, Dimmit, Duval, Edwards, El Paso, Frio, Hidalgo, Hudspeth, Jeff Davis, Jim Hogg, Jim Wells, Kenedy, Kerr, Kimble, Kinney, Kleberg, La Salle, Live Oak, Maverick, McMullen, Medina, Nueces, Pecos, Presidio, Real, Reeves, San Patricio, Starr, Sutton, Terrell, Uvalde, Val Verde, Webb, Willacy, Zapata, and Zavala.

Some ZIP codes within 28 of these counties are included as Commissioner-designated underserved areas for automobile insurance, and some ZIP codes within 14 counties are included as underserved areas for property insurance. As underserved areas, they are eligible for the Auto MAP, Residential MAP, and FAIR Plan as discussed earlier in this section and on pages 35 and 54.

There are a number of other insurance issues in the border region. House Bill 4 and Proposition 12 addressed many of the issues related to rising medical malpractice costs both statewide and in the border region, and the agency is researching the technical and legal issues involved in developing cross-border health insurance coverage. In addition, TDI serves on the North American Free Trade Agreement (NAFTA) committee of NAIC and communicates with Mexico's insurance regulatory body, the Comisión Nacional de Seguros y Fianzas (CNSF).

Public Outreach and Field Offices

The agency provides outreach by using the Internet, making presentations, providing special training, participating in state and national forums, issuing press releases, and publishing brochures on insurance issues and on fire safety and protection. TDI also works to increase the availability of insurance in areas with underserved populations and provides outreach in response to consumer needs in the aftermath of disasters. In addition, the agency has field offices throughout the state in order to provide efficient, economic service or to comply with legislative mandates. Field offices and public outreach entities are described below:

Consumer Education and Outreach

TDI's Consumer Protection Program provides outreach, education, and Speakers Bureau activities. The Speakers Bureau provides presentations to civic, community, and consumer groups. The agency also develops and distributes insurance information publications throughout the state. These publications include rate guides and brochures and consumer bulletins on specific insurance issues. The following are examples of some of the consumer outreach programs conducted by TDI.

Outreach to Seniors

The agency provides special outreach to Texas seniors through the Health Information, Counseling, and Advocacy Program (HICAP). This outreach is in cooperation with the Department on Aging through an interagency contract. Other

HICAP partners include Texas Legal Services Centers and local Area Agency on Aging groups throughout the state. In addition, TDI provides a variety of educational materials for Texas seniors and conducts more than 50 outreach events annually on topics such as long-term care and Medicare supplement insurance.

Outreach to Homeowners and Renters
The agency conducts a number of outreach events at home and garden shows, neighborhood association meetings, homebuyer fairs, and other community events. In addition, TDI has several publications related to homeowners and renters insurance. These publications include rate guides and brochures on specific issues such as shopping for insurance, filing claims, or protecting your home from damage.

Recent activities include:

- TDI was recognized with the "Together We Can" award for its work with the HICAP program, which trains and assists benefits counselors providing assistance to seniors in local communities.
- TDI conducted 574 Speakers Bureau presentations throughout the state.

Disaster Response

A flood, hurricane, tornado, explosion, or technological disaster can occur with little or no warning. The nature and extent of the damage caused by the disaster will determine the agency's response. TDI's responsibility as the state insurance regulatory agency is to ensure that consumers receive the benefits and service to which they are entitled as quickly as possible.

Local government officials have the primary responsibility for emergency management activities. In the event of a large-scale disaster, the State Emergency Response Team (of which TDI is a member) may be dispatched to assess the extent of losses and to assist in coordinating initial state responses in the field. If a presidential disaster declaration is issued, one or more Disaster Recovery Centers (DRC) are established to make federal and state assistance more accessible to victims, and a Disaster Field Office coordinates the recovery efforts. TDI works closely with the state's Division of Emergency Management and Federal Emergency Management Agency in responding to disasters.

Following the disaster, TDI staff assist consumers by providing insurance-related information, monitoring the response and activities of insurance companies, and helping consumers resolve insurance-related complaints. The agency performs well in mobilizing staff to support recovery efforts as evidenced in the large-scale catastrophe of the Houston area flooding following Tropical Storm Allison in 2001. In responding to that event, TDI supported as many as 12 DRCs at a time and maintained field support for three months.

Future demands for TDI resources are unpredictable. An entire fiscal year may pass with little demand for disaster relief services. Nevertheless, even in the absence of catastrophes, TDI must maintain preparedness, in conjunction with other key players.

TDI has updated its catastrophe plan to provide for better coordination among partners in recovery efforts with input from the Texas State Disaster Coalition, composed of state and local emergency response organizations and representatives from property and casualty insurers. In addition, TDI supports quarterly in-house training for staff who volunteer for special disaster outreach assignments.

Recent activities include:

- Assisted consumers following two disasters in Southeast Texas. More than 49 staff provided assistance at nine Disaster Recovery Centers across the state.

Insurance Availability in Underserved Areas

TDI works to increase insurance availability in designated underserved areas through two market assistance programs and an insurer of last resort, the Fair Access to Insurance Requirements (FAIR) Plan.

TDI implemented the auto MAP in 1998 to address affordability problems in designated underserved areas. It assists good drivers in locating lower premium policies in the standard market rather than the generally higher premium non-standard or assigned risk markets. Qualified consumers are referred to participating companies through a password protected TDI internet site. The participating companies agree to voluntarily offer quotes at standard or preferred rates. Consumers contact the program through MAP's toll free number or complete an online application on the auto MAP TDI Internet site.

The agency launched the homeowners MAP in 1996 to address residential property availability problems in designated underserved areas. Homeowners who have been refused residential property coverage are referred to participating companies who offer quotes on a voluntary basis. Consumers contact the program through MAP's toll free number.

