



# Texas Insurance News

Regulatory News Published by the Texas Department of Insurance

## Largest HO Carriers Raised Rates by 38 Percent, Montemayor Reports

### INSIDE

**FAIR Plan Opens Doors to All P&C Agencies** 2

**HMOs Earn First Annual Profit Since 1995** 3

**TDI Legislative Recommendations Introduced** 6

### Texas Insurance News

is published each month. For a one-year subscription (12 issues), contact TDI's Publications Division at:

Texas Department of Insurance  
**Texas Insurance News**/MC-9999  
 P.O.Box 149104  
 Austin, TX 78714-9104

Enclose a check for \$30 made out to the Texas Department of Insurance.

If you have questions about subscribing, call Publications at **(512) 322-4283**.

Direct questions or suggestions about content to **(512) 463-6425** or write:

**Texas Insurance News**, MC-113-1A,  
 P.O.Box 149104  
 Austin, TX 78714-9104

The staff that prepares this newsletter has no role in proposing, drafting, editing, or approving TDI rules or policies or interpreting statutes. **Texas Insurance News** should not be construed to represent the policy, endorsement or opinion of the Commissioner of Insurance or the Texas Department of Insurance.

By necessity, summaries of proposed and adopted rules cannot explain their full complexity. Readers interested in complete information about administrative rules should consult the versions published in the Texas Register.

To the best of the staff's ability, information presented in this newsletter is correct as of the publication date, but scheduled dates and proposed rules and amendments may change as the adoption process goes forward.

**C**OMMISSIONER **JOSE MONTEMAYOR** has told legislators that data from the 12 largest non-rate-regulated homeowners carriers indicate they have raised rates by an average of 38 percent since 2000 despite coverage changes that reduced their potential exposure to water damage and mold losses.

"Based on the preliminary review of the information received, it appears that individual company rates could be reduced anywhere from 0 percent to 25 percent from their current levels, with some companies' rates justified at current levels," Montemayor said in a preliminary report presented at a March 13, 2003, meeting of the Senate Business and Commerce Committee.

The companies that provided rate data write about 83 percent of the Texas homeowners insurance market.

Without TDI's actions allowing forms with less water and mold coverage than the Texas standard HO-B policy as it existed before January 1, 2002, the average increase would have been at least 56 percent, Montemayor said.

"Since mold testing and remediation are generally no longer covered in the modified policy forms, we expect that rates should level off and continue to decrease as experience continues to improve," his preliminary report stated.

Average rate changes for individual companies during the three-year period, 2000-2002, ranged from 22 percent to 67 percent, the Commissioner said.

The report said that where rates are excessive, this is primarily caused by companies not accounting correctly for the reduced coverage being offered and by excessive loss trend assumptions.

Montemayor noted that TDI has received complaints of individual premium increases in the neighborhood of 200 percent.

"The main reason for this circumstance is the effect of changes to certain discounts and the off-balance factors caused by these changes... Two

discounts that have had a significant impact on rates are age of home and credit scoring. Our review indicates that, in theory, the combination of these two discounts could produce rate variations that range from -70 percent to +190 percent from the base rate within a company," the Commissioner's preliminary report said.

("Off-balance" is an actuarial term used to describe the premium increases needed for some policyholders to offset the discounts provided to other policyholders.)

The full text of the preliminary report is available on TDI's Web site at [www.tdi.state.tx.us/general/pdf/sb310rpt.pdf](http://www.tdi.state.tx.us/general/pdf/sb310rpt.pdf)

The Legislature requested the data to help it determine the future shape of homeowners rate regulation in Texas. Lawmakers are considering bills that would end the exemption of Lloyds carriers and reciprocal exchanges from homeowners rate regulation. About 95 percent of the homeowners market in Texas is written by these two types of insurance company. In his biennial report to the Legislature, the Commissioner said their rates should be regulated. The type of regulatory framework to be employed in the future also is a legislative issue.

Montemayor's preliminary report was based on data received pursuant to a legislative mandate (Senate Bill 310); a February 26, 2003, Commissioner's order to implement that mandate; and a December request by TDI for voluntary submission of certain rate information.

The Commissioner was scheduled to issue a final report in late March after TDI received and reviewed data from additional companies covered by his order.

Montemayor ordered 214 insurers to file their residential property rates and certain other rate-related information with TDI.

The order affected all companies with \$100,000 or more in property insurance premiums in 2001. It divided residential property insurers into two

Please see **HO Rates** on back page

## NewsBriefs

### FAIR Plan Now Open to All Texas P&C Agencies

**A**LL LICENSED Texas property and casualty insurance agencies can now become authorized to represent the state's new market of last resort for homeowners insurance.

