

# Part I

## Report of Program Activities



This section of the Texas Department of Insurance's *128<sup>th</sup> Annual Report* gives a brief summary of major activity of agency programs and divisions during Fiscal Year 2003. Some agency reorganization occurred during the fiscal year. This report reflects the agency structure as it existed on August 31, 2003.

issued by the **Texas Department of Insurance**

**FY2003** ushered in a new era for the Texas insurance market. The year witnessed major legislative reforms passed during the 78th Legislative Session along with major enforcement actions. In the years ahead, consumers can expect to see more choices, more options, and fairer rates in a healthy, competitive, and stable marketplace.

## Legislative Reforms

Texas Governor Rick Perry designated insurance reform an “emergency issue” at the opening of the 2003 legislative session. This declaration enabled lawmakers to immediately address issues such as rate regulation, prompt payment of health provider claims, prompt settlement of water damage claims, and increasing the number of Texans with health insurance. The following are just a few of the bills that will have a positive impact on the Texas marketplace:

### Senate Bill 14

SB 14 strikes a balance between providing protection for consumers by applying rate standards and creating a more flexible, competitive environment for the insurance industry. It requires all homeowner and automobile insurers to file their rates with TDI, along with justification for the rates. It also requires all insurers to file their credit scoring models with TDI to ensure no unfair discrimination is taking place. Other provisions of SB 14 include:

- All home and auto rates, including Lloyds’ homeowners and county mutuals’ auto rates, must be reasonable, not excessive, adequate and not unfairly discriminatory. TDI may take action on rates that fail this standard and require refunds of excess premiums from the date the rate becomes excessive.
- Special filing provisions for small county mutuals serving high-risk, nonstandard auto markets and small homeowners writers serving niche markets and underserved areas.
- Prior approval of forms with approval by law if no objection is raised by the Department, beginning 2004 for homeowners and auto policy forms. Companies may file their own forms for approval. TDI will review filed forms and may disapprove any that violate state requirements.
- Prohibiting use of credit scoring as sole criteria for adverse action. Insurers must file credit scoring models with TDI. Models are public information. Methodology cannot include race, color, religion or national origin.
- Disclosure is required when credit scoring contributes to adverse action. Insurer must reconsider adverse action when consumer appeals.
- TDI, by rule, may limit rate impact of credit scoring.
- Property and Casualty companies must file underwriting guidelines and submit updates to TDI after changing underwriting guidelines for personal lines policies.
- Underwriting guidelines for residential property and auto insurance are subject to the Public Information Act.
- Guidelines must be sound and not unfairly discriminatory.
- Rate standards apply to all previously unregulated carriers such as Lloyds carriers, reciprocal exchanges and county mutuals.

### House Bill 329 and Senate Bill 127

These bills were passed to protect consumers from abuses by untrained mold remediators and from unfair discrimination due to past water and mold claims. HB 329 requires all remediators to be licensed by the Texas Department of Health before engaging in mold assessment or mold remediation. The bills also prohibit insurance underwriting decisions based on mold or water damage claims that have been remediated and assure prompt adjustment of water damage claims.

### Senate Bill 10

This legislation was designed to increase the number of Texas families with health insurance. It encourages small and large employers to form health group cooperatives as a way to make employee health plans more affordable. All small employers in a cooperative will be treated as

a single employer for the purpose of rates, issuance and renewal of coverage. SB 10 also provides tax incentives for insurers to sell health coverage for previously uninsured employees and their families.

**Senate Bill 418**

Known as the “prompt pay” law, SB 418 will assure that physicians are promptly paid for the care they provide to their patients. It repeals the law that allowed insurers and HMOs to add clean claim elements by contract and requires 100 percent payment (instead of 85 percent) of a claim pending audit. SB 418 reduces the payment deadline from 45 days to 30 days when a clean claim is submitted electronically and requires notice of overpayment and request for refund to be made within 180 days after physician receives payment.

**Homeowner Rate Regulation**

When SB 14 was signed into law by Governor Rick Perry on June 11, 2003, all insurers had 20 days to file their homeowner rates with the Texas Department of Insurance. TDI then had 40 days to review the rates of the 32 company groups with over \$10 million in premium, approve them or modify the filed rate. TDI had an additional 30 days to review rates of the remaining companies.

On August 8, 2003, TDI issued the first rate reduction notices under the authority of the new legislation. Of the initial 32 company groups reviewed, 24 were notified to lower their rates.

On September 9, TDI released results of its final round of reviews. Of the remaining 29 smaller companies, five insurers were notified to reduce rates from between 10 percent to 22.4 percent. Taken as a whole, 61 companies’ rates were reviewed. Of those, 29 were notified to reduce rates. The rate reductions represent a savings of more than a half billion dollars (\$510 million) for Texas consumers.

Under the rules drafted to implement Senate Bill 14, companies ordered to lower their rates had 10 days to either accept the order or provide TDI with notice that they planned to appeal. Companies could appeal the rate reduction orders by requesting a public hearing before the Commissioner of Insurance. For companies not appealing, rate adjustments took immediate effect immediately.

**Mold And Water Claims**

Led by an unforeseen explosion in claims involving mold remediation, the number of homeowners claims for damage by water discharges from plumbing, appliances and other indoor sources more than doubled from 1999 through 2002. The dollars paid for such claims multiplied sevenfold during the same period.

**Figure 1 Homeowners Insurance Water Claims  
CY1999–2003**

YEAR	LOSSES PAID	TOTAL CLAIMS	WATER LOSSES PAID AS % OF TOTAL LOSSES PAID
1999	\$363,820,315	124,615	27.0%
2000	\$536,493,407	150,252	24.3%
2001	\$1,257,794,705	204,895	43.7%
2002	\$2,366,101,451	247,696	61.4%
2003 (1 <sup>st</sup> qtr.)	\$314,611,460	35,879	54.4%

A TDI special data call indicated that the five largest carriers<sup>1</sup> alone incurred \$1 billion in mold-related water losses in the two years 2000 and 2001.

1. State Farm, Allstate, Farmers, Travelers and USAA.

This surge in claims, and insurers' uncertainty about future mold-related water claims,<sup>2</sup> adversely affected the Texas homeowners insurance market in at least two ways:

- 1 Homeowners carriers, most of which were exempt by law from rate regulation, imposed premium increases that in many cases were seen as excessive. In FY2003, TDI closed 239 "justified"<sup>3</sup> complaints about excessive homeowners rates, compared to 158 complaints in FY2002 and only 11 complaints in FY2001. Some consumers complained of premium increases of 200 percent or more; the most extreme increases tended to be related to individual case characteristics, including credit history. A TDI data call issued in February 2003 under a legislative mandate<sup>4</sup> found that rates had risen an average of 45 percent since 2000.
- 2 Insurers tightened their underwriting so severely that many Texans complained of undue difficulty in finding residential property insurance. In some instances underwriting standards created unreasonable hardships for consumers who had filed claims for water damage.

A number of significant actions were taken by the Department and the Legislature during the fiscal year to address the causes and/or the effects of the surge in water and mold claims.

#### **TDI Actions:**

During FY2003, the Department:

- Created a special Web site, **www.helpinsure.com**, to help consumers find insurers still accepting new homeowners policyholders, along with local agents who represent those companies. The list was updated periodically by means of an e-mail survey of companies. In its first month, September 2002, the Web site received 84,324 page "hits" and continued to receive a high volume of traffic.
- Activated the state's Fair Access to Insurance Requirements (FAIR) Plan as the insurer of last resort for consumers who have been denied homeowners coverage by at least two insurance companies that were actively accepting new customers<sup>5</sup> Coverage is sold through licensed insurance agencies and consists of the Texas Standard Homeowners A (HO-A) policy with replacement cost endorsements. The policy does not cover damage from water discharges from plumbing, appliances or other water sources inside a home. Near the end of FY2003, after almost eight months of operation, the FAIR plan had more than 50,000 homeowners policies in force.
- Enacted rules prohibiting denial of homeowners coverage solely because of a single water claim.
- Issued a bulletin advising insurers that they must inform consumers in writing when adverse actions, such as denial of coverage, result from information in their credit histories.
- Continued its practice, begun in 2002, of adopting the homeowners policies of national companies and insurance service organizations as a step toward improving the availability of coverage in Texas. Policies of the Insurance Services Office and the Nationwide group were adopted during FY2003.<sup>6</sup>

2 Mold typically has been covered only as an "ensuing loss" when a policyholder has a claim for water damage. Mold that appears spontaneously in the absence of a water leak or overflow is excluded from virtually all homeowners policies.

3 A closed complaint is coded as justified if there is an apparent violation of a policy provision, contract provision, rule or statute, or if there is a valid concern that a prudent layperson would regard as a practice or service that is below customary business or medical practice.

4 Senate Bill 310, 78th Texas Legislature, Regular Session. At the time, carriers organized as Lloyds plans or reciprocal exchanges were exempt by law from TDI regulation of their property rates. Approximately 95 percent of the homeowners market was written by such companies.

5 Late in the fiscal year, the FAIR plan added dwelling, renters and condominium policies to its available coverages.

6 During the previous fiscal year, the Department adopted homeowners policy forms of State Farm, USAA and the Insurance Services Office. Prior to March 8, 2002, the date when TDI adopted State Farm's national policy for use in Texas, only the three standard Texas homeowners policy forms promulgated by TDI (HO-A, HO-B and HO-C) were available for use by insurance companies. Companies could, however, file and seek approval of endorsements enhancing the standard policies. Farmers, Travelers, Allstate and certain other carriers began utilizing the standard Texas HO-A form in 2002, with TDI-approved endorsements that enhanced the coverage provided by that form.

In FY2002, the Department made coverage of mold remediation<sup>7</sup> an optional (instead of a mandatory) feature of the Texas standard HO-B homeowners policy.<sup>8</sup> To further improve availability and reduce insurance costs for consumers, TDI also opened the state to the national homeowners policy forms of a combined four insurance groups and insurance organizations. These policies customarily exclude mold remediation coverage except as an optional endorsement and cover only “sudden and accidental” discharges of water from plumbing and appliances. (The HO-B covers damage from slow and continuous leakage and seepage of water.) The first national homeowners policies approved for Texas were issued to policyholders effective September 1, 2002. In addition, some companies had been using enhanced versions of the less comprehensive Texas standard HO-A policy in lieu of the HO-B since January 2002. With enhancements, the HO-A provides modest water coverage that covers basic water damage.

By the middle of FY2003, enhanced HO-A policies and the national homeowners policy forms of individual companies and service organizations had all but replaced the HO-B. In March 2003, the HO-B accounted for only 14.7 percent of the policies issued in that month, compared to 62 percent in March 2002 and 95 percent in March 2001. This shift in coverage dramatically affected water losses and should, therefore, have a stabilizing effect on rates since water damage had become the largest cause of loss in recent years. Water losses peaked in July 2002 then began declining in the following month. As indicated by the table below, the decline continued steadily through April 2003, the latest available month of data prior to the publication deadline for this report. By April 2003, monthly water losses and claim totals were slightly more than one-third of their July 2002 peak.

**Figure 2 2002–2003 Texas Homeowners Water Losses (Cause 61)<sup>9</sup> by Month<sup>10</sup>**

MONTH	PAID LOSSES (\$000,000)	CLAIM COUNT
January 2002	157.9	17,495
February	170.0	16,868
March	183.3	17,569
April	199.6	19,744
May	203.9	20,050
June	190.4	19,451
July	215.5	24,363
August	206.1	23,454
September	190.3	20,213
October	180.8	18,979
November	154.4	15,998
December	126.8	13,555
January 2003	112.0	12,677
February	91.9	9,946
March	83.6	9,696
April	74.3	8,714
May	68.6	7,611

The Department is optimistic that its actions and those of the Legislature will improve the availability of homeowners insurance in Texas and stabilize the cost of such coverage to the state’s consumers.

<sup>7</sup> TDI, in approved endorsements to standard Texas policy language, defines remediation thusly: “Remediation means to treat, contain, remove or dispose of mold, fungi or other microbes beyond that which is required to repair or replace the covered property physically damaged by water or steam. Remediation includes any testing to detect, measure or evaluate mold, fungi or other microbes and any decontamination of the residence premises or property.”

<sup>8</sup> Until 2002, the HO-B was the policy purchased by nearly all Texans with homeowners policies. As late as December 2001, almost 93 percent of all policies sold or renewed were HO-Bs.

<sup>9</sup> Cause 61 comprises all water losses other than those caused by frozen pipes and those for damage to a home’s slab or foundation.

<sup>10</sup> Source: Cause of Loss Reports from the Texas Insurance Checking Office (TICO, the Department’s statistical agent for residential property insurance).

## Health Care

More than 4.5 million Texans 64 and younger, or 21.4 percent of the state's population, were without health care coverage in 2000.<sup>11</sup> The report did not, however, state whether those without insurance had access to care during that period. During FY2003, with encouragement from Governor Rick Perry, the Department and the Legislature carried out several options presented in TDI's report, *Working Together for a Healthy Texas*,<sup>12</sup> which looked into possible avenues for reducing the uninsured population. The report concluded that increasing the number of small employers offering coverage held the greatest short-run potential for substantial gains in the number of insured Texans. As indicated by the table below, the number of small employers in Texas that offer coverage has more than doubled since the Legislature passed the Small Employer Health Insurance Availability Act in 1993 but the aggregate total today represents a relatively small minority of small employers that offer health care coverage.