As discussed on page 35, the Commissioner implemented a market of last resort, the FAIR Plan, in 2002 due to a residential property insurance availability problem, sparked in part by growing mold and water damage claims. Due to the availability of coverage through the FAIR Plan, participation in the residential MAP program has declined.

Recent activities include:

- As of April 2004, the residential property MAP received 1,056 applications with 650 eligible for the MAP. Insurers issued quotes to 391 applicants, and 195 policies have been issued.
- As of April 2004, the auto MAP program attracted 6,130 eligible applicants with 3,255 offered at least one quote and 701 policies issued. Total calls to Auto MAP exceeded 21,000 with ineligible callers offered rate guides to help them find less costly insurance.

Insurance Company Examinations

TDI performs on-site financial and market conduct examinations of insurance companies, HMOs, and certain other entities regulated by TDI to determine financial condition and compliance with the Texas insurance laws. These examinations are similar to audits by Certified Public Accountant firms, though usually broader in depth and scope, since the examiners must ascertain compliance with various laws and regulations. Examiners collect and analyze annual operations reports filed by all licensed premium finance companies and coordinate the regulation and oversight of HMOs. The agency employs 82 staff, including 70 financial examiners, working out of three field offices in Houston, Dallas, and San Antonio.

Recent activities include:

- Implemented “TeamMate,” an electronic examination management program, designed to improve the efficiency and effectiveness of examinations.
- Completed the review of approximately 17 acquisitions or restructurings of insurance companies or HMOs with purchase prices totaling more than $434 million.

Fraud Investigation Training and Outreach

Although TDI fraud investigations staff are based in Austin, the investigators conduct extensive fieldwork and outreach and training for companies and others with an interest in combating insurance fraud. On an annual basis, TDI holds fraud training for the Special Investigative Units (SIUs) of insurance companies that qualifies for continuing education credit. TDI fraud investigators attend monthly meetings of regional SIUs held in Dallas, Houston, and San Antonio and participate in regional insurance fraud task forces.

Recent activities include:

- Hosted its 6th Annual Fraud Conference with approximately 140 investigators from across the state in attendance.
- Developed an on-line fraud reporting system to provide consumers, insurers, and SIUs a convenient, efficient, and secure method to report fraud to the agency.

State Fire Marshal’s Office (SFMO)

The SFMO has 45 field employees working throughout the state. Field staff members are equipped to go to any areas that historically have demonstrated a need for services. The SFMO hires staff who live in, or are familiar with, the area where they work, with particular emphasis on recruiting bilingual staff in areas with sizable Spanish-speaking populations.

Fire industry licensing investigations staff ensure that fire alarm, extinguishers, sprinkler systems, and fireworks stands comply with adopted safety standards. The unit has four licensing investigators located in Caldwell, Corpus Christi, Duncanville, and Spicewood.

Employees in the Fire Safety Inspections section are charged with inspecting public and private buildings and flammable liquid storage facilities of retail service stations. A total of 15 field staff are located in the areas of Austin, Belton, Blanco, Bulverde, College Station, Corpus Christi, Lufkin, McDade, Midland, Stephenville, and Troup.

The Fire and Arson Investigation section maintains a significant presence across the state with approximately 25 field staff. The staff is responsible for investigating fire scenes upon request from local law enforcement agencies, and it maintains four canine teams available for all investigations. Fire and Arson Investigation staff are located in Abernathy, Amarillo, Anson, Caldwell, Cleveland, Corpus Christi, Corrigan, Gonzales, Henderson, Houston, Leander, Lufkin, McAllen, Mt. Pleasant, Nacogdoches, New Braunfels, Tyler, and Wimberley.

As of September 1, 2001, the SFMO became responsible for investigating all line-of-duty deaths (LODD) involving any fire-service personnel in Texas. The SFMO conducted 13 LODD investigations in FY02 and FY03. The SFMO holds seminars across the state to inform local fire department personnel of the LODD investigation requirements and to enhance firefighter safety.

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Outreach programs include the distribution of grade-specific fire prevention learning modules, fire safety literature, and public service announcements. The fire safety house is deployed throughout the state, providing school children with near-real home fire escape skills. Other outreach efforts include Public Protection Classification (PPC) Oversight and the Juvenile Firesetter Intervention Program. The PPC Oversight officer assists local fire departments, upon request, with Public Protection Classifications and the ISO Fire Suppression Rating Schedule. The Juvenile Firesetter Intervention Program assists fire departments, upon request, in establishing their own community-based programs for juveniles.

Recent activities include:

- Concentrated on high-profile fire investigations, resulting in numerous indictments and convictions for arsonists, thus reducing the threat of continued criminal activity and reducing fraudulent insurance claims by arsonists.
- Continued an on-site fire safety inspection project on state university campuses with a special focus on full-campus inspections. SFMO staff worked with university officials to remedy any dangerous situation uncovered by the inspections.
- Focused on inspecting the new indoor retail outlet fireworks stores where greater safety hazard exists.
- Implemented a new series of fire safety evaluations at the request of local customer groups, including Galveston County and the McDonald Observatory. These assessments will enhance fire safety and prevention efforts at the community level.

Title Examinations

The title division of the Property and Casualty Program oversees issues related to title insurance. The title examinations section conducts comprehensive, limited scope, and restricted compliance audits of licensed title agents. A total of 11 examiners conduct audits throughout the state with nine based in the field.

Recent activities include:

- Identified three agents of an insurance company suspected of overcharging consumers at title insurance closings for fees related to courier, tax certificate, and recording services. The ensuing enforcement action resulted in a consent order allowing consumers to file claims for refunds of up to $1,000,000 statewide.