The Texas FAIR (Fair Access to Insurance Requirements) plan opened for business in December 2002.

Insurance agencies were given access to the plan in phases, starting with 450 agencies in December. By March, the count was up to about 1,300 agencies. Now, in the final stage of the phase-in, the plan is available to any licensed property and casualty insurance agency.

Any agencies that have not yet signed up may do so through the plan's Web site, [www.texasfairplan.org](http://www.texasfairplan.org). After an insurance agency registers to become an authorized FAIR plan agency, it will be assigned to a servicing carrier and receive the information it needs to start writing policies.

As of March 26, 2003, the plan had issued 6,500 policies. ★

### Hearing Scheduled on TWIA Reappointments

**C**OMMISSIONER JOSE MONTEMAYOR has scheduled an April 2, 2003, public hearing on two nominations for reappointment to the board of directors of the Texas Windstorm Insurance Association.

Harlie Londrie of Laguna Vista, Texas, was nominated by the Office of Public Insurance Counsel for another term as one of the two public members of the board.

TDI staff nominated Garry P. Kaufman of Galveston Insurance Associates in Galveston for reappointment as one of the two local recording agent members of the TWIA board. ★

### Fraud Unit Prosecutions

#### Indictments

**Brown, Ronald Ray**, indicted in Austin on charges of misapplication of fiduciary property and theft, both third-degree felonies.

**Fregia, Ronald L. Jr.** indicted in Austin on charges of theft by deception-aggregated, a second-degree felony.

**Haga, James Reese III**, indicted in Austin on charges of engaging in organized criminal activi-

ty of aggregated theft, a second-degree felony, and theft and securing the execution of a document by deception, both third-degree felonies.

**Hagen, Henry Eugene Jr.**, indicted in Austin on charges of engaging in organized criminal activity of aggregated theft, a first-degree felony; and theft and securing the execution of a document by deception, both second-degree felonies.

**Henry, Carry Ann**, indicted in Austin on charges of engaging in organized criminal activity of aggregated theft, a second-degree felony, and theft and securing the execution of a document by deception, both third-degree felonies.

**Howard, Charles Francis**, indicted in U.S. District Court Northern District in Fort Worth on 23 counts of wire fraud and five counts of conducting monetary transactions using criminally derived funds.

**Barry Wayne Kirk**, indicted in Austin on charges of unauthorized insurance, a third-degree felony.

**Andrew G. Krumm**, indicted in U.S. District Court Northern District in Fort Worth on three counts of conducting monetary transactions using criminally derived funds.

**Munoz, Triza**, indicted in Austin on charges of engaging in organized criminal activity of aggregated theft, a second-degree felony, and theft, securing the execution of a document by deception and making a false statement in a written instrument, all third-degree felonies.

**Okenyi, Simon Chuemka**, indicted in Richmond on charges of insurance fraud, a third-degree felony.

**Turner, Mark Anthony**, indicted in Dallas on charges of insurance fraud, a state jail felony.

#### Case Dispositions

**Attia, Ibrahim**, sentenced in Houston to 10 years' probation, 500 hours of community service and \$80,539 in restitution for theft-aggregated, a third-degree felony.

**McQueen, Judy**, sentenced in Canton to four years' deferred adjudication, a \$400 fine and restitution of \$1,841 for insurance fraud, a state jail felony.

**Ortega, Gwenna Carol**, sentenced in Austin to 24 months' probation, 80 hours of community service and a \$1,000 fine for tampering with a governmental record, a Class A Misdemeanor.

**Thompson, Richard**, pleaded nolo contendere and was sentenced in Dallas to two years' probation and \$18,000 in restitution for theft, a Class A Misdemeanor. ★

## Agents' Corner

By **Matt Ray**, Deputy Commissioner,  
Licensing Division

**A**FAST, fully searchable database of insurance licensee continuing education courses and course providers has been added to TDI's Web site.

The new database is a marked improvement over its predecessor, which required the downloading and subsequent search of as much as 90 pages of data to find a specific course offering and provider.

The new CE course and provider search engines are at [http://www.tdi.state.tx.us/apps/asproot/u\\_ag\\_ce/coned.html](http://www.tdi.state.tx.us/apps/asproot/u_ag_ce/coned.html).

Agents Licensing plans to update the course and provider list each week.

The database enables agents and other licensees to look for classroom, classroom equivalent or self study courses with the click of a mouse button. This is especially useful because the *Texas Insurance Code* now requires licensees to complete 50 percent of their CE hours in a classroom or classroom equivalent setting.

With the search capability, a licensee may search for a specific course topic by entering a few letters. One may limit a search to a specific provider's courses by entering that provider's TDI number.