**Texas Small Employer Health Plan Participation 1993–2001<sup>13</sup>** **Figure 3**

	TOTAL NUMBER OF SMALL EMPLOYERS	SMALL EMPLOYERS WITH HEALTH INSURANCE	PERCENTAGE OF SMALL EMPLOYERS WITH HEALTH INSURANCE	LIVES COVERED
1993	349,179	36,952	10.6%	Not Available
1994	351,072	50,144	14.3%	Not Available
1995	335,405	63,698	19.0%	Not Available
1996	296,694	74,164	25.0%	Not Available
1997	361,494	83,437	23.1%	978,966
1998	366,176	86,106	23.5%	1,008,737
1999	372,115	96,710	26.0%	1,440,486
2000	382,984	97,793	25.6%	1,444,480
2001	383,150	84,240	21.9%	1,070,483
2002	380,731	78,741	20.68%	1,048,042

One option presented in *Working Together for a Healthy Texas* was local community “health insurance fairs” to educate small employers on their options and offering “one-stop shopping” among several carriers and local agents in a single morning or afternoon. During FY2003, the Department conducted nine such fairs, in Austin, Corpus Christi, Dallas, El Paso, Fort Worth, Harlingen, Houston, Lubbock and San Antonio.

Another option contained in the report was the publication of a small employer health insurance rate guide. TDI implemented this option by placing an on-line, region-specific rate guide on its Web site in December 2002. The guide enables small employers to compare the premiums charged by all insurers active in the small employer market. Rates are shown for 11 different cities because of regional differences in the health care costs that drive rates. Through July the on-line rate guide averaged more than 1,200 visits per month.

Finally, in response to an overwhelming preference expressed by small employers surveyed by TDI, the report recommended creation of more cooperatives or purchasing alliances that would enable small employers to leverage their buying power in purchasing employee health care plans. Although existing state law provides for purchasing alliances, they have attracted few

<sup>11</sup> U.S. Census Bureau, *Current Population Survey*.

<sup>12</sup> The report, developed under a \$1.3 million state planning grant from the U.S. Department of Health and Human Services, was issued in March 2002. It is available on TDI's Web site at <http://www.tdi.state.tx.us/company/spg.html>

<sup>13</sup> Sources: Texas Workforce Commission Labor Market Information and Texas Department of Insurance Figure 48 Annual Filing. Note: The Small Employer Health Insurance Availability Act of 1993 defines a small employer as one with 2 to 50 employees. However, the Texas Workforce Commission (TWC) collects data based on federal reporting requirements that separately categorize employers with 50–99 employees. As such, firms with exactly 50 employees are not included in the “Total Number of Small Employers in Texas” (Column 1). Also, employers with only one employee are included in the figures reported by TWC, but are not eligible for small employer health plans under the Texas Insurance Code.

employers, and insurers have shown little interest in working with them. In attempts to encourage greater participation by both employers and insurers, the 78th Legislature passed bills including the following features:

- Employers, both small and large, may form group health cooperatives. Carriers may assist sponsoring entities, such as trade associations and chambers of commerce, in starting them but may not join or form cooperatives themselves. (SB 10)
- Insurers must treat small employer cooperatives as though they are a single small employer for such purposes as rating, issuing coverage and renewing coverage. Carriers may not attempt to influence an employer's decision whether to join a cooperative and may not limit an employer's or employee's choice of benefit plans because of the health status or claim experience of eligible employees and dependents. (SB 10, HB 897)
- Small employer carriers no longer are required to offer the "basic" and "catastrophic" small employer health care plans designed by TDI. They must, however, offer at least one "standard benefit plan" that may not contain many of the state-mandated benefits and should, therefore, be less expensive. (SB 541)
- Insurers and HMOs may receive state premium tax exemptions for insuring previously uninsured persons through small employer cooperatives. (SB 10)

### **Unauthorized Insurance**

Rising premium rates for health care coverage made small employers particularly vulnerable to fraudulent schemes that promised to lower their insurance costs. These schemes always involve the sale of insurance without the license or other authorization required by state law. Typically, a plan signs up employers as rapidly as it can, collects premiums and pays early claims, usually small ones, to build confidence and avoid the notice of state insurance regulators. Claim payments soon slow to a trickle or cease altogether, leaving health plan members with unpaid claims that may run into many thousands of dollars. A common pattern involves the pretext that a plan does not need a license because it is an employer-sponsored plan exempted from state licensing and regulation by the U.S. Employee Retirement Income Security Act of 1974 (ERISA). Nationally, it is estimated that more than 100,000 people have been victimized by unauthorized health plans, with unpaid claims in excess of \$100 million.

The problem of unauthorized insurance in health coverage and other lines became so severe that the Department's Legal and Compliance Program established an Unauthorized Insurance Team to investigate and initiate administrative and/or legal action against these fraudulent activities. Between March 2001 and the close of FY2003, TDI took formal action, including cease-and-desist orders and one receivership, against 12 unauthorized health plans. Informal action was taken to shut down many more. Another 15 alleged fraudulent health plans were under investigation at the end of FY2003. Many unauthorized plans recruited licensed agents as marketers, often deceiving them with the same ERISA argument they have utilized with employers. During FY2003, TDI issued disciplinary orders against more than 50 agents who had sold unauthorized health plans. Typically the orders required a fine, plus payment of unpaid claims against the plans they had sold. In some cases, agents were stripped of their licenses. The Department also cooperated with other state insurance departments, the U.S. Department of Labor and state and federal prosecutors to curtail the activities of unauthorized insurers. In FY2003, TDI added a link to its Web site for reporting suspected insurance fraud.

Actions taken against unauthorized health care plans in FY2003 included emergency cease-and-desist orders issued to:

- Britannia International Life & Casualty, Ltd., which provided "stop-loss" coverage to about 900 employers in 15 states who participated in certain unauthorized health plans.
- MarkeTrends Insurance Ltd. (supposedly based in Cyprus) and North American Indemnity IV (NAI) (supposedly headquartered in Brussels). MarkeTrends sold unauthorized insurance to at least 64 employers in Texas alone. NAI allegedly left plan members with more than \$12 million in unpaid claims.

- Privilege Care Inc., Professional Industrial and Trade Workers Union (PITWU), Southern Plan Administrators Inc. (SPA) and American Heartland Health Administrators, Inc. (AHHHA). Their plans had at least 2,800 enrollees nationwide and left about \$7 million in unpaid claims.

In addition, the Commissioner levied fines totaling \$12.5 million against the operators and principal marketer of Employers Mutual LLC, an unauthorized insurer previously ordered out of Texas. Employers Mutual had enrolled approximately 7,200 Texas residents.

TDI frequently publishes information to help employers and agents avoid unauthorized health plans and late in FY2003 began a special initiative to increase awareness of the problem. This effort included arranging with the Texas Workforce Commission to publish warnings from TDI about unauthorized health plans in its monthly newsletter for employers and in letters accompanying unemployment tax notices.

Other lines of insurance are not immune from unauthorized insurance activity, which typically exploits market disruptions that have escalated premiums and/or reduced the availability of coverage. During FY2003, TDI took several actions against such carriers as follows:

- Through the Office of the Attorney General, obtained a permanent injunction against International Marine Safety Foundation, which specialized in unauthorized insurance of boats and other water craft. The court ordered the entity to pay a \$1 million fine imposed by the Commissioner in 2002. As many as 130 Texans may reportedly sought coverage from the purported foundation.
- Issued emergency cease-and-desist order to International Property Owners Association Ltd. and others to stop the sale of an unauthorized program of insurance for apartment owners.
- Worked with prosecutors to obtain the indictment in Travis County of John William Tesseyman III for unauthorized insurance activities that that may have left dozens of petroleum product truckers and fireworks display companies without the automobile, liability and property coverage they paid for. The indictment listed premium payments totaling more than \$1.8 million from 35 different customers.

### **Prompt Payment For Health Care Providers**

Since 1999, Texas has required HMOs and preferred provider carriers to act on completed (“clean”) claims from network physicians and providers within 45 days after receipt.<sup>14</sup> TDI’s original prompt pay rules, adopted in 2000, have evolved over the years as physicians and providers continued to experience problems with carriers’ payment practices.

The 78th Legislature enacted Senate Bill 418, which made substantive changes in the prompt payment laws. TDI proposed rules and held a public hearing on August 7, 2003. As allowed by SB 418, TDI also adopted rules on an emergency basis effective August 16, and adopted permanent rules in September 2003. Among the provisions of SB 418:

- Establishes “verification” requirements that enable physicians and providers to learn before performing a service whether an insurance company or HMO will guarantee payment for a medical service.
- Repeals statutory language that had enabled HMOs and preferred provider carriers to require, by contract, clean claim elements other than those prescribed by the Commissioner of Insurance.
- Shortens the deadline for payment of clean claims from 45 days to 30 days if a claim is submitted electronically. The 45-day payment deadline remains in force for clean claims submitted in other ways. The law also established a 21-day deadline for paying affirmatively adjudicated, electronically submitted pharmacy claims.

<sup>14</sup> Texas Insurance Code Article 20A.18B for HMOs and Texas Insurance Code Article 3.70-3C, Section 3A, for insurance companies with preferred provider plans.



- Limits the ability of HMOs and preferred provider carriers to require additional information before they will process a claim.
- Increases from 85 percent to 100 percent the contracted amount of a claim that an HMO or preferred provider carrier must pay while the claim is undergoing audit.
- Requires HMOs and insurers to request refunds for overpayments to physicians and providers within 180 days after receipt of payment.
- Requires physicians and providers to submit their claims within 95 days of the date a health service is provided. Contracts may provide for longer, but not shorter, deadlines.
- Establishes a graduated schedule of penalties for late payment and underpayment of clean claims.
- Authorizes TDI to impose administrative penalties (“fines”) when an HMO or preferred provider carrier has a noncompliance rate of 2 percent or more during a quarter. Non-compliance rates will be determined separately for claims by institutional providers and non-institutional providers.

### **Race-Based Pricing And Small-Amount Life Insurance Policies**

TDI, the National Association of Insurance Commissioners and the insurance departments of other states continued their effort, begun in 2000, to end the long discredited practice of selling small amount life insurance (“SALI”) policies. These policies of \$15,000 or less typically are bought to defray funeral expenses. Typically, these types of policies are targeted toward ethnic and low income groups. Verification that a company has engaged in race-based pricing generally is followed by negotiations among the carrier, regulators and class action attorneys to provide appropriate remedies to the individuals who bought such policies or to their beneficiaries or estates. Commissioner Jose Montemayor is chairman of the NAIC’s Race-Based Premium Working Group.

In total, TDI has reached settlements with four insurance groups, comprising 57 companies, bringing \$13.5 million in relief of various kinds to 353,475 Texas consumers. During FY2003, Metropolitan Life entered into a national settlement to resolve allegations of race-based pricing. The settlement included \$1.6 million for 5,475 Texas policyholders, former policyholders and beneficiaries. At the close of the year, TDI was negotiating an agreement that would apply a nationwide settlement with Monumental Life Insurance Co. to Texas. Potential restitution to Texas residents was estimated at \$1 million.

Additional issues that emerged in the course of the investigation of race-based pricing included:

- The fact that some purchasers of SALI policies pay more in premiums than the policies will pay in death benefits.
- The failure of some companies, when notified of a policyholder’s death by one beneficiary, to conduct a diligent search for all other policies on that individual’s life and notify the beneficiaries.

The 77th Legislature directed the Commissioner of Insurance to study the SALI marketplace with the assistance of an advisory committee and report his findings to the 78th Legislature in 2003. In his final report to the Legislature, Commissioner Jose Montemayor said the relationship between the pricing of SALI policies and the value that many Texans receive is not a reasonable one and suggested that the Legislature seriously consider:

- Imposing caps on the ratio of premiums to death benefits.
- Requiring insurers to offer the option of shorter premium paying periods for SALI policies whose premiums could exceed 150 percent of death benefits.
- Improving disclosure to consumers.
- Discouraging the sale of multiple small policies to the same individual.
- Requiring or authorizing the Commissioner to adopt rules defining minimum standards for carrying out an insurer’s duty of due diligence with respect to unclaimed benefits on multiple life policies.

## Financial

There are approximately 7,065 domestic insurers in the U.S, including 2,018 licensed to do business in Texas. Total premium volume in the U.S. insurance market exceeds \$1 trillion. Texas' premium volume of \$78.5 billion ranked third among the states, trailing only California and New York. This makes Texas one of the top insurance markets in the world, roughly equal in size to that of Canada.

Texas premium in 2002, by industry segments, was as follows:

- Life/Health, \$38.8 billion
- Property/Casualty, \$30.2 billion
- Health Maintenance Organizations (HMOs), \$7.9 billion
- Title, \$1.3 billion
- Miscellaneous other insurers, less than \$300 million

With the exception of title and some miscellaneous insurers, each segment has had unique challenges affecting its continued operations and financial viability.

The life/health industry has been seriously affected by low interest rates and the significant downturn of investment markets. The Federal Reserve continued to cut interest rates, from 6.5 percent at the beginning of 2001 to 1.0 percent (a 45-year low) near the end of FY2003. As a result of the troubled equity markets and low interest rates, capital losses (realized and unrealized) reported by life/health insurers were at unprecedented levels, exceeding \$27 billion nationwide. Life insurers will continue to be challenged as they struggle to meet contractual or statutorily guaranteed interest rates on the insurance products they have sold. Legislatures around the country (including Texas) have found it necessary to reduce the statutorily guaranteed rates on these products or to at least give the companies greater flexibility.

The property/casualty industry has undergone financial stress from unusually high claim losses from causes such as terrorism, weather catastrophes, malpractice lawsuits and mold. Financial results for CY2002 showed some improvement from 2001, which was the first year ever that an industry-wide loss was reported. Property/casualty insurers reported combined net losses of \$7.9 billion, nationwide, in 2001.

The terrorist attacks on the World Trade Center and other locations on September 11, 2001, were the largest insured catastrophe in world history, resulting in insured losses estimated to be as great as \$70 billion. Insurance markets continued to feel the impact of these events in 2002. Following the attacks, the demand for insurance outstripped the supply, pushing prices up and reducing the amount of coverage available as insurers became more selective in their acceptance of risks. The cost of reinsurance increased dramatically, affecting virtually all insurers and insurance consumers.

In November 2002, President Bush signed the Terrorism Risk Insurance Act of 2002. The act established a temporary federal program that provides a system of shared public and private compensation for insured losses resulting from acts of terrorism. Insurers included under the program must make coverage available to their policyholders and must disclose the premium charged for terrorism insurance and the federal government's share of compensation provided under the law.