Windstorm Inspections and Training

TDI's Property and Casualty Program employs 24 Windstorm inspectors in field offices located in Angleton, Bay City, Beaumont, Corpus Christi, Harlingen, La Marque, and Mont Belvieu. This program, which was implemented in January 1988, is responsible for inspecting structures for insurability through the Texas Windstorm Insurance Association (TWIA) and ensuring the enforcement of building codes adopted by the Commissioner.

TDI staff also perform oversight on structures inspected and certified by Texas licensed engineers appointed as qualified windstorm inspectors. The oversight inspections determine if structures are compliant with the applicable building code specifications and ensure that the appointed inspectors are providing uniform and consistent inspections along the Texas coast for those individuals participating in the windstorm program.

In addition to oversight, TDI staff provide training on the applicable building code standards for individuals seeking wind and hail coverage through TWIA. The education programs include training for engineers, builders, architects, homeowners, insurance agents, real estate agents, lenders, and consumers. Training and educational programs are designed to inform and educate the public on major construction issues related to windstorm compliant construction. Consequently, losses to structures are mitigated and financial exposure is reduced to the TWIA and the GR fund.

Recent activities include:

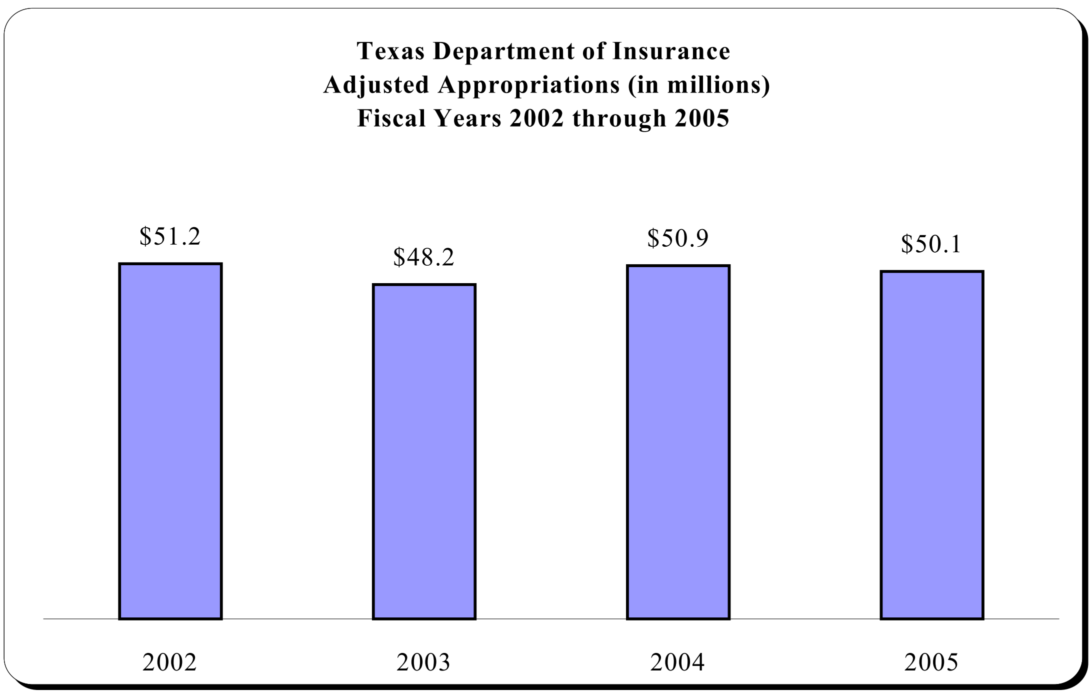
- Since 2003, TDI has conducted 54 public education classes on building code specifications in the designated catastrophe area.

Fiscal Resources and Management

The agency's adjusted appropriations for the 2004–2005 biennium total approximately $101 million. The following information details TDI's appropriations, operating fund, Account No. 36, and the FY 2004 operating budget.

Appropriations (adjusted)

TDI's appropriations have fluctuated over the last two biennia, primarily due to the agency complying with a mid-year state-wide directive from the state's leadership to reduce its FY 2003 appropriations by seven percent. For the 2004-2005 biennium the Legislature appropriated funding at the current level, and the following chart reflects that funding level for FY 2004-2005. The reduction in the FY 2005 appropriations primarily reflects Article IX reductions of the General Appropriations Act, such as the retiree incentive reduction.



GR Dedicated – TDI Operating Fund Account No. 36

The agency is funded from GR Dedicated – TDI Operating Fund Account 36. This Account receives revenue from two primary sources: 1) the Comptroller of Public Accounts, which collects insurance company maintenance taxes and fees and deposits those revenues into the Account; and 2) TDI, which collects examination fees and other fees and revenues and deposits them into the Account. In FY 2003, the Comptroller deposited $59.83 million and TDI deposited $32.64 million, for a total of $92.47 million in additional revenue into Account 36. The following chart reflects FY 2003 deposits into Account 36.