The display of course information contains the course name, hours of credit and type of credit, provider name and phone number and, with classroom courses, the areas of the state where the provider offers a particular course.

Licensees may look for providers by number or partial name. The much-requested ability to find providers in a ZIP Code or city has been included in the new lookup system.

This is the first version of the on-line database, and we expect to continue improving it with modifications and new features in the future. Input from licensees is very important in determining the changes to be made. Email Agents Licensing at [license@tdi.state.tx.us](mailto:license@tdi.state.tx.us), with any suggestions.

In another development, Texas has entered into a CE reciprocity agreement with the states of the NAIC's Midwest Zone. With some exceptions, a course approved by a participating state will be accepted by other participating states merely by filing a standard filing form, one or two attachments, and payment of applicable fees. ★

# TDI update

## SDR Selected for Empire Lloyds

**C**OMMISSIONER Jose Montemayor has selected Margo Kirkpatrick as special deputy receiver (SDR) of Empire Lloyds Insurance Co. and of its attorney-in-fact, Lloyds Insurance Holding Company Inc.

The 201st State District Court in Austin placed Empire Lloyds and Lloyds Insurance Holding Company Inc. in permanent receivership on February 11, 2003.

Kirkpatrick's contact information is:

Margo Kirkpatrick  
M. K. Associates Inc.  
913 Marlin Street  
McDade, TX 78650

Phone: 512 273-9520  
Fax: 512 273-2320  
E-mail: margok@bluebon.net

The Attorney General's receivership petition on behalf of TDI alleged that Empire Lloyds had gross assets on a liquidation basis of \$415,000 and total liabilities of \$973,720, making it insolvent by at least \$558,720.

Empire, based in Houston, primarily sold commercial auto, workers' compensation, inland marine, commercial multiple peril, fire and allied lines and general liability coverages. The company was in run-off when placed in receivership. All of its policies except pest control were canceled on November 1, 2002. Empire's pest control policies were canceled December 1, 2002.

Montemayor designated Empire as an impaired insurer on January 8, 2003, clearing the way for payment of claims by the Texas Property and Casualty Insurance Guaranty Association. ★

## Millers Insurance Co. Placed in Receivership

**A** STATE DISTRICT JUDGE has placed Millers Insurance Co., the oldest Texas-domiciled property and casualty company, in temporary receivership.

Judge Margaret Cooper of the 345th State District Court in Austin ordered the receivership on March 13, 2003. TDI petitioned for the receivership through the Office of the Attorney General about six weeks after placing Millers in confidential conservatorship.

The Department will select a special deputy receiver to marshal the company's assets and conclude its affairs. Claim files will be distributed to the appropriate state guaranty associations as soon as possible so that claim processing may resume.

In its receivership petition, the state said Millers was insolvent by at least \$12.7 million.

Millers, based in Fort Worth, was founded in 1898 as a mutual insurer. The company demutualized in 1999. At that time, it was licensed to do business in 36 states.

Millers' primary lines of insurance included private passenger and commercial auto, commercial multiple peril and homeowners. In 2001, however, Millers withdrew from the Texas homeowners and private passenger auto market. The company stopped writing new business in all states in November 2001.

The company's conservator said in an affidavit attached to the receivership petition that Millers had about 900 outstanding claims and was continuing to incur new ones. The conservator said the company no longer has any employees and all but one of its five officers have resigned. ★

## HMOs Reach First Yearly Profit Since 1995

**U**NAUDITED ANNUAL STATEMENTS for 2002 indicate that basic service HMOs had their first profitable year, industry-wide, in Texas since 1995.

"This is truly good news in terms of maintaining a viable health care coverage market in our state," said Commissioner Jose Montemayor.

In reports due at TDI in March, the HMOs reported after-tax net profits totaling \$20 million on their Texas-only business. While small relative to total premiums, this profit was a huge improvement over the HMOs' \$466.5 million net loss in 2001.

Of the 34 active HMOs, 21 were profitable, 12 reported losses and one broke even.

Basic service HMO enrollment declined from 3.6 million lives to 3.3 million lives during 2002.

Although the HMOs' streak of profitable quarters ended with the fourth quarter of 2002, this was not unexpected and did not prevent their ending the year with a profit. HMOs typically fare less well in the fourth quarter than in the earlier quarters for reasons that have more to do with accounting adjustments than anything else.

Single service HMOs remained profitable, reporting a net after-tax income on Texas business of \$25.3 million in 2002. Of the 16 single-service HMOs, 13 were profitable and three reported net after-tax losses. ★

## TDI Seeks Owners of Unclaimed \$7 Million

**TDI** IS SEARCHING for 33,000 consumers who are owed \$209.50 each as his or her piece of Members Mutual Insurance Co., a small Texas property and casualty company that was placed in receivership in 1992. The checks total approximately \$7 million.