Property/casualty insurers generally raised their premium rates in 2002 because of their 2001 underwriting losses as well as a decline in their investment earnings. The industry's combined ratio (a measure of incurred claim losses and expenses per dollar of premium) improved from 116 percent in 2001 to 107 percent in 2002, largely because of tighter underwriting standards and rate increases. However, this improvement was less than it otherwise might have been because of ongoing loss reserve charges. These changes included increased reserves for asbestos claims, necessitated largely by an increase in class-action lawsuits and manufacturers' bankruptcies.

With rising medical costs and intense competition for market share, the HMO industry experienced six consecutive years of net after-tax losses in Texas, 1996–2001. The cumulative net loss for this period was \$2.5 billion. This long-running trend appears to have turned in Calendar Year 2002 as basic service HMOs reported after-tax net profits totaling \$20 million on Texas-only business. The improvement continued into 2003 as basic service HMOs reported after-tax profits of \$80 million in the first quarter and \$100,104,751 in the second quarter. This move toward profitability generally is attributed to a strengthening of price discipline and medical cost control on the part of the HMOs. Also contributing to the turnaround was legislation establishing a true net worth requirement and TDI rules requiring HMOs to post cash reserves against anticipated premium deficiencies and to submit plans for correcting those deficiencies. The magnitude of the improvement can best be seen by comparing the \$20 million net profit in 2002 with the \$466.5 million net loss sustained by the industry in 2001.

The financial health of the insurance industry typically mirrors the nation's overall economy. Historically, insolvencies have increased during economically troubled times, and that was the case during the past fiscal year. As shown in the table below, the number of insolvent Texas domestic insurers placed into court-ordered receivership increased to seven in FY2003, compared to three in FY2002, one in FY2001 and three in FY2000. The domestic insurers that failed were generally small regional or Texas-only carriers with few policyholders. There has been a similar increase in receiverships involving out-of-state (“foreign”) companies doing business in Texas. These out-of-state receiverships have stressed the guaranty associations of some other states and also have had an impact on Texas guaranty associations that pay the claims of insolvent insurers licensed to operate in Texas. While the Texas guaranty associations are believed to be relatively stronger than many of their counterparts, their finances and future assessment capacity require continued monitoring by TDI. Finally, there has been an increase in bankruptcy activity involving certain non-insurance holding companies that own insurance subsidiaries. Such bankruptcies have required substantial coordination among various state insurance departments, including TDI, to protect the interests of the policyholders and claimants.

**Figure 4 Texas Domestic Insurance Company Receiverships FY1983–2003**

YEAR	LIFE/HEALTH	PROPERTY/CASUALTY	TITLE
1983	2	3	
1984	0	0	
1985	2	3	
1986	1	1	
1987	2	3	1
1988	3	6	0
1989	14	5	1
1990	13	6	
1991	7	*5	
1992	6	4	
1993	6	3	
1994		6	1
1995	0	1	
1996	0	1	
1997	1	2	
1998	†3	1	
1999	†3	0	0
2000	2	1	0
2001	1	0	0
2002	1	2	0
2003	*4	4	0

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

† Includes one fraternal benefit society.

‡ Includes 1 Health Maintenance Organization (HMO).

★ Includes 1 Health Maintenance Organization (HMO). A third-party administrator affiliated with the HMO also was placed in receivership.

The current state of the economy, recent catastrophic events and, to some extent, increased competition from non-insurer entities writing certain insurance products, have created increasing pressures on various segments of the insurance market in the United States. The insurance industry has responded by looking for ways to operate more efficiently and by seeking changes in the regulatory environment. Certain elements of the industry support proposals for various forms of federal chartering and regulation. State insurance commissioners across the country are aggressively pursuing modernization efforts that retain state regulation while providing for a more competitive and effective marketplace. Efforts being pursued by state insurance commissioners include requiring better coordination of market conduct exams and form approval initiatives that will enable insurers to get new products into the market faster.

## **Accomplishments and Actions**

### **Administration**

- ▶ Issued rules streamlining system for paying required filing fees. Includes a billing system to eliminate the requirement that insurers send payment with each individual filing. (Effective 6/1/03)

### **Agents**

- ▶ Digital fingerprinting of license applicants placed in effect.

### **Automobile**

- ▶ Insurers, by rule, received the option of extending multi-car discount to vehicles assigned to youthful drivers.

### **Consumer Protection**

- ▶ Consumer bills of rights for auto and homeowners insurance were updated.
- ▶ Insurers were advised by Commissioner's bulletin that consumers must be informed when adverse actions result from information in their credit histories.

### **Enforcement**

- ▶ TDI negotiated a record-breaking settlement between Farmers Insurance Group and the State of Texas on November 30, 2002, with Farmers agreeing to change its pricing practices and pay \$117.5 million in restitution and savings to policyholders. The settlement ended a lawsuit by the Texas Attorney General for violations of the Deceptive Trade Practices Act and discrimination against some groups of homeowners. Farmers was also ordered to reduce its rates by 6.8 percent.
- ▶ Metropolitan Life agreed to pay \$1.6 million in restitution to Texas victims of race-based life insurance rating practices.
- ▶ Privilege Care, PITWU et al were ordered to cease and desist unauthorized health insurance activities.
- ▶ A state district court permanently enjoined International Marine Safety Foundation from engaging in an unauthorized boat insurance business in Texas ordered it to pay the \$1 million fine imposed by the Commissioner of Insurance in 2002.
- ▶ Commissioner Jose Montemayor issued an emergency cease-and-desist order requiring International Property Owners Association Ltd., Christopher Purser, et al, to stop their unauthorized sale of fraudulent insurance to apartment owners.
- ▶ The Commissioner levied fines totaling \$12.5 million against the operators and chief marketer of Employers Mutual LLC, an unauthorized health care plan that enrolled approximately 7,200 Texas residents.
- ▶ A Houston-based homeowners claim fraud ring was broken, resulting in seven convictions.
- ▶ Britannia International was ordered to cease and desist its unauthorized insurance activities. The entity provided stop-loss coverage to employer plans.
- ▶ Commissioner Jose Montemayor issued emergency cease-and-desist orders to MarkeTrends Insurance Ltd. (Cyprus) and North American Indemnity IV (Brussels), which provided unauthorized health care coverage.

- ▶ Placed an unauthorized insurance operation in receivership, revoked the license of the agent running the illegal and unauthorized operation, and assisted Travis County District Attorney in obtaining an indictment against the agent.
- ▶ TDI added on-line reporting forms for industry and consumers to report suspected insurance fraud. These forms, as well as the insurance fraud hotline, have provided ease in reporting fraud to the department.

#### **Financial**

- ▶ Colonial Casualty Insurance Co. of Dallas was placed in receivership, with an insolvency of \$8 million.
- ▶ The NAIC renewed its accreditation of TDI's financial monitoring and regulation program for another five years.
- ▶ Basic service HMOs reported their first industry-wide annual profit since 1995; after-tax profits on Texas-only business totaled \$20 million.

#### **Health Care**

- ▶ TDI placed its new small employer health insurance rate guide on the Department's Web site, [www.tdi.state.tx.us](http://www.tdi.state.tx.us).
- ▶ Rules were adopted requiring disclosure of contract provider payment terms, including bundling and downcoding.
- ▶ Nine small employer health insurance fairs were held, starting with Austin.
- ▶ Rules were adopted clarifying HMO responsibility and TDI authority regarding delegated entities.

#### **Homeowners**

- ▶ FAIR (Fair Access To Insurance Requirements) plan was established to alleviate homeowners insurance availability problems encountered by some consumers.
- ▶ The Commissioner denied the request of the Texas Windstorm Insurance Association for a 10 percent increase in its rates for residential coverage.
- ▶ Rules were issued prohibiting the denial of homeowners coverage solely because of one water claim.
- ▶ Rules were adopted authorizing the use of International Residential Code and International Building Code, with "Texas Revisions," for windstorm resistant construction on the coast.
- ▶ **Helpinsure.com** was launched to help Texans find homeowners insurance.

#### **Life Insurance**

- ▶ The Commissioner adopted the 2001 Commissioners Standard Ordinary Mortality Table, which is expected to reduce the cost of certain life insurance products.
- ▶ Assisted by an advisory committee, the Commissioner issued a report on small-amount life insurance (SALI) policies. He recommended legislation that would cap the ratio of premiums to death benefits, restrict the ability of companies to issue multiple small policies and require greater diligence in searching for multiple beneficiaries.

#### **Privacy**

- ▶ The Commissioner adopted "opt-in" rules concerning the privacy of nonpublic personal health information collected by insurers and HMOs.

**T**HE COMMISSIONER, appointed by the Governor with the advice and consent of the Senate, is the agency's chief executive and administrative officer.

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

As part of his regulatory duties, the Commissioner issues benchmark rates for automobile insurance and presumptive rates for credit life and credit disability insurance. He also reviews and regulates all residential property rates and can order reductions when appropriate. The Commissioner also promulgates rates for title insurance and Texas Automobile Insurance Plan Association ("assigned risk plan") coverages. The Texas Windstorm Insurance Association ("Windpool") must submit its proposed rates for the Commissioner's approval.

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

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

In FY2003, the Commissioner's Office included the Chief of Staff and five activities.

**Chief of Staff and Senior Associate Commissioner for Administration** oversees the Administrative Operations Division, which includes the agency's computer and data services, business planning and redesign, accounting, budget, building and records management, purchasing, mail services, human resources and the agency ombudsman and ethics advisor.

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

**Executive Services** provides executive support services to the Commissioner and staff.

**Internal Audit** is an independent activity that evaluates financial, administrative, operational and compliance controls and makes recommendations to the Commissioner and agency management for improvement. Internal Audit provides support in attaining agency goals by furnishing analyses, appraisals and recommendations for the activities reviewed. An important part of Internal Audit's role is to identify ineffective, inefficient and inappropriate policies, procedures, programs, activities and processes and to serve as a resource and adviser to management.

**Government Relations** serves as TDI's liaison with the Legislature and other governmental entities. Major responsibilities include helping the Commissioner develop legislative recommendations for improving insurance regulation in Texas; reporting information regarding TDI activities and the insurance market to the Legislature; coordinating and tracking agency-wide responses to legislative and constituent inquiries; monitoring and analyzing legislation affecting the agency; updating agency staff on the status of legislation; coordinating the appearance

of agency staff for testimony before various legislative committees; overseeing implementation of legislation; compiling and indexing all insurance and agency related legislation adopted by the Legislature for use on TDI's Web site; distributing requested information to legislators, committees and other governmental entities; researching and reviewing possible appointments to various boards and committees required to assist the department.

**Public Information Office** serves as the agency's primary contact with the news media. The office also responds to information requests from consumers, the insurance industry and other regulators and government agencies. Major communication responsibilities include:

- Researching, writing, editing and distributing news releases announcing agency actions; conducting and coordinating interviews with the news media; assisting the Commissioner in drafting articles and consumer columns for various publications; and responding to information requests from the media.
- Managing content of TDI's Web sites, with assistance from Information Services and other divisions.
- Coordinating electronic mail among TDI, other state insurance departments and the National Association of Insurance Commissioners, answering general information e-mails via TDI's Web site.
- Coordinating the writing and editing of the Annual Report to the Governor and Legislature.
- Writing and editing the agency's regulatory newsletter (***TDInSight***).
- Designing, illustrating and producing agency publications and related print materials.
- Writing and overseeing production of radio and television public service announcements and other videos.
- Producing the agency's **Bulletin Board@TDINet**, an in-house electronic bulletin board for TDI information.
- Writing speeches and helping edit various agency reports and documents.

### **Highlights**

In Fiscal Year 2003, the Commissioner's Office:

#### **General Counsel/Chief Clerk**

- ▶ Reviewed, briefed and advised the Commissioner of Insurance on 51 contested cases heard by the State Office of Administrative Hearings, and 37 hearings and public meetings conducted by the Commissioner. Also reviewed, briefed and advised the Commissioner on other rate matters concerning Texas Automobile Insurance Plan Association (TAIPA) and the Texas Windstorm Insurance Association (TWIA) commercial rate filing.
- ▶ Briefed and advised the Commissioner on four appeals of TWIA decisions.
- ▶ Provided legal and technical review in connection with the adoption of 16 new *Texas Administrative Code* (TAC) rules, three emergency TAC rules, the repeal of seven TAC rules, and the amendment of 37 previously adopted TAC rules. Nineteen proposed TAC rules were pending at the end of FY2003.
- ▶ Provided legal and technical review in connection with the adoption of 25 manual rule proposals under Article 5.96 of the *Texas Insurance Code*. Nineteen proposals to adopt new or amended manual rules were pending at the end of FY2003.
- ▶ Reviewed and advised the Commissioner regarding 251 consent orders and 56 default orders in connection with agents and insurers.
- ▶ Continued work on streamlining the agency's internal rulemaking process.
- ▶ Continued work on updating and revising portions of TDI's database of Commissioner orders and bulletins. The database now includes 40 years of orders by insurance commissioners and the former State Board of Insurance.
- ▶ Maintained the Commissioner's agendas, bulletins, TAC and manual rules posted on the Agency Web site.

- ▶ Approved and processed bulletins and other non-disciplinary and non-rate orders.
- ▶ Maintained and prepared for archiving all contested-case hearing files (Official Administrative Record) and all other administrative hearing files of the Commissioner of Insurance or his delegate, as well as assisted the Office of the Attorney General in related appeals filed with the District Court.
- ▶ Briefed and advised the Commissioner and TDI staff members in hearings concerning rules and other regulatory matters.

#### **Executive Services**

- ▶ Assisted the Commissioner and staff in responding to all inquiries directed to the Commissioner of Insurance.
- ▶ Coordinated the activities of the Commissioner of Insurance and agency staff as directed by the Commissioner.