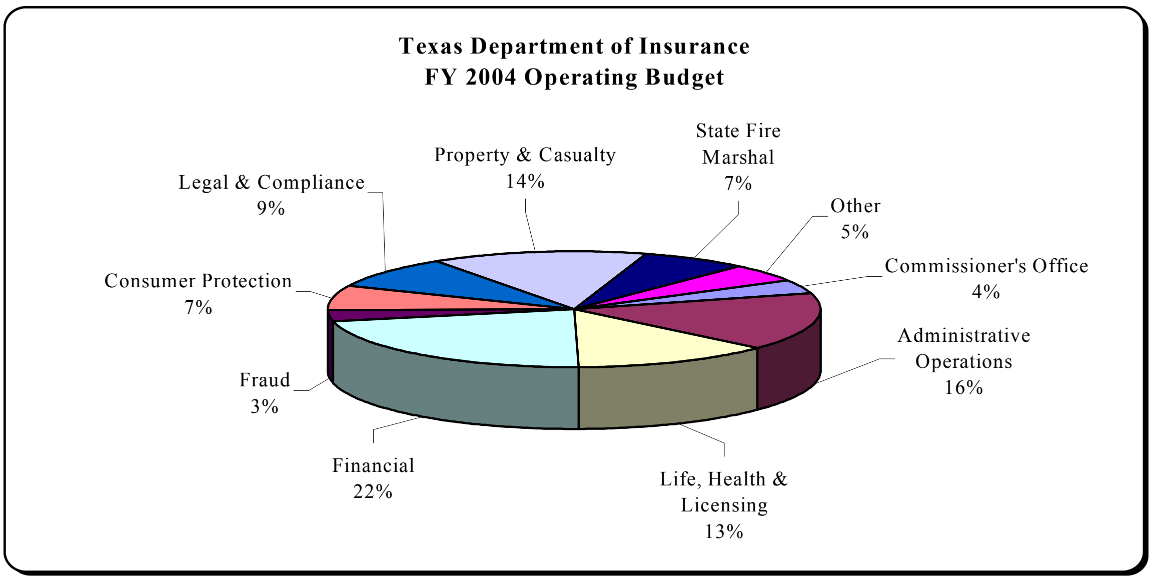
Amounts Deposited to Account 36 in FY 2003

Motor Vehicle Insurance Maintenance Tax	$ 6,935,608
Fire Insurance Maintenance Tax	24,252,843
Workers' Compensation Insurance Maintenance Tax	2,456,764
Casualty Insurance Maintenance Tax	7,355,918
Title Insurance Maintenance Fee	979,951
Life, Accident and Health Insurance Maintenance Tax	9,991,610
Third Party Administrator Maintenance Tax	1,026,788
Health Maintenance Organization Maintenance Tax	2,754,997
Prepaid Legal Services Maintenance Tax	708
Domestic Valuation Fees/Life	3,828,981
Annual Statement Fees	246,752
Account 36 Total Deposited by Comptroller:	**$59,830,920**
Examination Fees – Collected by TDI	14,732,712
Other Fees and Revenue- Collected by TDI	17,910,375
Account 36 Total Deposited by TDI:	**$32,643,087**
GRAND TOTAL	**$92,474,007**

The Legislature appropriates funds from Account 36 to several other state agencies in addition to TDI, including the Office of the Attorney General, the Comptroller of Public Accounts, the District Courts-Comptroller's Judiciary Section, Texas Commission on Fire Protection, the Texas Building and Procurement Commission, and the Texas Forest Service.

FY 2004 Operating Budget

The agency's $50.9 million FY 2004 operating budget and workforce is allocated to its direct and support programs to accomplish TDI's strategic goals. Funding for the four largest programs, Property and Casualty, Life, Health, and Licensing, Administrative Operations, and Financial comprise nearly two-thirds of the agency budget. Funding for the State Office of Risk Management's assessment, the agency's Capital Budget, and the Health Insurance Counseling Advocacy Program inter agency contract are included in the Other category as reflected in the following chart.



Capital Budget

The agency's Capital Budget rider, listed in Article VIII of the General Appropriations Act, includes funding for the acquisition of information resource technologies and vehicle replacement.

Information Resource Technology

Information resource technologies include agency development of Web-based processes to provide direct automated services to agency clients via the Internet. Additionally, electronic document/records management is being pursued to help control the rising costs of storing and handling paper and to increase the responsiveness of TDI's customer service. Information Technology also includes maintaining/upgrading TDI's computing environment to ensure the environment remains current and reliable.

Vehicle Replacement

The State Fire Marshal's Office (SFMO) field employees use state-owned vehicles to perform investigations and inspections throughout the state. After careful evaluation, TDI believes that state-owned vehicles continue to represent the best solution to SFMO's transportation needs, given the nature of the work performed by the field staff. Some staff must carry fire scene investigation equipment in their vehicles, which raises the possibility of contamination with hazardous chemicals. It would be inappropriate to expose employees' families to the potential health and safety risks associated with the use of privately owned vehicles for this type of work.

At this time the SFMO has an aging fleet with high-mileage vehicles. Sixty-nine percent of the fleet has over 100,000 miles and 40 percent has over 150,000 miles. This aging fleet has resulted in high repair costs and unreliable vehicles. Often field investigators must travel late at night and on marginally accessible roads, so the reliability of their vehicles is critical.

The SFMO's current replacement plan of two vehicles per year is inadequate to keep up with the number of vehicles with over 150,000 miles (18). The agency is evaluating its options for the maintenance of the fleet. TDI will review how to adequately prepare for the replacement of high-mileage vehicles in the most efficient and effective manner.

Technology

The Texas Department of Insurance has completed several automation projects to improve agency effectiveness in responding to constituents' regulatory needs, improve integration and interoperability with the state's technology architecture, and make the national insurance regulatory process more uniform. Ultimately, automation will enable TDI to serve its various constituencies better and at a lower cost. The following initiatives are already improving TDI's direct services to constituents and lowering their overall costs of complying with insurance regulation or using TDI services.

- TDI installed cost-effective imaging technology to scan, store, retrieve, and manage documents in an electronic format rather than continuing ineffective and costly paper-based systems. Through this technology, agency staff have modernized complaints handling and the storage of approved rate and form filings and other regulatory documents. TDI is working to expand the use of this technology to other program areas.

- TDI continues to support e-government as demonstrated by expanded participation on the TexasOnline portal site. TDI offers insurance agents and adjusters the ability to renew licenses online, including paying the associated renewal fees, as well as allowing citizens and businesses to search for information about insurance agents. Each month more than 2,000 license renewals are performed online, and over 450,000 queries are executed to obtain license information.