Members Mutual specialized in providing insurance for credit union members. It was licensed to do business in Arizona, Arkansas, California, Colorado, New Mexico, Oklahoma and Texas.

As a mutual insurer, Members Mutual was owned by its policyholders. After all of the company's claims and debts were paid, \$13.8 million in company assets remained for distribution to the

policyholder/owners. This is the biggest distribution on record from a Texas receivership of an insolvent mutual insurance company.

The company's special deputy receiver (SDR) mailed checks early last year to 66,000 people whose names and addresses were in Members Mutual's policyholder records. The postal service returned about half of the checks because of addresses that no longer were valid.

Persons with questions about the distribution should contact TDI's Liquidation Oversight Division at **1-800-578-4677**, extension **3-6450**, for Jean Sustaita or extension **5-8152** for Bill Carter. ★



# RuleMaking

## AUTOMOBILE

### Exempt Proposal

#### Terrorism Endorsements

■ The Department has proposed amendments to the *Texas Automobile Rules and Rating Manual*, consisting of endorsements that exclude or cap coverage of commercial auto losses resulting from terrorist acts pursuant to the federal Terrorism Risk Insurance Act of 2002.

The purposes of the amendments are to provide an option with respect to the terrorism risk insurance coverage that insurers must make available pursuant to the Terrorism Risk Insurance Act of 2002 and to disclose that the promulgated commercial auto policy forms containing coverage for acts of terrorism are subject to the federal act's cap on liability for payment of insured losses.

The proposed endorsements are:

**TE 99 87**, excluding acts of terrorism as defined in the Federal Terrorism Risk Insurance Act of 2002. If the endorsement is approved, carriers could offer it to each applicant or insured regarding the commercial auto policies named in the endorsement. The endorsement would be available for attachment to policies when an insured rejects terrorism coverage.

**TE 99 88**, providing notice of the federal cap on losses from acts of terrorism.

*Publication: 28TexReg1901, February 28, 2003*  
Reference No. A-0203-04-I  
Further information: 512 463-6327

## FINANCIAL

### APA Adoptions

#### Repeal of Obsolete Rules

■ Commissioner Jose Montemayor has repealed 28 TAC § 3.309, concerning minimum reserves for indeterminate premium reduction policies, and 28 TAC §§ 3.1201–3.1204, concerning minimum valuation standards for plans with varying nonforfeiture benefits.

TDI's adoption of Subchapter NN, Valuation of Life Insurance Policies, rendered Section 3.309 obsolete. The repeal of Sections 3.1201–3.1204 eliminated the differences between the requirements of those sections and the requirements of the *NAIC Accounting Practices and Procedures Manual*, which TDI has adopted as its single source of statutory accounting guidance.

*Publication: 28TexReg2084, March 7, 2003*  
Effective date: March 6, 2003  
Further information: 512 463-6327

#### Health Insurance Reserves

■ Commissioner Jose Montemayor has adopted amendments to 28 TAC §§ 3.7003, 3.7004, 3.7006 and 3.7007 to harmonize the rules with changes in the NAIC's model regulation for minimum reserve standards for individual and group accident and health insurance.

Key provisions of the amendments include:

**3.7003**—The unearned premium reserve may never be less than the expected claims for the period beyond the valuation date represented by the unearned premium reserve to the extent not provided for elsewhere.

**3.7004**—Long-term care contract reserves must be calculated on the one-year full preliminary term method. A rating block approach may be used when determining contract reserves for individual and group contracts.

**3.7006**—The addition of a table containing adjusted claim termination rates and the 1983 Group Annuity Mortality Table without projection for the mortality basis for long-term care policies.

**3.7007**—The addition of definitions of "level premium" and "rating block."

*Publication: 28TexReg2353, March 14, 2003*  
Effective date: March 20, 2003  
Further information: 512 463-6327

#### Risk-Based Capital and Surplus

■ Commissioner Jose Montemayor has amended 28 TAC §§ 7.401 and 7.410, concerning risk-based capital and surplus requirements for P&C and life insurance companies, fraternal benefit societies, mutual life insurance companies and stipulated premium companies.

The amendment to § 7.401 is necessary to adopt by reference the 2002 NAIC Life Risk-Based Capital Report Including Overview and Instructions for Companies and the 2002 Fraternal Risk-Based Capital Report Including Overview and Instructions for Companies.

The amendment to § 7.410 is necessary to adopt by reference the 2002 NAIC Property and Casualty Risk-Based Capital Report Including Overview and Instructions for Companies.

The formulas in the amended sections provide TDI a widely used regulatory tool to identify the minimum amount of capital and surplus appropriate for an insurance company to support its overall business operations in consideration of its size and risk exposure.