#### **Internal Audit**

- ▶ Conducted five financial-related or performance audits, including a statutorily required audit of seized/forfeited property. Three of the five audits were ongoing at fiscal year-end.
- ▶ Served as the Department's liaison to external auditors on one State Auditor's Office project.
- ▶ Served as an advisor on seven advisory/monitoring projects. Three were long-term projects that spanned multiple years and included the Planning Work Group advisory, the Performance Measure Self-Audit advisory, and an advisory involving the definitions and methodologies of TDI's performance measures.
- ▶ Conducted six investigations as authorized under Section 2102.003 (2) (E) of the *Government Code*. One of the investigations was in process at the end of the fiscal year.
- ▶ Conducted five information system/telecommunication audits including an audit of telephone services, an audit of TDI's Internet firewall logs, and an audit of Internet controls and security. Conducted a review of the Life, Health & HMO Billing System. This latter project was canceled, at fiscal year end, due to a change in direction between the affected division and ITS. Of the balance of the projects, three of these were completed by the end of the fiscal year. A Review of End-User Computing Application Documentation was ongoing at the end of the fiscal year.

#### **Government Relations**

- ▶ Produced the Biennial Report of TDI to the 78th Texas Legislature which included 14 recommendations, 13 of which were enacted and the other was accomplished through a Memorandum of Understanding (MOU).
- ▶ Continued enhancement of the electronic bill review system to improve the efficiency of TDI's review process.
- ▶ Tracked 1030 insurance-related bills during the 78th Regular Legislative session (2003), and several bills during the 1st, 2nd and 3rd Called Special Sessions.
- ▶ Worked with bill authors and sponsors of legislation during the sessions and kept them advised of implementation developments.
- ▶ Published bill implementation information on the Department's Web site.
- ▶ Monitored and attended meetings of various boards and committees, including legislative committees, for the Commissioner of Insurance.
- ▶ Coordinated resource testimony, including the Commissioner's testimony, for the many legislative committee meetings during the Regular Session.
- ▶ Coordinated and assisted with the preparation of (10) presentations by the Commissioner or TDI staff on various insurance topics.
- ▶ Assisted TDI staff with appointment of members to advisory committees and boards, including the FAIR Governing Committee, Public Insurance Adjusters Examination Advisory Committee, Small Face Amount Life Insurance Advisory Committee, and the Technical Advisory Committee on Claims Processing.



**Public Information Office**

- ▶ Launched new employee website, designed to be more user friendly, better organized, and more intuitive.
- ▶ Developed new publication, **TDInSight**, to replace **TexasInformationNews** newsletter.
- ▶ Improved dissemination of TDI agency news to employees by taking the Bulletin Board newsletter to an electronic format (**Bulletin Board@TDINet**) to enhance readership and reduce production costs.
- ▶ Streamlined TDI news clipping system and moving to electronic distribution.
- ▶ Produced newspaper ads in support of **Helpinsure.com**, a TDI website aimed at helping Texans find homeowners insurance. Worked with various areas of the agency, including Information Services, the Property and Casualty Program and the Licensing Division, to launch the new Web site (**www.helpinsure.com**) and toll-free number (**866-695-6873**).
- ▶ Worked with Property & Casualty to publicize and provide live and archived Internet audio of several hearings around the state on mold-related insurance issues.
- ▶ Sent a volunteer public information officer to various Disaster Recovery Centers (DRCs) in South Texas to help consumers with insurance questions about home and auto damage caused by widespread flooding in June and July.
- ▶ Coordinated several media stops for the Commissioner during a tour of areas devastated by flooding.
- ▶ Worked with Business Planning and Redesign (BPR) in the planning and implementation of an agency forms management program.
- ▶ Worked with BPR and Information Services to assist Life, Health and Licensing in developing the Texas Standardized Credentialing Application and making it available online.
- ▶ Assisted in the design and procurement of more than 640,000 agency publications.
- ▶ Assisted the State Fire Marshal’s Office with media relations at the scenes of several major fires, the Annual State Fire Marshal’s Conference in Austin and the Annual Juvenile Fire-setter Intervention Conference in Austin.

**Figure 5 Summary of Activity: Commissioner’s Office**

	FY2002	FY2003
Commissioner’s Hearings/Meetings	42	37
*Commissioner’s Orders	1,342	1,244

\* Commissioner’s Orders in FY2003 included 290 disciplinary orders (including contested, consent and default orders), 56 rules/manual orders, 680 company activities orders, 57 authority orders for temporary acting commissioner, 4 delegation orders for routine actions and 157 other orders.

**Figure 6 Commissioner’s Contested Cases by Type**

	FY2002	FY2003
*Total Hearings Conducted for Commissioner	44	51
†Disciplinary	25	26
License Applications	12	21
*Appeals/Other	6	4

- 1 Total number of actual hearings conducted for the Commissioner by the State Office of Administrative Hearings (SOAH). The count excludes prehearing conferences and additional days of extended hearings.
- 2 Includes State Fire Marshal Office
- 3 Appeals/Other includes appeals of actions taken by the Texas Windstorm Insurance Association (TWIA).

**L**EGAL AND COMPLIANCE enforces the *Texas Insurance Code*, investigates and takes action in connection with company and agent misconduct, drafts rules and provides legal advice and support to the agency.

Legal and Compliance consists of six sections and three special counsels:

**Agency Counsel** provides legal advice to the Commissioner and agency staff regarding internal agency operations, including personnel matters, open records requests, and contracts. Agency Counsel Section attorneys negotiate contracts and draft proposed policies and rules. The section oversees the agency's open records process.

**Regulated Lines Counsel** provides comprehensive legal support on matters as requested by the Life, Health, and Licensing Program, the Property and Casualty Program, and the State Fire Marshal. This includes drafting rule proposals and adoption orders, legal opinions, legislative assistance, assistance with correspondence, interpretations of statutes and rules, and other legal analysis. Legal support is provided for the following lines of insurance:

- life, accident, and health;
- managed care;
- personal auto;
- commercial auto;
- residential property;
- commercial property;
- general liability;
- professional liability;
- worker's compensation; and
- title.

Other areas where legal support is provided include:

- agent licensing;
- Texas Windstorm Insurance Association;
- Amusement Ride Safety Inspection and Insurance Act;
- loss control; and
- property and casualty rate-related issues.

**Financial Counsel** consists of Department staff attorneys and the Special Counsel to the Receiver. Collectively, Financial Counsel provides comprehensive legal services to all areas of the Financial Program and, when requested, assists other areas of the Department with financial and receivership related matters. Some of the legal assistance provided includes:

- Drafting rule proposals and adoption orders;
- Reviewing and advising department staff regarding various holding company and licensing transactions;
- Drafting various commissioner's orders including supervision, conservatorship and Art. 1.32 (hazardous financial condition) orders and letters of administrative oversight;
- Providing advice and assistance in the enforcement of commissioner's orders;
- Initiating enforcement actions against insurers, HMOs, and title companies for code violations related to financial matters;
- Drafting receivership pleadings and coordinating with the Office of the Attorney General (OAG) for representation in receivership actions;
- Representing the receiver at guaranty association meetings; and
- Representing the receiver in proceedings before the district court-appointed special master.

**Enforcement** investigates allegations of illegal activities by insurance agents, companies, HMOs, and other licensed entities and brings disciplinary actions that may result in:

- cease-and-desist orders;
- license denials;
- license revocations and suspensions;
- monitored agent probations;
- administrative penalties; and
- restitution to harmed consumers.

The Enforcement Section refers cases to the Fraud Unit for criminal prosecution and works with the OAG on appeals of disciplinary actions and on enforcement actions conducted by the OAG's Consumer Protection Division.

**Compliance Intake Unit** provides data and file management and public assistance telephone support to the Legal and Compliance program. The section also is responsible for analyzing and referring complaints and reports to the appropriate areas within Legal and Compliance and other areas of TDI.

**Fraud Counsel** provides legal services for the Insurance Fraud Unit of the Texas Department of Insurance. Fraud Counsel offers legal advice and support on matters ranging from general legal matters to issues specific to an investigation. The Fraud Counsel also can serve as a special prosecutor to a county for criminal prosecution of insurance fraud.

**International Regulatory Counsel/Special Counsel to the Commissioner** deals primarily with international regulatory issues such as:

- helping reduce licensing barriers for insurers outside the United States;
- coordinating enforcement of insurance laws and anti-fraud measures;
- resolving legal disputes;
- providing legal advice and information relating to international insurance, markets and cross-border operations; and
- creating opportunities for joint business ventures.

**Special Litigation Counsel** provides advice, analysis and assistance to the agency in connection with complex and significant enforcement, litigation and regulatory issues.

### **Highlights**

- ▶ In fiscal year 2003, Legal and Compliance obtained \$17,898,651 in restitution for consumers and assessed \$14,700,597 in administrative penalties, fines and forfeitures. The restitution and penalties included:
  - A \$70,000 penalty assessed against Mid-Continent Casualty Company for knowingly attaching and using unapproved mold exclusion endorsements on commercial general liability and commercial umbrella policies.
  - Consent orders including penalties and restitution against affiliates Beacon Insurance Company, First Preferred Insurance Company, and Petrolia Insurance Company, for their refusal to pay to install a nailable sub-surface where necessary to properly replace and install roof surfaces damaged by covered perils.
  - A \$100,000 penalty imposed against Chicago Title Insurance Company, Chicago Title Insurance Company-Austin, Chicago Title Insurance Company-Dallas, and Chicago Title Insurance Company-Los Angeles for solicitation of title insurance business by using a premium quotation that deviates from the promulgated Texas rates.
  - A \$108,984 penalty assessed against First American Title Insurance Company—Fort Worth for participating in a rebating scheme. The other participant, SPH Title, Inc., was fined \$51,240.

- In the unauthorized insurance case regarding Employers Mutual, the Commissioner entered an order imposing a total of \$12.5 million in penalties against William Kokott, Nicholas Angelos and American Benefit Society for engaging in the unauthorized business of insurance.
- ▶ Through the Legal & Compliance unauthorized insurance team, TDI issued 58 orders against agents and 14 orders against companies involved in unauthorized insurance.
- ▶ Regulated Lines Counsel Section provided substantial legal assistance for several major rules adopted during FY2002–2003, including the following:
  - The Specialty License, Fee, FAIR Plan (Fair Access to Insurance Requirements), and Credit Life rules.
  - New rules which set forth procedures insurers and other covered entities regulated by the Texas Department of Insurance must follow regarding privacy of their consumers' nonpublic personal financial information, and rules concerning privacy of nonpublic personal health information.
  - Amendments to rules concerning the submission of clean claims to health maintenance organizations and insurers who issue preferred provider benefit plans.
  - Mandatory and optional endorsements to certain residential property insurance policies.
  - National residential property policy forms and endorsements.
  - New rules setting forth the requirements an HMO and delegated entity must meet in order for an HMO to properly delegate health care services and other functions to another party.
  - Amendments to rules concerning required contracting provisions for HMOs and preferred provider plans.
  - New rules that allow physicians to complete a single application that may be submitted in paper copy or electronically to all public or private hospitals, HMOs, preferred provider benefit insurers and preferred provider organizations with whom the physician contracts to provide health care services or seeks to obtain hospital privileges.
  - New rules concerning minimum standards for benefits provided to enrollees with diabetes in health benefit plans and coverage under health benefit plans for equipment and supplies and self-management training associated with the treatment of diabetes.

**Summary of Activity  
Legal and Compliance**

**Figure 7**

	FY1999	FY2000	FY2001	FY2002	FY2003
Cases received	1,021	1,049	1,062	1,321	1,121
Cases closed	1,059	1,008	868	1,012	958
License revocations	59	69	55	48	60
License denials	23	16	17	10	27
*License suspensions/ suspensions of writing	12	14	4	18	15
Cease and desist orders	1	0	0	6	8
†Monetary forfeitures/ restitution orders	162	202	224	232	292
*Assurances of voluntary compliance	31	5	3	0	0
Forfeitures/assessments/ Restitution	\$4,363,158	\$9,451,047	\$22,118,832	\$80,834,638	\$32,599,248

\* This includes actions against financially hazardous companies under Article 1.32, Texas Insurance Code and license suspensions with probation.

† This number does not include assurances of voluntary compliance; only orders are included. It also includes State Fire Marshal orders.

‡ TDI is focusing more on commissioner's orders rather than voluntary agreements.

# Insurance Fraud Unit

**T**HE INSURANCE FRAUD UNIT investigates, prepares and refers cases for criminal prosecution. All cases are based on evidence of fraud alleged to have been committed by persons engaged in the insurance business, whether licensed or unauthorized; and claim fraud committed by policyholders, service providers and others. The Unit is comprised of two investigative sections with commissioned peace officers and civilian investigators and one administrative section. Unit Management includes the Associate Commissioner and Deputy Commissioner/Chief Investigator. By statute, the Chief Investigator supervises and directs all peace officers and coordinates and oversees all investigations conducted by the Fraud Unit. Each of the two investigative sections is staffed with a section supervisor. In addition, there is an office manager who supervises the unit's administrative staff.

**The Insurer Fraud Section** investigates fraud cases involving companies, agents and other TDI licensees, including third party administrators, and eligible surplus lines insurers, as well as fraud cases involving unlicensed insurance operations. Among these are entities falsely claiming exemption from regulation under the Federal Employee Retirement and Security Income Act (ERISA), including unlicensed Multiple Employer Welfare Associations (MEWAs). A team of investigators within the Insurer Fraud Section has been tasked with the responsibility for conducting investigations of major fraud allegations involving complex transactions and/or significant losses.

**The Claimant and Provider Fraud Section** investigates various claim fraud schemes, such as staged accident rings, fake burglary claims, staged slip-and-fall cases and other suspicious liability insurance claims. Investigators also examine reports of fraudulent billing by health care providers, as well as reports of unlicensed providers and fraud rings involving health insurance claimants, providers and attorneys.

Fraudulent billing may include instances of over-billing, double billing, billing for procedures not performed and "unbundling" of charges to artificially inflate billings. A team of investigators within the Claimant and Provider Fraud Section has been tasked with the responsibility for conducting investigations of major fraud allegations involving complex transactions and/or significant losses.