- TDI is participating in technology planning at the state level as a member of DIR's Architecture Components for the Enterprise (ACE) initiative in an effort to achieve efficiencies in government by sharing data among organizations and focusing on interoperability opportunities.

- TDI continues to enhance its Internet Website and to identify areas in which information and services can be made more readily available to TDI's customers through web-based, on-line applications. For example, TDI provided a secure application for collecting suspected insurance fraud information as reported by consumers and special investigative units. Also, TDI introduced a method to its Website to allow citizens to search for and print documentation related to application status and certificates.

- Texas and other states continue to improve national insurance regulatory processing efficiencies and coordination through automation. Texas is adopting the precepts of the Uniform Regulation Through Technology (URTT) program. URTT modernizes electronic regulatory initiatives among regulators and insurers, including the electronic rate and form filing processing, non-resident agency licensing, annual statement filings, uniform certificates of authority, and numerous other automation-based processing initiatives.

Historically Underutilized Businesses

TDI Use of Historically Underutilized Businesses

The Historically Underutilized Business (HUB) program is governed by the Texas Government Code, Title 10, Subtitle D, Chapter 2161. The purpose of the program is to increase contracting opportunities with the State of Texas for minority and women-owned businesses.

TDI's HUB Participation

The agency is continuously developing strategies to increase the agency's HUB participation and to ensure that TDI remains in compliance with all of the laws and rules established for the HUB program. Over the years TDI has developed and implemented various approaches to promote the HUB program and ensured HUB participation in all agency procurements. For example, the agency has sponsored nine HUB forums over the past 6 years. TDI also works closely with other state agencies and coordinates co-sponsored events such as HUB forums to target vendors for specific goods or services required by the agency. TDI executive staff members play an active role in the forums as presenters and participants in networking sessions with vendors.

TDI's HUB Outreach

The agency focuses on how awards are distributed among the various ethnic HUB groups. TDI's goal is to ensure that contract awards are distributed among all HUB groups and not concentrated within just one or two ethnic HUB groups. The agency continuously distributes information to HUB vendors about the specific changes that affect the HUB program and the procurement process. This is done to ensure that HUBs are well informed and better prepared when bidding on contract opportunities.

The agency participates in various HUB events focused on minority and women-owned businesses. This includes forums sponsored by local Chambers of Commerce, Business Development Centers, and forums sponsored by other state agencies. In addition, the purchasing department works closely with other agency programs to disseminate information about the HUB program. This information is distributed at various conventions, forums, and expositions that may have minority and women-owned business participants.

TDI’s Mentor Protégé Program

The agency has established a mentor protégé program in accordance Section 2161.065 of the Texas Government Code. The purpose of the program is to assist in fostering long-term relationships between prime contractors and HUBs and to increase the ability of HUBs to contract with the state or to receive subcontracts under a state contract.

TDI’s mentor protégé relationship is currently with Dell Computers, the mentor, and Austin Ribbon and Computers (ARC), the protégé. As a result of this relationship, ARC has (1) increased procurement opportunities to other state agencies, (2) gained access to a wider Dell product line, (3) obtained assistance from Dell in developing a better web-based marketing tool, and (4) increased annual sales by $14 million dollars.

Self-Evaluation and Opportunities

Tracking Agency Progress

During the FY 2002 strategic planning process, TDI identified twelve strategic issues for the biennium. These issues reflected the agency's challenges and concerns at that time. During the intervening biennium, TDI worked toward the resolution of problems and addressed its challenges. These strategic issues were listed in the FY 2003-2007 Strategic Plan, and the agency has tracked its progress toward resolving them.

Of the twelve issues identified, seven were addressed this previous biennium by legislative action or agency rulemaking. The remaining five are related to factors beyond the agency's control; however, TDI has taken action where possible to affect them. The agency continues to monitor all twelve issues and to identify opportunities for positive impact.

The twelve issues from the FY 2003 Strategic Plan are listed below with comments on our progress:

Issues addressed by Legislative action or agency rulemaking:

"*Concerns related to prompt payment of health care claims are likely to continue, and TDI will work with all parties to develop workable solutions.*"

The agency recommended legislative action in its *Biennial Report to the 78th Legislature* in December 2002. During the legislative session TDI staff worked closely with legislative membership and stakeholders to provide assistance and information as needed. The Legislature enacted SB 418 to ensure that payment processes to doctors and hospitals are streamlined, standardized, and efficient. In fiscal years 2003 and 2004, TDI promulgated rules implementing SB 418. The agency continues to monitor the status of prompt payment in the market.

"*Access to affordable health care coverage will continue to be a challenge for many individuals and small employers, and TDI will continue to provide technical support to efforts addressing this issue*."

The agency recommended legislative action in its *Biennial Report to the 78th Legislature* in December 2002. During the legislative session the agency provided assistance and information to the Legislature. The Legislature enacted SB 10, SB 541, and HB 897 in response to these issues. These bills provide the following:

- SB 10 was designed to increase the number of small-employers offering health care. It encourages small and large employers to form cooperatives in order to reduce the cost of employee health plans, allows small

employers to join together for rating purposes, and provides tax incentives for covering the uninsured.
- SB 541 allows HMOs and insurers to offer plans that exclude some or all of the state-mandated benefits, which could result in reduced rates. In addition, it allows the Commissioner to determine the basic set of services that an enrolled population would require.
- HB 897 allows small-employers to band together to create purchasing cooperatives in order to increase their purchasing power in the health insurance market.

"Market conditions in Texas for certain insurance, such as homeowners, workers' compensation and medical malpractice, are causing TDI to respond to various technical concerns in highly specialized areas encompassing solvency, availability and affordability issues."