*Publication: 28TexReg2085, March 7, 2003*  
Effective date: March 6, 2003  
Further information: 512 463-6327

#### HMOs and Health Insurers

■ Commissioner Jose Montemayor has adopted amendments to 28 TAC §§ 11.2 and 11.809 concerning financial requirements for HMOs and insurers eligible to file the Health Annual Statement adopted under 28 TAC § 7.65.

The rule changes bring health insurers under a requirement that previously had applied only to HMOs. Under the amendment, any carrier that files the Health Annual Statement is required to file the NAIC Health Risk-Based Capital Report with the NAIC. The amendment also adopts by reference the 2002 NAIC Health Risk-Based Capital Report Including Overview and Instructions for Companies.

*Publication: 28TexReg2086, March 7, 2003*  
Effective date: March 6, 2003  
Further information: 512 463-6327

## WORKERS' COMPENSATION

### Exempt Proposal

#### Terrorism Coverage

■ The Department has proposed amendments to the *Texas Basic Manual of Rules, Classifications and Experience Rating Plan for Workers' Compensation and Employers' Liability Insurance* that would set forth guidelines for implementation of the federal Terrorism Insurance Act of 2002.

The proposed changes would amend:

- **Rule III E**—Calculation of Total Estimated Policy Cost—to include the terrorism premium, if applicable in the calculation of the total estimated policy cost.
- **Rule VI E**—Minimum Premium—Number 5, Adjustment Upon Audit—to indicate that if a policy is written on an "if any" basis, no terrorism premium will be charged unless the policy develops premium during the policy period or an audit.
- **Rule VI I**—Schedule Rating—to provide that premium for the Terrorism Insurance Act of 2002 is not subject to schedule rating.

# RuleMaking

- **Rule VI to add Section J**—Terrorism Premium—to provide that premium charged for losses covered under the Terrorism Insurance Act of 2002 is based on the policy's total payroll as defined by Rule V B, Remuneration—Payroll. The amendment would further describe how the terrorism premium should be determined. It states that terrorism premium is not subject to modifications, that terrorism premium is not included in standard premium, that terrorism premium does not apply to Code 0913 and that no terrorism premium will be charged if a policy is written on an "if any" basis unless the policy develops premium during the policy period or at audit.
- **Rule VII B**—Premium Discount Number 1—to indicate that terrorism premium is excluded from the determination of the standard premium.

- **Rule XV D**—Domestic Workers-Residences Number 2c—to indicate that terrorism premium does not apply to Code 0913.
- **Rule XVII**—Premium Incentives for Small Employers—to indicate that terrorism premium is not subject to the premium incentive for small employers.

The proposal would amend Procedures A—Policy Issuance Number 6—to include terrorism premium, if applicable, as an item to be indicated on the information page of the policy. It also would add a new Section XIV—Terrorism Premium—to the experience rating plan to indicate that the terrorism premium is not subject to experience rating.

Publication: 28TexReg2127, March 7, 2003  
Reference No. W-0203-06-1  
Further information: 512 463-6327

## Workers' Comp Statistical Plan

- The Department has proposed amendments to the *Texas Workers' Compensation Statistical Plan* to incorporate the reporting of terrorism premium into the plan.

The proposed changes would:

- Create a new statistical code 9740 for terrorism premiums.
- Add Item 16 to the Exposure and Premium Reporting instructions to explain how terrorism premiums are to be reported using statistical code 9740.
- Remove references to statistical code 0020 for the "Texas Old Program" from the Exposure and Premium Reporting Instructions.

Publication: 28TexReg2128, March 7, 2003  
Reference No. W-0203-06-1  
Further information: 512 463-6327 ★

# LegalNotes

## Appellate Court Reduces Jury Award in Mold Claim Case

By Elizabeth DeAnda, Agency Counsel Division, Legal and Compliance

**THE BALLARD CASE** is the landmark homeowners insurance case involving mold-related water claims. An Austin state district court jury in 2001 awarded more than \$33 million to Melinda Ballard and her husband, Ron Allison, based on allegations that Fire Insurance Exchange, a company in the Farmers Insurance Group, acted in bad faith in its handling of Ballard's homeowners property damage claim.

The award consisted of more than \$2.5 million to replace the home; more than \$1.1 million to remediate the home; \$2 million to replace the contents of the home; \$350,000 for past and future additional living expense; \$176,000 for Ballard's cost of the appraisal process; \$5 million for Ballard's mental anguish; \$12 million in punitive damages; and approximately \$9 million for attorneys' fees. On appeal, the Texas Third District (Austin) Court of Appeals drastically reduced the jury award.