## Fraud Unit History

The 72nd Legislature created the Insurance Fraud Unit in 1991. The Fraud Unit became active in January 1992. The 74th Legislature in 1995 made significant changes in TDI's fraud enforcement authority. Legislation authorized the Commissioner of Insurance to commission eligible fraud investigators as peace officers.

The Texas Commission on Law Enforcement Officer Standards and Education recognized the unit as a law enforcement agency, effective September 1, 1995. Law enforcement agency status, with commissioned peace officers, enhances TDI's anti-fraud efforts by giving the agency:

- 1)** access to criminal intelligence, including national and regional crime databases, that only peace officers may legally receive;
- 2)** authority to make arrests and execute search warrants; and
- 3)** authority to take cases to grand juries and request and serve grand jury subpoenas.

On a national level, the unit works with the Coalition Against Insurance Fraud, the National Insurance Crime Bureau, the National Association of Insurance Commissioners (NAIC), National Health Care Anti-Fraud Association, and federal law enforcement agencies such as the FBI, IRS, U.S. Postal Service, U.S. Attorneys, National White Collar Crime Center (NWCCC) and Regional Organized Crime Information Center (ROCIC).

## Highlights

In Fiscal Year 2003, the Insurance Fraud Unit:

- ▶ Received more than 4,400 reports of fraud and opened 325 investigations.
- ▶ Made 183 referrals of suspects to appropriate agencies for prosecution.
- ▶ Obtained 100 indictments that included theft, conspiracy, insurance claim fraud, misapplication of fiduciary property, securing execution of a document by deception, unauthorized insurance activity, mail fraud, and money laundering.
- ▶ Arrested, either directly or with other law enforcement officers, three suspects indicted on charges involving alleged insurance fraud.
- ▶ Obtained 69 convictions on charges resulting from Fraud Unit investigations.
- ▶ Participated in numerous criminal task forces around the state involving white-collar crime and insurance fraud.
- ▶ Hosted the fifth annual statewide training session for insurance company special investigation units and law enforcement in January 2003.
- ▶ Maintained a toll-free hotline for persons to report suspected insurance fraud.
- ▶ Received more than 1,800 calls on the toll-free hotline.

### Summary of Activity Insurance Fraud Unit

**Figure 8**

	FY2002	FY2003
Reports of Fraud	3,686	4,490
Cases Opened	320	325
Assessments (Fines & Penalties)/Restitution	\$13,021,437	\$13,701,178
Cases Referred to Prosecutors	225	183
Indictments	74	100
*Arrests By Fraud Unit Peace Officers	9	3
Convictions	69	69

\* This figure represents only arrests executed directly by Fraud Unit Peace Officers or in which Fraud Unit Peace Officers participated.

**F**INANCIAL licenses insurance carriers operating in Texas, determines eligibility of surplus lines carriers, and monitors the solvency and market conduct of 2,004 licensed insurance companies, health maintenance organizations (HMOs) and multiple employer welfare arrangements (MEWAs). In addition, Financial seeks to rehabilitate companies that fall short of solvency standards and eventually liquidates the few that cannot be rehabilitated. In FY2002 the Financial Program's monitoring efforts increasingly included evaluating insurers in the context of the insurer's group organization and activities.

The total of all entities that are either licensed, registered or otherwise eligible to operate in Texas (including surplus lines insurers, third party administrators, foreign risk retention groups, continuing care retirement communities, multiple employer welfare arrangements) is 2,976. Annual statements filed by insurers and HMOs for Calendar Year 2002 reported \$78.2 billion in Texas premiums and \$53.3 billion in claim payments to Texas claimants. These companies reported aggregate assets of \$4.4 trillion, liabilities of \$3.9 trillion and capital and surplus of \$530.4 billion. More information from insurance company annual statements may be found in Part IV of this report.

The Financial Program consists of five activities.

**Company Licensing & Registration** incorporates most types of domestic companies, licenses both foreign and domestic insurance companies, maintains company charter files, and processes and approves certain transactions for licensed insurance companies. It also processes licensing applications for health maintenance organizations, registers eligible surplus lines insurers and risk retention/purchasing groups, oversees statutory deposits of licensed companies and corporate agencies, and maintains the agency database of both licensed and registered companies. In addition to licensing and deposit functions, the Company Licensing Division includes the Early Warning Unit, which supports agency-wide efforts to detect potentially troubled insurance companies quickly. The unit administers the Early Warning Information System, a computer database that captures information from agency divisions to identify favorable and unfavorable trends within companies. Early Warning is now increasing its focus on industry and sub-industry trends, and utilizing the Internet, Securities Exchange Commission filings, and rating agency actions to supplement the agency's data on companies and groups. The Contract Administrator for the Financial Program is housed in this Division and coordinates contract functions related to Special Deputy Receivers, contract examinations and contract actuaries.

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

Examinations staff performs statutory examinations of a variety of entities regulated by the Department, including insurers, health maintenance organizations (HMOs), premium finance companies, managing general agents (MGAs), reinsurance intermediaries and multiple employer welfare arrangements (MEWAs). These examinations evaluate a company's financial condition and compliance with performance standards required by law, including treatment of policyholders. Examinations occur on-site at company locations throughout the United States

and may last from a few days to several months. The staff suggests ways to correct deficiencies uncovered by the examinations and initiates referrals for further regulatory action when appropriate. In addition, Examinations processes annual operations reports required of premium finance companies. To hold down travel expenses and provide adequate oversight of the examination process, regional offices are maintained in Dallas, Houston and San Antonio.

**The Actuarial Division** performs actuarial examinations that focus on the adequacy of reserves and other actuarial issues for both life insurance companies and property and casualty insurance companies. These actuarial examinations are coordinated with the examinations performed by the Financial Analysis & Examinations activity. The division reviews actuarial opinions, processes Certificates of Valuation and provides input to other divisions in the review of actuarial reports for HMOs and other entities. Actuarial also performs actuarial analyses and actuarial projects that relate to solvency, availability of coverage, policy values, disclosure and consumer equity.

**Conservation of Companies** provides a wide range of regulatory oversight services, including supervision and conservation. Oversight services by Conservation of Companies typically follow other regulatory actions such as management conferences or required filings of business plans with TDI's financial program analyst. When these activities are insufficient to bring the entity to an acceptable rehabilitative level, a higher level of regulatory oversight such as Supervision or Conservation is required.

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

Conservatorship requires that a conservator be appointed to take charge of the company. It lasts for 90 days, with possible 30-day extensions for up to six months. During this time, the Conservator pursues rehabilitation or an orderly wind-down of the company's business.

The Conservator's Report at the beginning of Fiscal Year 2003 showed Conservation had 41 insurance companies under supervision, conservatorship or special administrative and court-directed actions. Another 13 companies were referred to Conservation during the fiscal year, while 27 were released or closed, leaving a year-end balance of 26 companies under some form of regulatory oversight by Conservation of Companies.

**Liquidation Oversight** assumes responsibility for the estates of companies that cannot be rehabilitated and are found to be insolvent. The agency evaluates on a case-by-case basis whether to seek district court orders allowing seizure and liquidation of company assets or holdings located in Texas. In such cases, the Commissioner may ask the Attorney General to petition the District Court in Travis County to place the company in receivership, which involves liquidation of the insurer by a Special Deputy Receiver (SDR) and payment of outstanding covered claims by the appropriate guaranty association, if applicable. Liquidation (Oversight) monitors and evaluates each SDR's performance by analyzing business plans, including financial statements, cost benefit analyses, budgets, estimated general administrative expenses, other planned activities and maintains the records of insolvent insurers during and after receivership, as required by the *Texas Insurance Code*. Oversight also monitors the operations of the state's guaranty associations including the appropriate and fair processing of receivership-related claims and complaints. One health maintenance organization (HMO), two life, accident and health insurers, and four property and casualty insurers, including one foreign company were placed in receivership during Fiscal Year 2003. In FY2003, the Commissioner issued orders declaring six foreign companies (companies domiciled outside Texas) to be impaired, thereby triggering state guaranty fund coverage of Texas claims.



The Texas Property and Casualty Insurance Guaranty Association made assessments of \$59,165,397 and made no refunds in FY2003 to member insurers. The Texas Life, Accident, Health and Hospital Service Guaranty Association made assessments of \$7,700,492 and refunded \$7,954,836 to member insurers in FY2003. The Title Insurance Guaranty Association made no assessments in FY2003 and made no refunds to member insurers. All assessments are based upon prior, current and projected future receiverships.

During FY2003, six receivership estates were liquidated and closed, leaving 23 active receiverships in the process of liquidation: 13 property and casualty companies, seven life, accident and health companies, two health maintenance organizations and one multiple employer welfare arrangement. Liquidation Oversight anticipates closing about ten of the 23 active receiverships in FY2004.

Three key components in overseeing receiverships are:

- 1) Special Deputy Receivers:** When insolvent insurers are placed in receivership by the State District Court in Travis County, Texas, the Commissioner is designated as Receiver. As Receiver, the Commissioner contracts with an SDR to administer the receivership. The *Texas Insurance Code* mandates that the SDR is selected through a competitive bid process.
- 2) Guaranty Associations:** Certain claims against an insolvent insurer are payable by one of three guaranty associations: Texas Property and Casualty Insurance Guaranty Association; the Life, Accident, Health and Hospital Services Insurance Guaranty Association; and the Texas Title Insurance Guaranty Association. Funds utilized by the guaranty associations to pay claims are derived from two sources: assessments of member insurers and distributions from receiverships.
- 3) Receivership Court (The Special Master):** The State District Court in Travis County, Texas, is designated by statute as the Receivership Court. It is in this court where receivership actions are brought by the Texas Attorney General, as well as the court where suits by and against the Receiver are brought. The court also has exclusive venue over suits against guaranty associations. In addition, the *Texas Insurance Code* provides that the Receivership Court provide judicial supervision for each receivership. In 1992 the Receivership Court appointed a Special Master to assist it in this role. The appointment of the Special Master to supervise receivership court proceedings provides a resource for collective expertise in the complex area of receivership law. Receivership assets fund receivership court costs.

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

### Highlights

In Fiscal Year 2003, the Financial Program:

- ▶ Maintained full Accreditation from the National Association of Insurance Commissioners (NAIC), which is designated to certain state insurance departments that effectively implement financial solvency requirements related to minimum laws, regulations, practices and procedures.
- ▶ The Program's leader was awarded the prestigious Robert Dineen Award which is given annually by the National Association of Insurance Commissioners literally in honor of "outstanding service and contribution to the state regulation of insurance".
- ▶ Coordinated national regulatory efforts on the bankruptcy of a certain holding company that represented the 3rd largest bankruptcy in U.S. history and which involved insurers domiciled in 6 states that did business in all 50 states.
- ▶ Completed the review of approximately 17 acquisitions or restructurings of insurance companies or HMOs based in Texas, with purchase prices totaling more than \$434 million.
- ▶ Supported TDI's investigation of race-based pricing practices in the insurance industry by examining 12 companies and participating in settlements with three companies.

- ▶ Remained at the forefront of implementing the Framework for Insurance Group Review Analysis that was adopted by the NAIC at its spring 2002 quarterly meeting.
- ▶ Participated in the Form A Pilot Project to facilitate coordination and communication among states in reviewing applications for changes in control of insurance companies as set forth in the Framework.
- ▶ Played a key role in the NAIC's responses to the International Accounting Standards Board's exposure drafts for developing international accounting standards
- ▶ Continued to work closely with the NAIC to make it possible for the general public to access the financial statements of insurance companies online. As a result of these efforts, Texas consumers can now access this information from TDI's web site.
- ▶ Continued to work toward a more efficient system of annual statement filing by making it possible for companies to file most financial statement supplements electronically.
- ▶ Implemented a multi-divisional Homeowners' Task Force and Medical Malpractice Task Force to monitor the capability and participants in the Texas homeowners' and medical malpractice insurance markets, particularly in light of increasing claims and rates resulting from mold, and large judgements.
- ▶ Took steps to ensure that Health insurers are adequately preparing for the electronic transaction and code sets rule (ETCSR) established by the administrative simplification provisions of the Health Insurance Portability and Accountability Act of 1996 (HIPAA). Financial sent questionnaires to all Accident & Health insurers writing in Texas, and is actively following up to ensure that affected health insurers in Texas are taking steps to comply with HIPAA requirements.
- ▶ Supported TDI's adoption of key elements of the NAIC's Uniform Regulation through Technology (URTT) program by continuing implementation of the Uniform Certificate of Authority Application (UCAA) process.
- ▶ Participated in the Clean Claims Committee and conducted follow up examinations to ensure compliance with consent and payments restitution orders.
- ▶ Led the authorship of an NAIC model law for property and casualty actuarial opinions.
- ▶ Performed key analysis that aided in adoption of updates to the annuity nonforfeiture law.
- ▶ Led efforts to adopt the 2001 CSO Mortality Table by rule. Texas was the first state to adopt these tables.
- ▶ Oversaw the recovery of \$36.5 million (net of expenses) through the receivership process.
- ▶ Paid \$43.7 million in distributions and \$12.3 million in early access, for a total of \$56.1 million in total distributions to policyholders and/or guaranty associations.
- ▶ Initiated a Request for Qualifications (RFQ) process to certify a new pool of Special Deputy Receivers (SDRs) to assure the efficient liquidation of insurance company receiverships.
- ▶ Participated in the 2003 TDI Historically Underutilized Businesses (HUB) Forum and placed emphasis on informing HUB vendors of the requirements of the Special Deputy Receiver process.