The agency continues to respond to technical concerns on various issues including homeowners insurance, workers' compensation coverage, and medical malpractice insurance. On request, TDI provided technical information to the Legislature during its consideration of these issues in 2003 and anticipates continuing to provide information in the future. In the case of medical malpractice, legislation passed in 2003 requires quarterly reports from TDI on the condition of the market including information on insurers entering or leaving the market and rate changes. The agency is currently conducting a study of credit scoring in auto and homeowners insurance in order to prepare a report to the Legislature in 2005. And, legislation enacted by the 78th Legislature transferred the research duties of the former Research and Oversight Council on Workers' Compensation to the agency. TDI is continuing to provide technical information as requested by the House and Senate Interim Committees that are studying the workers compensation issue.

"TDI will monitor issues related to nursing home liability insurance and long-term care coverage and provide technical assistance and recommendations for legislative action."

The agency will continue to provide information and assistance on nursing home liability insurance and long-term care coverage as requested. However, enacted legislation should resolve the majority of regulatory issues related to long-term care coverage. The legislation expanded coverage available through the Texas Medical Liability Insurance Underwriting Association (frequently referred to as the Joint Underwriting Association of JUA), based in part on information and recommendations from TDI. Currently TDI is acting as a resource on the Nursing Facility Quality Assurance Team, established by the Legislature. The committee will make recommendations to the Health and Human Services Commission to promote high-quality care and develop minimum standards for nursing facilities. These recommendations will be based in part on best practice recommendations and other information developed by the Long-Term Care Working Group organized under TDI guidance. The agency is also actively involved with other regulators in amending the long-term care model laws, as well as developing standards, for the Interstate Compact discussed on page 20.

"TDI will enforce new regulations related to protecting the privacy of financial and health care information."

The agency enforces regulations protecting nonpublic personal financial information and nonpublic personal health information consistent with the scope of federal HIPAA standards.

The agency adopted rules in compliance with regulations such as opt-in rules allowing the customer to choose who can receive personal information; rules setting procedures that insurers and other covered entities must follow regarding the privacy of their consumers' nonpublic personal financial information; and rules concerning privacy of nonpublic personal health information.

In addition, staff chaired the TDI Privacy Task Force and served on the Attorney General's Task Force on non-conflict with HIPAA and federal government provisions.

"E-commerce and E-government will continue to affect the insurance industry and the way TDI delivers services."

Ongoing changes in the field of technology provide TDI with opportunities to serve its customers better and at lower costs. The agency continues to identify opportunities that will enhance our efforts to meet customer service and regulatory needs in an electronic or on-line environment. These opportunities may relate to policy or operational aspects.

Recent activities include automated complaints handling processes (online complaint submission and electronic handling); online fraud reporting; and expansion of online licensing opportunities (agent renewals and reciprocal licenses forms).

The expansion of online licensing is an example of TDI's commitment to increasing efficiencies and working with other states and national organizations toward modernizing our systems. In that regard, it began accepting electronic rate and form filing via the System for Electronic Rate and Form Filing (SERFF). In addition, the agency entered into a joint Memorandum of Understanding (MOU) with Florida and California to develop an opportunity for companies to submit filings in the three states simultaneously. The filings processed in Texas will utilize Florida's electronic form filing system known as "IFile."

The Licensing Division of TDI continues to add new e-commerce and e-government applications to help facilitate the licensing process. Many of these electronic innovations are developed in concert with the National

Insurance Producer Registry (NIPR). In 2003, Texas became the 28th state to begin accepting and processing electronic nonresident applications via the NIPR's automated system, which is available 24 hours a day and 7 days a week. Currently, TDI is averaging approximately 100 electronic nonresident applications per week.

"TDI will continue responding to the challenges presented by increasing health care costs and regulatory issues related to managed care."

The agency continues to work in the legislative, rulemaking, and policymaking arenas to affect positive change on health care costs and managed care regulation. During the recently passed session, TDI recommended several provisions related to the Texas Health Insurance Risk Pool and the prompt payment of physicians and providers in managed care plans. In addition, TDI continues to work on its federally-funded study to expand health care to uninsured Texans.

The following issues are related to factors beyond the control of the agency. They continue to be of concern and efforts are ongoing to address them:

"Demographic changes, especially the growing population age 65 or older, will affect insurance availability and affordability."

Please see discussion on page 13 for more information on this issue.

"Economic conditions are likely to present challenges for insurance consumers and the insurance industry."

Please see discussion on page 14 for more information on this issue.

"*National and global events and trends will have a significant impact on the insurance industry and are likely to affect TDI's regulatory responses."*

Please see discussion beginning on page 16 for more information on this issue.

"*The growing number of larger and more complex regulated entities will require TDI to continue working with regulators in other states to provide effective and efficient regulation of the industry."*

Please see discussion on page 19 for more information on this issue.

"*Moves toward more uniform, and possibly national, regulation of insurance will significantly affect TDI's regulatory operations."*

Please see discussion on pages 17 and 18 for more information on this issue.

AGENCY BUDGET STRUCTURE

Goal 1: Encourage Fair Competition in the Insurance Industry.

Objective 1.1: Reduce impediments to competition and improve insurance availability by fiscal year 2009 by: processing 96 percent of company, third party administrator, and premium finance license applications within 60 days, processing 92 percent of agent license filings within 15 days, completing 80 percent of statutory form and rate filings within 90 days; implementing a residential property insurance Market Assistance Program that results in insurance coverage for at least 50 percent of the qualified applicants; and by increasing the number of automobiles in underserved markets covered by voluntary policies.