In her lawsuit, Ballard contended that Farmers had committed fraud and bad faith in its handling of her claims for damage caused by water leaks in her 22-room home. She also claimed that continual delays in resolving the claims allowed mold damage to spread and caused so much damage that her home became uninhabitable.

The Court of Appeals reversed several aspects of the jury award in the Ballard case. The appellate court reduced the award from more than \$33 million to between \$4 million and \$13 million. The \$4 million represents the actual damages portion, plus interest. This amount was based on a determination that there was sufficient evidence to uphold the jury finding that Farmers had breached its duty of good faith and fair dealing toward Ballard and had committed a Deceptive Trade Practices Act violation. The \$13 million is the maximum amount that the trial court may award if the trial court on remand does not act in accordance with the appellate court's suggestion that the \$9 million award of attorneys' fees be reduced to reflect its reversal of the punitive and mental anguish damages award.

The appellate court also reduced the portion of the award for mental anguish and punitive damages. The appellate court found that there was no evidence supporting the jury's finding that Farmers acted unconscionably or fraudulently or had "knowingly" breached its duty of good faith and fair dealing toward Ballard, which is required to uphold an award for punitive and mental anguish damages.

This appellate court decision also:

- 1) upheld the trial court's summary judgment order against the two plaintiffs (Ballard's husband and son) who brought personal injury claims alleging various neurological and respiratory injuries from mold exposure;
- 2) upheld the trial court's Daubert/Robinson rulings excluding plaintiffs' personal injury experts; See *Daubert v. Merrell Dow Pharms., Inc* 509 U.S. 579 (1993); *E.I. du Pont de Nemours & Co. v. Robinson*, 923 S.W.2d 549 (Tex.1995); and
- 3) affirmed the \$4 million actual damages portion of the award based on the insurer's breach of good faith and fair dealing in handling the water damage mold claim.

The above summary should not be construed as legal advice. Readers should not act on information in this article without professional counsel.

*Ronald Allison/Fire Insurance Exchange v. Fire Insurance Exchange/Mary Melinda Ballard and Ronald Allison*, 2002 Tex. App. LEXIS 8957 (Tex. Ct. App., Dec. 19, 2002). ★

## TDI Legislative Recommendations Introduced

**B**ILLS THAT WOULD carry out TDI's 14 legislative recommendations have been introduced in the 78th Legislature.

**TexasInsuranceNews** will carry status reports on the bills embodying the TDI recommendations in its April and May issues. The July issue will summarize all enacted bills that amend the *Texas Insurance Code*.

On some issues, such as personal lines rate regulation and credit scoring, sponsors were developing or had filed their own bills prior to the submission of TDI's biennial legislative report on December 31, 2002. In those cases, the bills listed in the status report are those that most closely correspond to the TDI recommendations. In addition, some bills include additional provisions beyond those recommended by TDI.

TDI's report is on the agency's Web site at [www.tdi.state.tx.us/commiss/finalbie03.html](http://www.tdi.state.tx.us/commiss/finalbie03.html). The full text and current status of individual bills is available on the Texas Legislature Online Web site, [www.capitol.state.tx.us](http://www.capitol.state.tx.us).

The regular legislative session must adjourn on June 2, 2003.

Following are the bills embodying TDI's recommendations and their status as of TIN's printer deadline:

### Water Damage Claims and Public Adjusters

**SB 127**, by Senators Troy Fraser, Marble Falls, and Mike Jackson, Pasadena, authorizing rules requiring prompt investigation of water damage claims; requiring state licensure of public adjusters.

**Status:** Approved by Senate Business and Commerce Committee.

### Orderly Withdrawal

**HB 1727**, by Representative Mike Wise, Weslaco, applying *Texas Insurance Code* Article 21.49-2C, the orderly withdrawal statute, to Lloyds carriers, reciprocal exchanges and county mutual insurers; broadening the statute's applicability; and giving the Commissioner greater authority to disapprove withdrawal plans.

**Status:** Referred to House Insurance Committee.

### Personal Lines Rates, Commercial Auto, Credit Scoring and Orderly Withdrawal

**SB 14**, by Jackson and Fraser, establishing TDI regulation of all homeowners and auto insurance rates; removing the requirement that commercial

auto coverage be written on promulgated forms and that rates be subject to the benchmark system; placing limitations on the use of credit scoring in underwriting and rating; and placing Lloyds carriers, reciprocal exchanges and county mutuals under the orderly withdrawal statute.

**Status:** Approved by Senate Business and Commerce Committee.

### Medical Malpractice

**HB 2787**, by Representative Craig Eiland, Galveston, requiring rates of the Texas Medical Liability Trust (TMLT) to be just, reasonable, adequate, not excessive and not unfairly discriminatory and bringing the TMLT under TDI's examination authority.