### **Insurance Companies Under Regulatory Intervention**

**Figure 9**

	FY2002	FY2003
Balance of Companies Beginning of Fiscal Year	38	41
Placed Under Supervision/Conservatorship	20	12
Placed Under Court-Directed Action	0	0
Placed Under Special Administrative Action	7	6
Placed Under Hazardous Financial Condition Action (Art.1.32)	12	6
<b>Total</b>	<b>77</b>	<b>65</b>

**Figure 10 Disposition of Companies Under Rehabilitation**

	FY2002	FY2003
Total (Figure 9)	77	65
<b>Cases Closed:</b>		
Rehabilitation	10	13
In Receivership	2	8
Dissolved	3	6
*Other Changes	21	12
Total Cases Closed	36	39
<b>Balance at End of Fiscal Year</b>	<b>41</b>	<b>26</b>

\* FY2003/Other Changes: 3 Entities moved from Supervision to Conservatorship; 4 moved from Supervision to Article 1.32; 2 moved from Administrative Oversight to Conservatorship; 1 moved from Agreement Letter to Article 1.32; 1 moved from article 1.32 to Conservatorship; 1 moved from Supervision to Administrative Oversight.

**Figure 11 Texas Guaranty Association Assessments 1975-2003**

YEAR	LIFE/A&H	P&C	TITLE	TOTAL
2003	*7,700,492	†59,165,397	0	66,865,889
2002	30,821,449	86,161,687	0	116,983,136
2001	16,549,759	0	0	16,549,759
2000	15,231,151	0	0	15,231,151
1999	25,154,027	12,000,000	0	37,154,027
†1998	23,954,748	0	0	23,954,748
1997	51,186,830	0	0	51,186,830
1996	68,882,786	(127,000,000)	0	(58,117,214)
1995	83,026,366	0	0	83,026,366
1994	22,101,673	194,938,801	0	217,040,474
1993	66,238,272	119,261,000	0	185,499,272
1992	63,257,000	112,328,000	0	175,585,000
1991	24,970,000	122,602,000	6,215,000	153,787,000
1990	112,476,000	61,019,000	5,560,000	179,055,000
1989	16,359,000	41,231,000	0	57,590,000
1988	0	0	0	0
1987	33,500,000	41,680,000	0	75,180,000
1986	5,000,000	20,000,000	0	25,000,000
1985	8,000,000	20,000,000	0	28,000,000
1984	4,000,000	0	0	4,000,000
1983	0	0	0	0
1982	10,000,000	0	0	10,000,000
1981	3,000,000	0	0	3,000,000
1980	0	0	0	0
1979	1,840,000	0	0	1,840,000
1978	1,200,000	0	0	1,200,000
1977	0	0	0	0
1976	0	4,120,000	0	4,120,000
1975	600,000	3,305,000	0	3,905,000

\* Life/A&H made \$7.7 million in assessments in 2003; however, it refunded \$7.9 million to its member insurers.

† Property & Casualty assessments were \$59.2 million and no refunds were made to member insurers.

**Figure 12 Summary of Activity Holding Company**

	FY2002	FY2003
Pending Action from Previous FY	67	89
Applications for Affiliate Transactions and Acquisition of Control or Exemption Received	773	781
Applications not closed as of 8/31	89	92
Pending Applications Closed	751	778

## Summary of Closed Applications Holding Company

**Figure 13**

	CLOSED AT END OF FY2002	CLOSED AT END OF FY2003
Reinsurance Arrangements	144	178
Management, Data Processing Service, Cost Sharing Arrangement	190	155
Pledge of Assets and Pooling of Assets	23	21
Investment in, Valuation of, Affiliates	0	2
Purchase of Securities, Real Estate, Automobile Treasury Stock	29	33
Affiliate Loans and Mortgage Loan Participation	2	5
Lease Arrangements	17	14
Issuance of Surplus Debentures/Notes	33	41
Payment of Money Advanced	21	29
Dividends and Other Distributions to Shareholders	173	128
Consolidated Tax Returns	24	39
Financing Arrangements	2	0
Exemption from Commercially Domiciled	9	9
Demutualizations	0	0
Acquisitions of Control	15	17
Exemptions from Acquisition of Control	25	46
MGA Agreements	12	14
Informational Filing by HC Exempt Insurers	0	0
Disclosure of Material Transactions	2	0
Relocation of Books and Records	23	28
Disclaimer	7	18
Quasi Reorganization	0	1
<b>Total</b>	<b>751</b>	<b>778</b>

\* Figures were updated from prior report.

**Note:** Reinsurance arrangements between affiliates within a holding company system.

## Amount Paid for Control of Domestic Insurance Companies FY1995–FY2003

**Figure 14**

YEAR	AMOUNT PAID
1995	\$2,550,643,350
1996	6,319,751,750
1997	7,130,712,854
1998	51,194,884,952
1999	14,023,005,912
2000	8,787,693,620
2001	57,461,681,313
2002	153,643,899
2003	433,677,597

**Note:** The figure for FY2003 includes 2 acquisitions with purchase prices of \$138 million and \$127 million.

## Texas Policyholder Premiums, Claim Payments CY1994–CY2002

**Figure 15**

YEAR	PREMIUMS	CLAIM PAYMENTS	PAYMENTS AS % OF PREMIUM
CY1994	\$39.7 billion	\$29.0 billion	73.1%
CY1995	42.1 billion	33.0 billion	78.4%
CY1996	43.9 billion	33.2 billion	76.0%
CY1997	46.4 billion	35.0 billion	75.4%
CY1998	48.0 billion	43.3 billion	90.2%
CY1999	60.7 billion	45.6 billion	75.1%
CY2000	63.5 billion	48.6 billion	76.5%
CY2001	71.5 billion	52.5 billion	73.4%
CY2002	78.2 billion	53.3 billion	68.1%

**Figure 16 Total Capital/Surplus of Insurance Companies Operating in Texas  
CY1994–CY2002**

YEAR	TOTAL CAPITAL/SURPLUS
CY1994	\$ 308.6 billion
CY1995	356.3 billion
CY1996	401.4 billion
CY1997	479.1 billion
CY1998	540.2 billion
CY1999	548.2 billion
CY2000	541.5 billion
CY2001	524.3 billion
CY2002	530.4 billion

**Figure 17 Number of Examinations  
FY1995–FY2003**

YEAR	NUMBER OF EXAMINATIONS
FY1995	160
FY1996	163
FY1997	157
FY1998	221
FY1999	215
FY2000	207
FY2001	195
FY2002	167
FY2003	167

**Note:** FY1997 includes 21 examinations conducted by third party contractors. FY1998 includes 34 contracted examinations and 7 examinations of local recording agents. FY1999 includes 39 contracted examinations. FY2000 includes 33 contracted examinations. FY2001 includes 28 contracted examinations

**Figure 18 Number of Actuarial Opinions Reviewed  
FY1995–FY2003**

YEAR	NUMBER REVIEWED
FY1995	1,844
FY1996	2,012
FY1997	1,937
FY1998	2,023
FY1999	1,627
FY2000	1,877
FY2001	*667
FY2002	*626
FY2003	*407

\* Number reviewed decreased for 2001, 2002 and 2003 to focus on domestic companies and selected foreign companies. This enabled a more in depth review of our domestic companies and those foreign companies of greater concern based on prioritization given in Financial Analysis. Previously we reviewed all companies licensed in Texas.

**Figure 19 Number of Actuarial Examinations Performed  
FY1995–FY2003**

YEAR	NUMBER OF EXAMS
1995	89
1996	97
*1997	83
*1998	82
1999	80
2000	82
2001	79
2002	80
2003	81

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

**Number of Reinsurance Agreements Reviewed  
FY1995–FY2003**

**Figure 20**

YEAR	ARRANGEMENTS REVIEWED
1995	168
1996	169
1997	209
1998	200
1999	226
2000	251
2001	194
2002	142
2003	183

**Note:** Does not include affiliates within a holding company system; however, could include affiliate HMOs.

**Number of Company Licenses  
under Commissioner’s Jurisdiction**

**Figure 21**

LICENSE TYPE	FY99	FY00	FY01	FY02	FY03
Insurance Companies	2,011	1,999	1,998	1,978	1,949
Health Maintenance Organizations	73	64	62	57	55
Premium Finance Companies	292	291	219	230	247
Continuing Care Retirement Communities	19	19	21	21	21
Third Party Administrators	655	696	714	724	739
Total	3,050	3,069	3,014	3,010	3,011

**Note:** Does not include foreign risk retention groups (50) and surplus lines carriers (162).

## Property and Casualty

**PROPERTY AND CASUALTY** monitors a wide range of property and casualty insurance lines from auto to workers' compensation; reviews form and rate filings; explores ways of cutting insurance costs by reducing losses; reviews and analyzes statistical data; administers the Auto and Residential Property Market Assistance Programs (MAP); and prepares reports on insurance rates and markets to assist policy makers and consumers with insurance-related decisions.

Property and Casualty consists of a General Management section and seven activities.

**General Management**, led by a senior associate commissioner, provides program-wide management and operational support, including strategic and budget planning; research assistance, including Geographic Information System (GIS) mapping and demographic analysis; and administrative support.

**Personal and Commercial Lines Division** drafts manual rules for personal automobile coverages and presents rules to the Commissioner affecting personal and commercial lines; reviews individual insurer filings of forms, endorsements, and rules; shares with the Inspection Division oversight of operation of the Texas Windstorm Insurance Association (TWIA), including the TWIA Plan of Operation, manual, forms and endorsements; responsible for the oversight of the Texas FAIR Plan Association ("FAIR Plan"), including the FAIR Plan of Operation, manual rules, forms, and endorsements; responds to inquiries from agents, consumers and insurers; and resolves complaints. Additionally, staff works closely with the Property and Casualty Actuarial Division to monitor the marketplace and propose changes due to changing public needs. The division consists of the Automobile/Homeowners Section and Commercial Property and Casualty Section.

**Inspections Division** drafts and presents proposed rules affecting property and casualty insurance and the TWIA Plan of Operation (Building Code). The division also represents the Department on the building code advisory committee as required by statute, provides oversight of established commercial fire rates by outside entities, ensures loss control compliance of insurers, administers the amusement ride safety program, assists the State Fire Marshal's Office with establishment of public protection classifications by outside entities and conducts windstorm inspections for compliance with building codes. It consists of four sections.

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

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

**Engineering Services Section** provides support to all sections in the Inspections Division. Staff provides education on the windstorm codes to consumers and professionals; provides oversight of Texas licensed engineers appointed as qualified inspectors; evaluates and approves designs for compliance with TWIA building codes, including wind load designs;

evaluates and recommends applicable building code standards for the TWIA building specifications; evaluates building products; assesses commercial and residential automatic sprinkler systems; reviews calculation and building design plans certified by engineers; supports the Building Code Advisory Committee; supports the State Fire Marshal's office in evaluating public and private fire suppression rating schedules; and supports the Personal and Commercial Lines division in evaluating rate filings and rate reduction proposals.

**Loss Control Section** conducts mandatory inspections of insurance companies licensed in Texas and those seeking to be licensed to ensure that loss control and accident prevention services are provided for policyholders of general liability, professional liability, medical professional liability for hospitals and commercial automobile lines of insurance. The section registers loss control and field safety representatives who meet state requirements. The staff also administers and oversees the Amusement Ride Safety Inspection and Insurance Act to monitor compliance of approximately 361 amusement ride owner/operators and 2,035 amusement rides.

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

**Title Insurance Section** oversees licensing of title agents, direct operations, and escrow officers, responds to consumer complaints and inquiries, and assists with rule and rate hearings.

**Title Examinations Section** conducts comprehensive, limited scope, and restricted compliance audits of title agents licensed in Texas.

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

**General Management** handles administrative and management responsibilities, reviews form filings, reviews group purchase plans and administers loss control incentive programs (retrospective ratings plans) for employers.

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

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

**Property and Casualty Actuarial** provides actuarial review of rate and rating plan filings, conducts in-depth analyses of the Texas insurance market, and performs special studies to assist the agency and policy makers. The division also makes sure that file-and-use rates meet applicable legal standards, verifies their appropriateness, makes recommendations on prior-approval rate filings and verifies that flex-rate filings either fall within the flexibility band, in which case they do not need prior approval, or receive a recommendation regarding approval to go outside the band. It is also responsible for the calculation of workers' compensation classification relativities and rating values.

Property and Casualty Actuarial also works closely with Personal and Commercial Lines, Workers' Compensation, and the Title divisions in monitoring the marketplace to assist policy makers and consumers with insurance-related decisions; Data Services to improve the quality and reliability of data; and Special Projects on market analysis projects.



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

- **Quarterly Legislative Report on Market Conditions**, based on premium and loss data collected in the Quarterly Call for Experience for the following lines of insurance: general liability, commercial fire and allied lines, product liability, commercial multi-peril, private passenger automobile, homeowners multi-peril, boiler and machinery, crime, glass, miscellaneous professional liability, medical professional liability and workers' compensation insurance;
- **Texas Liability Closed Claim Report**, which includes data on the final disposition of Texas claims of more than \$10,000 under general liability, medical professional, other professional liability and commercial automobile liability policies and the liability portion of commercial multi-peril policies. Findings developed from this data are used for the *Texas Liability Insurance Closed Claim Annual Report*;
- **Texas Title Insurance Agents and Underwriters Reports**, which collect information on income and expenses in the title insurance industry;
- **Disallowed Expense Report**, which collects data on insurer expenses that, by statute, may not be considered in the determination of rates;
- **The State of Texas Property and Casualty Insurance Experience by Coverage and Carriers** (often called the **Texas Page 15 Report**); and,
- **The Insurance Expense Exhibit**, which are compilations of data downloaded from the National Association of Insurance Commissioners (NAIC).

Data Services also oversees:

- Compliance with quality standards in the collection of the state's workers' compensation data by the National Council on Compensation Insurance (NCCI). The data is collected under the Texas Workers' Compensation Statistical Plan, the Texas Detailed Claim Information Statistical Plan and the Texas Workers' Compensation Financial Call Plan. Oversight includes modifying statistical plans, ensuring compliance with TDI performance standards, overseeing statistical agent audits, resolving problems between reporting companies and the statistical agents and ensuring the delivery of data for developing class code relativities, research and other regulatory purposes. Data Services publishes standard workers compensation reports developed by NCCI for TDI.
- Operation of the Auto and Residential Property Market Assistance Programs (MAP) that links good drivers who live in "underserved" areas with auto insurers that will consider them for coverage at standard or preferred rates and homeowners who have been unable to find insurance for their homes with participating insurance companies that will consider them for residential property coverage.
- Operation of the "Helpinsure" phone line that assists consumers looking for residential property insurance regardless of whether they qualify for the Residential MAP. "Helpinsure" uses an electronic bulletin board to match consumers seeking insurance with agents willing to accept applications.