1.1 Outcome Measures:
1. Percent of company, third party administrator, and premium finance licenses completed within 60 days.
2. Percent of agent license filings completed within 15 days.
3. Percent of statutory rate and form filings completed within 90 days.
4. Number of automobiles covered by voluntary policies as a percent of total private passenger automobiles in underserved markets.
5. Percent of Market Assistance Program applications eligible for referral resulting in the issuance of a residential property insurance policy.
6. Percent of personal auto and residential property form filings completed within 60 days.

Strategy 1.1.1: Collect and analyze market data, provide information to consumers and industry.

1.1.1 Output Measures:
1. Number of inquiries answered.
2. Number of rate guides distributed.
3. Number of consumer information publications distributed.
4. Number of consumer information presentations made.
5. Number of Texas Department of Insurance calls to insurance industry for data.

1.1.1 Efficiency Measure:
1. Average cost per rate guide distributed.

1.1.1 Explanatory Measures:
1. Aggregate overhead cost as a percent of premiums paid by consumers for all lines of insurance.

2. Number of insured private and commercial passenger automobiles as a percentage of total registered passenger vehicles.

Strategy 1.1.2: Process rates, forms and other required filings.

1.1.2 Output Measures:
1. Number of life/health insurance filings completed.
2. Number of Health Maintenance Organizations (HMO) form filings completed.
3. Number of property and casualty rate and form filings completed.

1.1.2 Explanatory Measures:
1. Total number of licensed agents.
2. Number of Texas-based regulated companies.
3. Number of non-Texas-based regulated companies.
4. Number of licensed Health Maintenance Organizations (HMOs).

Strategy 1.1.3: Identify underserved markets, and create incentives and implement requirements for insurers to write in underserved markets.

1.1.3 Output Measures:
1. Total number of Market Assistance Program applications eligible for referral resulting in the issuance of a residential property insurance policy.

1.1.3 Explanatory Measures:
1. Total number of Market Assistance Program applications received.
2. Total number of Market Assistance Program applications eligible for referral.
3. Number of underserved markets identified for residential property insurance.
4. Number of underserved markets identified for automobile insurance.

Objective 1.2: Reduce unfair and illegal practices: by assuring that 55 percent of insurer fraud referrals to prosecutors, other appropriate agencies or law enforcement authority result in legal action by fiscal year 2009; by resolving consumer complaints; and by reducing the dollar amount of harm to consumers.

1.2 Outcome Measures:
1. Percent of insurer fraud referrals to state or federal prosecutors resulting in legal action.

Strategy 1.2.1: Respond promptly to complaints against insurers, agents, and other regulated entities; assist consumers in recovering valid claims.

1.2.1 Output Measures:
1. Number of complaints resolved.
2. Number of insurance advertising filings reviewed.
3. Dollar amount returned to consumers through complaint resolution.
4. Number of complaints against HMOs resolved.

1.2.1 Efficiency Measure:
1. Average response time (in days) to complaints.
2. Average response time (in days) for HMO complaint resolution.

Strategy 1.2.2: Investigate apparent patterns of unlawful or questionable trade practices in the insurance industry; and bring enforcement actions as appropriate.

1. Number of enforcement actions concluded.
2. Dollar amount of penalties assessed for unfair and illegal practices.
3. Dollar amount of restitution assessed for unfair and illegal practices.
4. Number of contested cases closed.
5. Number of HMO quality assurance examinations conducted.

1.2.2 Efficiency Measure:
1. Average cost per HMO quality assurance examination conducted.

1.2.2 Explanatory Measure:
1. Percent of contested cases finalized within 180 days.

Strategy 1.2.3: Investigate potential insurer fraud and initiate legal action when appropriate.

1.2.3 Output Measures:
1. Number of referrals of alleged insurer fraud to state and federal prosecutors.

1.2.3 Efficiency Measure:
1. Average number of days per insurer fraud enforcement case referred.

1.2.3 Explanatory Measure:
1. Estimated dollar amount (in millions) of insurer fraud referred.
2. Number of reports of insurer fraud received.

Goal 2: Encourage the Financial Health of the Insurance Industry through Monitoring and Regulation.

Objective 2.1: Regulate insurance industry solvency in each fiscal year by assuring that all statutorily mandated on-site examinations are conducted; reviewing 99 percent of identified companies; and overseeing Special Deputy Receivers so their receivership asset recovery expenses do not exceed 30 percent of the total dollars collected by Special Deputy Receivers.

2.1 Outcome Measures:
1. Percent of statutorily mandated on-site examinations conducted during the fiscal year.
2. Percent of identified companies reviewed.
3. Special Deputy Receiver receivership asset recovery expenses as a percent of the total dollars collected by Special Deputy Receivers.
4. Average number of days from company "at risk" identification date to the date of solvency-related regulatory action.
5. Percent of insurers meeting statutory or risk-based capital and surplus requirements.
6. Percent of companies rehabilitated after Texas Department of Insurance solvency-related intervention.

Strategy 2.1.1: Analyze the financial condition of insurers, identify weak companies, and rehabilitate, liquidate or take other action against financially weak companies.

2.1.1 Output Measures:
1. Number of Early Warning referrals.
2. Number of entities receiving Texas Department of Insurance solvency related intervention.
3. Dollar amount (in millions) of net asset recoveries collected from receivership estates.
4. Number of holding company transactions reviewed.
5. Number of actuarial examinations completed.
6. Number of on-site examinations conducted.
7. Number of reviews of annual and interim financial statements conducted.

2.1.1 Efficiency Measures:
1. Average state cost per examination.

2.1.1 Explanatory Measures:
1. Dollar amount (in millions) of insurance company insolvencies.
2. Number of estates placed in receivership.
3. Percent of companies subject to statutorily mandated examinations during the fiscal year.

Goal 3: Decrease Insurance Industry Loss Costs.