**Status:** Referred to the House Insurance Committee.

### Miscellaneous Lines

**HB 3031**, by Representative Corbin Van Arsdale, Houston, changing rate regulation for fidelity and surety bonds, personal umbrella, personal liability, GAP, involuntary unemployment, financial guaranty and inland marine insurance from prior approval to file-and-use.

**Status:** Introduced.

### Prompt Payment to Providers

**SB 418**, by Senator Jane Nelson, Flower Mound, amending the prompt payment/clean claim statutes to, among other things, authorize the Commissioner to develop an exclusive set of clean claim elements. Statutory provisions allowing carriers to add or change the elements by contract would be repealed.

**Status:** Passed by Senate.

### Health Insurance Risk Pool

**SB 467**, by Senator Kip Averitt, Waco, lowering the Texas Health Insurance Risk Pool's maximum rate from 200 percent to 150 percent of the average rate charged by major Texas health insurers for individual health coverage (the "Standard Rate").

**Status:** Referred to Senate State Affairs Committee.

### Rulemaking Authority

**SB 1281**, by Fraser, and **HB 3108**, by Representative William Keffer, Dallas, strengthening the Commissioner's rulemaking authority, including the granting of authority to adopt interim rules to comply with federal requirements.

**Status:** Senate bill referred to Senate Business and Commerce Committee; House bill introduced in House.

### JUA Eligibility

**SB 421**, by Senator John Carona, Dallas, and **HB 784**, by Representative John Davis, Houston, adding assisted living facilities to the categories of providers eligible for the medical liability JUA.

**Status:** Senate bill approved by Senate State Affairs Committee; House bill heard by House Insurance Committee.

### FAIR ("Fair Access to Insurance Requirements") Plan

**SB1605**, by Senator Rodney Ellis, Houston, and **HB 1958**, by Representative John Smithee, Amarillo, authorizing the issuance of state bonds, if needed, to fund costs associated with operation of the FAIR Plan.

**Status:** Senate bill referred to Senate Business and Commerce Committee; House bill heard by House Insurance Committee.

**SB1606**, by Ellis, and **HB 2737**, by Representative Larry Taylor, Friendswood, removing provisions of *Texas Insurance Code* Article 21.49A that make establishment of the FAIR plan contingent on activity in the residential property Market Assistance Program.

**Status:** Senate bill referred to Senate Business and Commerce Committee; House bill referred to House Insurance Committee.

### Annuity Non-Forfeiture Interest Rates

**SB 681**, by Averitt, and **HB 1561**, by Eiland, reducing the minimum non-forfeiture rate of interest for individual deferred annuities from the present 3 percent to an amount reflective of market interest rates.

**Status:** Senate bill approved by Senate State Affairs Committee; House bill referred to House Insurance Committee. ★

### TAIPA Electronic Submission Option OKd by Montemayor

**C**OMMISSIONER JOSE MONTEMAYOR has approved the Texas Automobile Insurance Plan Association's proposal to give agents an Internet option for immediate binding of coverage when they submit applications to TAIPA for assignment.

The amendments to TAIPA's plan of operation provide for an "Electronic Application Submission Interface Procedure" that will enable a new policy to take effect at the time and date of the electronic transmission.

TAIPA expects the new procedure to be operational around July 1, 2003. ★

# Disciplinary Actions

**Editor's Note:** Copies of individual orders may be obtained by calling TDI's Public Information Office, 512 463-6425.

AGENTS & AGENCIES	NAME	CITY	ACTION TAKEN	VIOLATION	ORDER	DATE
	Franklin, Trazawell Jr.	Houston	Agent's License Denied	Felony Convictions; Prior License Revoked	03-0054	1/21/03
	McDonald, Marian Marie	Arlington	Revocation of General Life, Accident, Health and HMO Agent's License and General Property and Casualty License	Failure to Meet Continuing Education Requirements	03-0084	2/4/03
	Rose, A. L. Jr.	Bryan	\$1,400 Fine, Subject to Dollar-for-Dollar Reduction by Restitution to a Minimum Fine of \$700	Acted as Agent for Unauthorized Insurers	03-0083	2/4/03

## INSURANCE COMPANIES

Mid-West National Life Insurance Company of Tennessee	Dallas	\$3,000 Fine	Consent Order; Alleged Failure to File Rates for Individual Health Insurance Policy Form	03-0116	2/18/03
ZC Specialty Insurance Co.	Austin	\$5,000 Fine	Relocating Books and Records Out of State without TDI Permission	03-0082	2/4/03

## HMO

Safeguard Health Plans Inc.	Dallas	\$65,000 Fine	Violations Found in Quality Assurance Examination	03-1117	2/18/03
-----------------------------	--------	---------------	---	---------	---------