Special Projects provides data analysis, collects information through special calls and surveys, produces data compilations, including data for use by Property and Casualty Actuarial for review of rate filings, oversees the agency's residential property, private passenger automobile and commercial lines statistical data collection agents, and is responsible for managing the collection of underwriting guidelines.

Special Projects also oversees compliance with quality standards in the collection of the state's residential property and private passenger automobile data by the Texas Insurance Checking Office (TICO) and commercial lines data by the Insurance Services Office (ISO). The data are

collected in accordance with the Residential Property Statistical Plan, the Private Passenger Automobile Statistical Plan and the Commercial Lines Statistical Plan. Oversight includes modifying statistical plans, ensuring compliance with TDI performance standards, overseeing statistical agent audits, resolving problems between reporting companies and the statistical agents and ensuring the delivery of data for benchmark rate hearings and other regulatory purposes.

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

- Providing data for calculating assigned risk auto quotas for the Texas Automobile Insurance Plan Association.
- Providing data for calculating insurer participation levels in the Texas Windstorm Insurance Association.
- Providing data for pricing newly adopted residential property and auto endorsements.

### **Highlights**

- ▶ In Fiscal Year 2003, the Property and Casualty Program acted upon legislation affecting all lines of insurance. Following passage of SB 310 by the 78th Legislature, P&C Actuarial collected and analyzed market data for residential property insurers operating in Texas. A report issued in March 2003 included the following findings: homeowners rates increased on average 45 percent since 2000; homeowners rates could be reduced by up to 25 percent for some companies, while other companies' rates were exactly where they should have been; and homeowners rates were beginning to level off.
- ▶ Based in part the SB 310 report, the 78th Legislature enacted SB 14, which brings all licensed auto and residential property insurers under TDI rate regulation, including county mutuals for auto and Lloyds carriers and reciprocal exchanges for residential property. Under the legislation, TDI was required to review all homeowners' insurance rates by early September 2003 and set rates that were adequate, not excessive and not unfairly discriminatory to the risks for which they apply. Although the reviews were not complete in Fiscal Year 03, the bulk of the review was done in Fiscal Year 03. In August and September 2003, the agency announced rate modifications for groups writing residential property insurance, reducing rates by 0 percent to 31 percent.
- ▶ Staff assisted in the development and implementation of a rule addressing the use of an unfair underwriting guideline and promoting the affordability and availability of residential property insurance. The rule prohibited insurers from using an underwriting guideline based solely upon a single prior claim for water damage either by the consumer or on the property sought to be insured in making a decision regarding the writing of residential property insurance.
- ▶ In January 2003, P&C staff and Legal Services staff assisted in the activation of the Texas FAIR (Fair Access to Insurance Requirements) Plan Association. The FAIR plan is the market-of-last-resort and acts as a safety net for Texas consumers that have been denied homeowners coverage.
- ▶ Following the enactment of the Federal Terrorism Risk Insurance Act of 2002, staff in the Personal and Commercial Lines and Actuarial divisions began reviewing and processing terrorism rates, policy forms, and disclosure forms.
- ▶ P&C staff assisted with the creation and operation of a special Web site, **www.helpinsure.com**, to help consumers find insurers still accepting new homeowners policyholders, along with local agents who represent those insurers.
- ▶ In Fiscal Year 2003, the Property and Casualty Program sent volunteers to Disaster Recovery Centers (DRCs) in Victoria, Port Lavaca, Bay City and Palacios to assist consumers who had questions about filing insurance claims for damage caused by Hurricane Claudette.
- ▶ The review and approval of national homeowners forms continued in FY2003 with the approval of forms for companies including Nationwide, USAA, and AAIS.

- ▶ Staff made numerous presentations to various consumer groups and trade groups on topics such as mold, commercial property and general liability insurance, medical professional liability insurance, and legislation passed by the 78th Legislature.
- ▶ Commercial and Personal Lines staff continued to participate in the Review Standards Checklists Subgroup under the Speed to Market-Improvements to State Based Systems Plan (STM-IS3 Plan) adopted by the NAIC.
- ▶ P & C staff revised the Commercial Property/Casualty Section's retention schedule to further utilize the department's Electronic Imaging System for closed files. This has resulted in an additional savings of approximately 122 cubic feet of storage space in FY2003. The utilization of the imaging system by the division has also increased the efficiency of retrieving records and responding to open records requests.
- ▶ In FY2003 Windstorm Inspectors began the testing process to become certified through the International Code Council. Currently there are ten inspectors certified as Coastal Construction Inspectors and nine inspectors certified as both Coastal and Building inspectors.
- ▶ Effective February 1, 2003, the Commissioner adopted the International Residential Code (IRC) and International Building Code (IBC) as the new standard for certification by TDI for Windstorm Resistant Construction. Effective July 31, 2003, the Commissioner adopted rate reductions for policies written through TWIA as a result of the adoption of the IRC and IBC.
- ▶ In February 2003, the Engineering and Windstorm staff conducted six public education courses along the Texas coast relating to the Department's adoption of the International Residential Code. Approximately 1,100 contractors, engineers, architects and building officials attended the educational briefings.
- ▶ From May 2003 through August 2003, the Engineering Staff conducted education for engineers along the Texas Coast on High Wind Design and the Windstorm Process with approximately 250 persons attending the classes.
- ▶ In FY2003 the Voluntary Inspection Program (VIP) experienced a dramatic increase (625 percent) in certified residential property inspectors, from 40 at the end of FY2002 to 250 at the end of FY2003. The bulk of the increase was due to the Commissioner's December 2002 ruling, which prohibits insurers from non-renewing or not writing homeowners property insurance because of a prior water claim/loss. Many insurers began requiring the policyholder to provide a "Certificate of Insurability" through the Voluntary Inspection Program (VIP) prior to writing a homeowners policy if the property has suffered a water related claim/loss.
- ▶ Title staff assisted with rate, rule and form hearings which resulted in new coverage endorsements and the largest rate cut in Texas title insurance history. Staff also prepared agenda items for the 2002 Biennial Hearing designed to clarify and modernize various endorsements, and other coverage forms."
- ▶ Title staff assisted with several disciplinary actions netting record fines against title licensees.

**Figure 22 Rate and Form Filings Reviewed**

TYPE OF INSURANCE	FY2002 FORMS	FY2002 RATES	FY2002 TOTAL	FY2003 FORMS	FY2003 RATES	FY2003 TOTAL
Bond and Misc. Lines	906	375	1,281	1,241	415	1,656
Commercial Automobile	473	515	988	788	303	1,091
General Liability	3,500	790	4,290	4,551	1,180	5,731
Homeowners	171	142	313	235	96	331
Interline Filing	0	0	0	18	5	23
Intake Unit	12	0	12	4	0	4
Commercial Multi-Peril	4,109	820	4,929	4,812	849	5,661
Personal Automobile	51	760	811	161	424	585
Professional Liability	433	182	615	735	255	990
Commercial Property	1,704	406	2,110	2,365	534	2,899
<b>Total</b>	<b>11,359</b>	<b>3,990</b>	<b>15,349</b>	<b>14,910</b>	<b>4,061</b>	<b>18,971</b>

**Summary of Activity****Figure 23****Homeowners**

	<b>FY2002</b>	<b>FY2003</b>
Premium Reduction Certificates Processed	8,473	9,046
Open Records Request	181	164
Complaints Processed	2,711	2,884
Telephone Calls Received	12,825	11,218

**Summary of Activity****Figure 24****Commercial Property/Casualty**

	<b>FY2002</b>	<b>FY2003</b>
<b>Professional Liability</b>		
Open Records Requests	46	67
Complaints	32	40
Telephone Calls Received	2,138	1,951
<b>General Liability</b>		
Open Records Requests	89	111
Complaints	37	31
Telephone Calls Received	3,153	2,275
<b>Bond, Miscellaneous Casualty</b>		
Open Records Requests	67	68
Complaints	33	62
Telephone Calls Received	2,552	427
Commercial Property		
Open Records Requests	33	44
Complaints	30	59
Telephone Calls Received	763	791
<b>Commercial Multi-Peril</b>		
*Open Records Requests	241	159
Complaints	22	19
Telephone Calls Received	479	275

\* This number includes requests for Commercial Multi-Peril filings, as well as requests for multiple lines of insurance.

**Summary of Activity****Figure 25****Personal & Commercial Automobile**

	<b>FY2002</b>	<b>FY2003</b>
Individual Risk Submissions (IRS)	2,058	2,797
State Agency Auto Policies	17	18
Open Records Requests	199	181
Complaints	13	9
Telephone Calls Received	13,830	12,387

**Summary of Activity****Figure 26****Title Insurance**

<b>Activity</b>	<b>FY2002</b>	<b>FY2003</b>
Annual Escrow Audits Reviewed	568	413
Field Examinations/Audits Conducted	250	233
Complaints	215	296
General Information Requests	2,771	2,156
Rates, Rules and Policy Forms	36	0
Licenses Issued (includes renewals)	5,500	4,371
Licenses Cancelled	1,562	1,229

**Number of Agents/Licenses Under Commissioner's Jurisdiction****Figure 27****Title Insurance**

<b>Agents/Licenses</b>	<b>FY2002</b>	<b>FY2003</b>
Title Agents	536	547
Title Agent Licenses	1,640	1,636
Direct Operations	17	15
Direct Operation Licenses	17	15
Escrow Officers	5,327	5,855
Escrow Officer Licenses	5,477	6,029

**Figure 28 Summary of Activity**  
**Commercial Property Oversight Inspections**  
**(formerly Inspection and Fire Safety)**

---

	<b>FY2002</b>	<b>FY2003</b>
Property Inspections Conducted	1,158	1,141
Residential/Special Inspections	10	15
Telephone Calls Processed	403	537
VIP Licenses/Certificates Issued	5	231

**Figure 29 Summary of Activity**  
**Windstorm Operations**

---

	<b>FY2002</b>	<b>FY2003</b>
Applications	29,364	34,643
Inspections	15,715	16,429
Certificates of Compliance	26,095	32,657
Windstorm Fees Received	\$17,397	\$16,145

**Figure 30 Summary of Activity**  
**Engineering Services**

---

	<b>FY2002</b>	<b>FY2003</b>
Building Code Interpretations	1,614	2,049
Product Evaluations	614	582
Visitors Served	58	83
Telephone Calls Processed	3,025	3,635

**Figure 31 Summary of Activity**  
**Loss Control**

---

	<b>FY2002</b>	<b>FY2003</b>
Total Evaluations Completed	246	244
Companies Rated Adequate	222	233
Companies Rated Less Than Adequate	24	11
Companies Evaluated for Licensure	3	4
Loss Control Representative Applications Reviewed	108	86
Field Safety Representatives with a Specialty in Hospitals	18	25

**Figure 32 Summary of Activity**  
**Amusement Ride Safety and Insurance Act**

---

	<b>FY2002</b>	<b>FY2003</b>
Policies Reviewed	339	375
Inspection Certificates Approved	1,230	2,035
Injuries	169	114
Inspector Applications Approved	0	0
Owners Under Compliance Monitoring	341	361

**Figure 33 Summary of Activity**  
**Workers' Compensation Oversight Group**

---

	<b>FY2002</b>	<b>FY2003</b>
Written Inquiries Processed	256	344
Complaints Processed	113	96
Letters Written	1,481	1,286
Telephone Calls Processed	6,597	6,146
Experience Rating Modifiers Reviewed	587	634
Complaints Referred to Texas Workers' Compensation Commission	888	695

**Summary of Activity**  
**Workers' Compensation Classification**

**Figure 34**

	<b>FY2002</b>	<b>FY2003</b>
Inspections	75	121
Letters & Telephone Calls	12,558	12,293
Visitors	6	3
<b>Types of Inspections Made</b>		
Insured Requests	9	13
Insurer Requests	29	35
Agent Requests	8	18
Department Requests	29	55

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

**Figure 35**

	<b>FY2002</b>	<b>FY2003</b>
Telephone Calls	971	870
Letters	686	682
Visitors	26	64
Groups Certified	59	57
Open Records Requests	82	85
<b>Filings Reviewed</b>		
Group Programs	140	107
Rate Filings & Schedule Rating Plans	458	492
Rating Plans & Misc. Filings	32	66
Retro Election Notices	584	627
Endorsement/Forms Approved	62	246
Endorsement/Forms Withdrawn	44	152

**Other Statistical Reports Collected**

**Figure 36**

	<b>FY2002</b>	<b>FY2003</b>
Title insurance agents	548	546
Title insurance underwriters	16	20

## Life, Health and Licensing

**T**HE LIFE, HEALTH AND LICENSING (L/H/L) PROGRAM regulates Health Maintenance Organizations (HMOs) and a wide range of life, health, and related coverages; licenses insurance agents, third party administrators (TPAs), viatical and life settlement providers, provider representatives and brokers, premium finance companies, utilization review agents (URAs) and independent review organizations (IROs); resolves HMO complaints and conducts quality of care examinations of HMOs.

Primary responsibilities include:

- Regulating policy forms, evidences of coverage and related documents for life, accident and health insurance, HMOs, credit life insurance, credit accident and health insurance, viatical and life settlements, annuities, and prepaid legal plans.
- Reviewing rate filings for credit life and accident & health, Medicare supplement, Medicare SELECT, long-term care, accident and health insurance, and HMO coverage.
- Investigating and resolving complaints related to HMOs and conducting quality of care examinations of HMOs.
- Issuing licenses and license renewals to insurance agents; TPAs; viatical and life settlement providers, provider representatives and brokers; premium finance companies; URAs; and IROs.
- Receiving and screening filings for property and casualty lines, as well as the coverages listed above.
- Auditing the activities of TPAs.
- Implementing state and federal legislation and monitoring the extensive federal activities related to life insurance, health coverage, and licensing.