Objective 3.1: Reduce losses by assuring that 88 percent of insurance companies are providing adequate loss control services, that 40 percent of the total number of windstorm inspections result in an "approved" status code by the end of each fiscal year, and that 55 percent of consumer and provider fraud referrals to prosecutors, other appropriate agencies or law enforcement authority result in legal action by fiscal year 2009.

3.1 Outcome Measures:
1. Percent of insurers providing adequate loss control programs.
2. Percent of commercial property inspections that meet filed rating schedule requirements.
3. Percent of windstorm inspections that result in an "approved" status code.
4. Percent of consumer and provider fraud referrals to state or federal prosecutors resulting in legal action.

Strategy 3.1.1: Inspect insurance loss control programs offered to policyholders, and assure compliance with filed property schedules and windstorm construction codes.

3.1.1 Output Measures:
1. Number of windstorm inspections completed.
2. Number of inspections of insurer loss control programs completed.
3. Number of commercial property oversight inspections completed.

3.1.1 Efficiency Measure:
1. Average cost per windstorm inspection.

Strategy 3.1.2: Investigate possible provider fraud and consumer fraud and refer violations for prosecution when appropriate.

3.1.2 Output Measures
1. Number of referrals of alleged consumer and provider fraud to state or federal prosecutors.

3.1.2 Efficiency Measure:
1. Average number of days per consumer or provider fraud enforcement case referred.

3.1.2 Explanatory Measure:
1. Number of reports of possible consumer and provider fraud received.

2. Estimated dollar amount (in millions) of consumer and provider fraud referred.

Goal 4: Reduce Loss of Life and Property Due to Fire

Objective 4.1: Protect the public against loss of life and property resulting from fire and related hazards by: increasing public awareness of fire safety and prevention, and enforcing statutes and rules relating to fire investigations, fire safety inspections, and fire protection and fireworks industries.

4.1 Outcome Measures:
1. Percent of referred State Fire Marshal's Office criminal referrals resulting in enforcement/legal action.
2. Percent of registrations, licenses, and permits issued, after receipt of a completed application, within 20 days to fire alarm, fire extinguisher, fire sprinkler, and fireworks firms, individuals and other regulated entities.

Strategy 4.1.1: Provide fire prevention and fire safety presentations, and enforce regulations related to fire safety through investigation, analysis of evidence, inspection of property, and licensing of the fire protection and fireworks industry.

4.1.1 Output Measures:
1. Number of fire prevention and fire safety presentations conducted.
2. Number of fire investigations completed.
3. Number of samples analyzed in the arson lab.
4. Number of State Fire Marshal's Office criminal referrals to prosecution.
5. Number of registrations, licenses, and permits issued to fire alarm, fire extinguisher, fire sprinkler and fireworks firms, individuals, and other regulated entities.
6. Number of licensing investigations or inspections conducted.
7. Number of buildings inspected or reinspected for fire safety hazards.

4.1.1 Efficiency Measure:
1. Average cost per fire safety inspection.
2. Average time to complete fire investigations.

4.1.1 Explanatory Measure:
1. Percent of fires investigated by the agency that involve insurance claims.

Goal 5: Purchase from Historically Underutilized Businesses.

Objective 5.1: To make a good faith effort to increase the utilization of historically underutilized businesses to 20 percent for professional services, 12 percent for commodities and 33 percent for other services in each fiscal year of the plan.

5.1 Outcome Measures:
1. Purchases from historically underutilized businesses as percent of expenditures for professional services.
2. Purchases from historically underutilized businesses as percent of expenditures for commodities.
3. Purchases from historically underutilized businesses as percent of expenditures for other services.

Strategy 5.1.1: Utilize and promote historically underutilized businesses in the competitive bid process on all goods and services purchased to the fullest extent possible.

5.1.1 Output Measures:
1. Total number of bid solicitations.
2. Number of bid solicitations sent to historically underutilized businesses.
3. Number of bids awarded to historically underutilized businesses.
4. Number of HUB forums attended.
5. Number of bid solicitations passed out at HUB forums.

Goal 6: Value the Diversity of TDI's Workforce and the Contribution of Each Employee.

Objective 6.1: Ensure that appropriate training is available for all employees to effectively and efficiently perform their job functions in each fiscal year of the plan.

Strategy 6.1.1: Develop and maintain a skilled and diverse workforce that reflects the diversity of the Texas labor market by providing training to all employees.

6.1.1 Output Measure:
1. Number of employees who attend professional development classes.

Objective 6.2: Recruit and retain a diverse workforce of qualified individuals.

Strategy 6.2.1: Identify agency needs and target recruitment activities to meet those needs.

6.2.1 Output Measures:
1. Number of employees in targeted groups hired through recruitment efforts.
2. Number of females and minorities selected for supervisory or management positions.

Strategy 6.2.2: Provide timely and meaningful feedback on employee performance and define clear employee job objectives using the performance appraisal process and the agency Career Advancement Planning System.

6.2.2 Output Measures:
1. Number of employees with current performance appraisals.
2. Number of managers and supervisors receiving training in writing performance appraisals and employee development plans and in using the agency Career Advancement Planning System.

Strategy 6.2.3: Provide reasonable accommodations for employees with disabilities.

6.2.3 Output Measure:
1. Number of reasonable accommodations provided for employees with disabilities.

Objective 6.3: Create and maintain a supportive work environment for all employees.

Strategy 6.3.1: Identify and remove all obstacles to maintaining a diverse workforce where all employees' contributions are valued.

6.3.1 Output Measure:
1. Number of Title VII complaints.

Strategy 6.3.2: Encourage employee wellness through agency programs and events.

6.3.2 Output Measure:
1. Number of wellness events offered to employees.