# Company Licensing Applications Pending

**For admission to do business in Texas**

COMPANY NAME	LINE	HOME OFFICE
ALEA Connecticut Insurance Co.	Fire and/or Casualty	Rocky Hill, CT
American Imaging Management Inc.	TPA	Northbrook, IL
Group Management Services Inc.	TPA	Omaha, NE
MemberHealth Inc.	TPA	Cleveland, OH
TMG Health Inc.	TPA	King of Prussia, PA

**For incorporation**

COMPANY NAME	LINE	HOME OFFICE
Texas Healthspring I, LLC	HMO	Houston, TX

**For name change in Texas**

FROM	TO	LINE	LOCATION
First Standard Security Insurance Co.	Independence American Insurance Co.	Life, Accident and/or Health	New York, NY
General Security Insurance Co.	Unitrin Auto and Home Insurance Co.	Fire and/or Casualty	New York, NY
General Security Property & Casualty Co.	Unitrin Preferred Insurance Co.	Fire and/or Casualty	New York, NY
PCA Property & Casualty Insurance Co.	Providence Property & Casualty Insurance Co.	Fire and/or Casualty	Oklahoma City, OK
Winterthur International America Insurance Co.	XL Insurance America Inc.	Fire and/or Casualty	Wilmington, DE

## Applications Approved

**For admission to do business in Texas**

COMPANY NAME	LINE	HOME OFFICE
Dakota Truck Underwriters	Fire & Casualty	Sioux Falls, SC
Mede America Corporation of Ohio	TPA	Twinsburg, OH
Medical Benefits Administrators of MD, Inc. <i>dba</i> Medical Benefits Administrators of Maryland Inc.	TPA	Abingdon, MD
Paychex Agency Inc.	TPA	Rochester, NY
Wellington Insurance Co.	Fire & Casualty	Oklahoma City, OK

*Continued on back page.*



# Company Licensing

## Applications Approved

### For incorporation

COMPANY NAME	LINE	HOME OFFICE
Cypress Texas Lloyds	Fire & Casualty	Austin, TX
Old Glory Insurance Co.	Casualty	Tyler, TX

### For name change in Texas

FROM	TO	LINE	LOCATION
Provident National Assurance Co.	Allstate Assurance Co.	Life	Northbrook, IL
Republic-Vanguard Life Insurance Co.	Scor Life Insurance Co.	Life	Addison, TX

### HO Rates... from page 1

groups, listed in exhibits attached to the order. Exhibit A companies consisted of the 12 largest writers, which had submitted similar data in December, plus 10 other randomly selected companies of various sizes. Exhibit B companies comprised 192 additional carriers—essentially the balance of the homeowners market.

All 214 companies were required to file:

- Rating manuals for current rates or proposed rates.
- Underwriting guidelines for residential property insurance.
- Estimated rate changes for the six-month period following February 26, 2003, including the effect of any expected changes in policy forms.
- Information on the use of credit history in underwriting and rating. Companies that use credit scoring in rating also were required to provide actuarial support for credits, debits, surcharges or tiering.
- Any policy fees, service fees and other fees charged under *Texas Insurance Code* Articles

21.35A or 21.35B, and the actuarial support for those fees.

- Estimated direct written premium volume for homeowners, tenants, dwelling and condominium policies for 2002.
- Information on losses and gains from investments in securities possessed and used by the insurer in determining premiums or underwriting for residential property insurance.
- A statement of the extent, if any, to which losses on investments and reductions in interest rates affected each insurer's underwriting guidelines and rates in the 24 months preceding February 26, 2003.
- Information on the cost of reinsurance applicable to residential property insurance rates and underwriting, including costs incurred after September 11, 2001.

The Commissioner's order required the 22 Exhibit A companies to file the following additional information:

- Information on policy forms and endorsements currently sold, including changes in pre-

mium rates resulting from any changes in the policy forms used by a company.

- Actuarial support for the rates provided, including data and methodology used.
- Identification of policy forms under which the experience underlying the insurer's rates was derived, plus the assumptions, if any, that were made concerning reduced coverage when the rates were set.
- A complete explanation of computer models, including credit scoring and catastrophe models, relating to the rates and underwriting guidelines submitted by the insurer in response to the order.
- A complete explanation of all changes in underwriting guidelines, rates and supplementary rating information since January 1, 2000.
- Historic rate change information, by policy form, from January 1, 2000, to the present on a statewide basis and by territory if territorial relativities were changed. ★



### Texas Department of Insurance

P. O. Box 149104

Austin, Texas 78714-9104

Presorted Standard  
U. S. Postage Paid  
Austin, Texas  
Permit No. 1613