L/H/L consists of a General Management Section and four divisions: Filings Intake, Licensing, Life/Health (L/H), and HMO.

**General Management**, led by a senior associate commissioner (SAC), provides management and operational direction for the program; co-chairs The Clean Claims Working Group and Technical Advisory Committee on Claims Processing established by SB418; represents the commissioner or oversees L/H/L staff's representation on the Texas Health Care Information Council (THCIC), the National Data Interchange Standards Task Force, the Interagency Council on Genetic Services, Traumatic Brain Injury Working Group, the Children's Health Insurance Program's (CHIP) Marketing Oversight Committee, and participating in the East Texas Rural Access Program. Additionally, the SAC is the TDI's liaison for the boards of the Texas Health Insurance Risk Pool (THIRP) and CHIP.

General Management also provides technical assistance to the Texas Health and Human Services Commission (HHSC), Texas Department of Health (TDH), Office of Attorney General (OAG), THIRP, and the federal Centers for Medicare and Medicaid Services (CMS) of the United States Department of Health and Human Services. The SAC and division deputies serve on various National Association of Insurance Commissioners (NAIC) working groups. The General Management staff also collects, analyzes, and reports on industry data as required by state and federal law and provides technical assistance to legislative interim and oversight committees and task forces.

General Management has been monitoring federal requirements associated with the Health Insurance Portability and Availability Act (HIPAA) administrative simplification (electronic claims filing) requirements. Additionally, General Management's Special Projects staff assists the SAC in developing regulatory policies for all divisions in L/H/L, communicating with consumers and the regulated community, and providing technical assistance to other state and federal agencies. General Management Regulatory Development staff track, analyze, and coordinate TDI's comments on proposed legislation pertaining to L/H/L. Regulatory Development staff also inform industry and other interested parties of legislative and rule changes through

bulletins or other means, draft rules to implement both state and federal legislation, and respond to changes in the industry.

General Management develops the program's business plan and the program's portion of the TDI strategic plan, annual report, appropriations request, and budget.

**Filing and Operations Division**, led by a Deputy Commissioner, consists of four sections:

**Property and Casualty Section** receives all rule, rate and policy form filings for property and casualty lines, including workers' compensation, and conducts an initial screening of the filings for compliance with basic filing requirements. Staff enters filing data into the Oracle tracking system.

**Life/Health and HMO Section** receives all rate and policy form filings for life, annuity, accident and health, credit life and accident and health, HMO, prepaid legal, viatical and life settlements, and related products and conducts an initial screening of filings for compliance with basic filing requirements. Staff enters filing data into the Oracle tracking system.

**Micrographics Section** produces electronic images of closed files for property and casualty, life, health, credit, HMO, prepaid legal, viatical and life settlements, and related products, title agent license and title examination files, Workers' Compensation employer files, and the field reports for the Windstorm Section.

**Operations Section** is responsible for all program operations, budget, purchasing, personnel, contract management, planning and performance measures.

**Licensing Division**, led by a Deputy Commissioner, oversees the licensing and regulation of insurance agents, adjusters, risk managers, life insurance counselors, reinsurance intermediaries, TPAs, premium finance companies, and persons involved in selling insurance products in travel agencies, self-service storage facilities, retail establishments and rental car companies. The division has five sections:

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

**Customer Assistance Section** responds to inquiries and telephone calls from agents, companies, and the public, including questions regarding licenses, appointment status, and general inquiries about the licensing process.

**Renewals, Appointments and Continuing Education Section** reviews and processes renewals, records and cancels agent and sub-agent appointments, registers continuing education providers and courses, processes reciprocal agreements with other states, and oversees the training courses for agents and adjusters.

**Administrative Review and Data Management Section** researches and reviews all applications with a criminal history, makes recommendations on issuance or denial of a license and recommends appropriate action on all non-routine agent applications, renewals and cancellations for cause. This section also produces certificates and other records regarding a license's status, cancels licenses when requested by the licensee, records address and name changes for all licensees, processes open record requests, prepares records for microfilm processing, and manages the division's files.

**Third-Party Administrator (TPA) and Premium Finance Section** licenses, regulates, and examines TPAs, which administer plans under contract with insurance companies, HMOs, and/or self-funded plans, and licenses premium finance companies.



**Life/Health (L/H) Division**, led by a Deputy Commissioner, reviews life, annuity, accident and health, prepaid legal, credit life and credit accident and health policies, certificates, applications, endorsements, riders, and rates for credit life, credit accident and health, Medicare supplement, Medicare SELECT, long-term care, and individual accident and health and HMO to ensure compliance with state and federal statutes and regulations. The L/H Division also registers viatical and life settlement providers, provider representatives and brokers, and reviews contractual forms related to viatical and life settlements. The L/H Division consists of four sections:

**Accident & Health Section** reviews and analyzes form filings for individual and group accident & health products, which include Medicare supplement, Medicare SELECT, long-term care, large and small employer groups, non-employer groups, and combination life and accident & health products. The section coordinates the review of rate filings for accident and health, long-term care, Medicare supplement, Medicare SELECT, individual accident and health, HMO and small employer rating methodologies. The section tracks small employer annual certifications and assists companies and other TDI staff in coordinating withdrawals from individual, small and large employer group markets and discontinuance of products in these markets. The section also reviews documents for Multiple Employer Welfare Arrangements, the Texas Health Insurance Risk Pool (THIRP) and CHIP.

**Life, Annuity & Credit Section** reviews and analyzes form filings for life, annuity, credit life, credit accident & health, prepaid legal plans, viatical and life settlements, filings for name changes, assumptions, demutualizations and mergers, as well as coordinate the review of rate filings for credit life and credit accident & health. The section coordinates the review of combination long-term care and annuity or life products. The section also registers viatical and life settlement providers, provider representatives and brokers, processes notifications from charitable organizations issuing charitable gift annuities, analyzes credit life and credit accident and health data call information and tracks certifications pertaining to forms subject to the life illustration rule.

**Actuarial Section** reviews, analyzes, and evaluates rate filings pertaining to certain individual accident and health, long-term care, Medicare supplement, Medicare SELECT, credit life and credit accident and health and HMO coverage. In addition, staff reviews actuarial data required for individual and group life, individual accident and health, long-term care, Medicare supplement and Medicare SELECT coverage, changes to small employer rating methodologies, risk assuming applications for small employer carriers, HMO applications for certificate of authority and service area expansions and credit life and credit accident & health data call information. Staff reviews the THIRP's actuarial memorandum and premium rates as well as assists the consumer protection program with the resolution of consumer inquiries and complaints regarding rating issues.

**Administration** develops and implements the L/H Division's business plan, executes the division's legislative implementation plan, responds to public inquiries, provides technical training for division staff, responds to open records requests, and provides administrative and automation support for the L/H Division.

In addition to the above, all sections of the L/H Division assist in the development and implementation of rules and education of the insurance industry on regulatory requirements through bulletins, compliance workshops, manuals and checklists and presentations to trade groups. The L/H Division provides technical assistance to other TDI staff regarding complaints, consumer publications, enforcement actions and withdrawals from market(s). The division is often called upon to provide technical assistance to external entities including, but not limited to, the Employee Retirement System (ERS), the Teacher Retirement System (TRS), the National Association of Insurance Commissioners (NAIC), the Texas Department of Banking, TDH, HHSC, THIRP, OAG, and CMS.

**Health Maintenance Organization (HMO) Division**, led by a Deputy Commissioner, regulates HMOs, certifies and regulates utilization review agents and certifies independent review organizations. The division investigates complaints against these licensed entities, conducts quality of care examinations, and reviews HMO and URA form filings. The division consists of three sections:

**Compliance/URA/IRO** reviews and analyzes HMO form filings such as evidences of coverage, provider contracts and other related filings for HMOs writing commercial and small and large employer coverage to ensure compliance with state and federal statutes and regulations, certifies URAs to conduct business in Texas, registers insurers and HMOs to conduct utilization review, reviews URA form filings, issues renewals of URA certifications and registrations, investigates complaints against URAs conducting utilization review under a workers' compensation policy, reviews IRO applications for certificates of authority and renewals of those certificates of authority, reviews form filings required of IROs, and processes IRO requests received from URAs, insurers and HMOs.

**The HMO Quality Assurance Section** in the HMO Division performs many regulatory functions. The two main functions of the unit are examinations and investigation of all complaints filed with the Department against HMOs. The complaints are categorized to identify the nature of the complaint, (e.g., network availability, timely payment of claims, access to urgent care, etc.) which enables the section to monitor health plan performance.

Examinations of HMOs are routinely scheduled based on licensure date. The section has statutory authority to examine an HMO anytime in the first three years of operation and thereafter every three years. Should problems or issues be identified that cause concern, complaint examinations can be scheduled to determine compliance with applicable statutes and rules.

The section performs many other functions, including public speaking. Typically public speaking engagements are conducted when a group asks for information on the statutes or rules governing HMOs.

**Administration** develops and implements the division's business plan, compiles and analyzes data, provides administrative support for the division, executes the division's legislative implementation plan, and responds to public inquiries.

In addition to the above, all HMO sections assist in the development and implementation of rules; respond to open records requests; educate industry, provider, and consumer groups through bulletins, compliance workshops, manuals, checklists, and speaking engagements; and provide technical assistance to other TDI staff regarding complaints, consumer publications, enforcement actions, and withdrawals from HMO markets. The division provides technical assistance to external entities such as the ERS, TDH, HHSC, OAG, the Texas Department of Mental Health and Mental Retardation, the Texas Commission on Alcohol and Drug Abuse, the Texas Workers' Compensation Commission, the Texas Department of Criminal Justice, THCIC, NAIC, and CMS.

## Highlights

In Fiscal Year 2003, L/H/L:

### General Management

- ▶ Assisted in developing the following rules adopted by the commissioner:
  - Preferred provider plans, Sec. 3.3703 (emergency adoption)
  - Physician and provider contracts and arrangements, Sec. 11.901 (emergency adoption)
  - Utilization review agents, Secs. 19.1703, 19.1723, 19.1724 (emergency adoption)
  - Submission of clean claims, Secs. 21.2801–21.2809, 21.2811–21.2826 (emergency adoption)
  - Repeal of submission of clean claims, Secs. 21.2804, 21.2806, 21.2818–21.2820 (emergency adoption)

- Diabetes, Secs. 21.2601, 21.2606
- Repeal Diabetes, Secs. 21.2607
- Utilization reviews for health care provided under workers compensation insurance coverage, Secs. 19.2001, 19.2003–2006, 10.2010, 19.2012, 19.2015, 19.2017, 19.2019, 19.2020
- Credit life & health insurance and annuities, Secs. 3.5106, 3.5601–5603, 3.5605–5610, 3.5701, 3.5702, 3.5801, 3.6011
- Regulatory fees, Secs. 7.1301–1302
- HMO regulatory requirements for issuance of a certificate of authority, Sec. 11.301
- Summary procedures for routine matters, Secs. 1.702–1.705
- New submission requirements for filings and departmental actions, Secs. 3.1–3.8
- Repeal filing requirements, forms, riders, amendments & endorsements/life, accident and health, Secs. 3.1–3.21
- Repeal agents and adjusters continuing education program, Secs. 19.1007–19.1013
- Licensing of insurance adjusters, Secs. 19.602, 19.1001–1019
- General regulation of surplus lines insurance, Secs. 15.2–15.5
- Data collection/reporting relating to mandated health benefits and offers of coverage, Secs. 21.3401–3409
- Licensing fees, Secs. 19.801–803
- Physician & provider contracts and arrangements, Sec. 11.901
- Contracting provisions, preferred provider plans, Sec. 3.3703
- HMO delegated entities, Secs. 11.2601–2612
- ▶ Assisted in developing the following rules which have been proposed for adoption:
  - Variable contract agents, Secs. 19.701–709
  - Licensing of insurance adjusters, public insurance adjusters, licensing fees, continuing education, and adjuster preclicensing programs, Secs. 19.603, 19.701–712, 19.802, 19.1002
  - Submission of clean claims, Secs. 21.2801–2809, 2811–2819, 2821–2825
  - Repeal, submission of clean claims, Secs. 21.2804–2806, 21.2808–2820
  - Utilization review agents, Secs. 19.1703, 19.1723–1724
  - Physician and provider contracts & arrangements, Sec. 11.901
  - Contracting provisions, preferred provider plans, Sec. 3.3703
  - Exclusive provider benefit plans, Secs. 3.9201–9212
- ▶ Worked on the following rules which are in progress:
  - Criminal convictions, Secs. 1.501–1.502
  - Credentialing of physicians, Secs. 21.3201, 11.1902
  - Statewide rural health care system rules.
  - Payment standards for dental indemnity policies, Secs. 21.23501–21.3508
  - Data collection and reporting regarding mandated benefits and mandated offers of coverage, Secs. 21.3402, 21.3404
  - Small employer rules, Chapter 26
  - Dependent eligibility rules, Chapters 3 and 11
  - Continuation/conversion
  - Joint M.O.U., prepaid funeral, Sec. 3.9001-2
- ▶ Assisted in drafting the following Commissioner's Bulletins:
  - Annual credit data call for 2002, 6/9/03 (B-0023-03)
  - Form filings and fees, 5/14/03 (B-0020-03)
  - Adoption of 2001 Commissioners Standard Mortality Table, 3/31/03 (B-0014-03)
  - Annual credit data call for 2000 and 2001, 10/1/02 (B-0057-02)
  - Medicare beneficiaries' right to change coverage upon receipt of notification of involuntary termination, 9/17/02 (B-0053-02)

- ▶ Maintained updated information on the Department's Implementation Plan spreadsheet for L/H/L.
- ▶ Reviewed and provided comments on CMS non-renewal notice for Medicare+Choice coverage.
- ▶ Worked on the TAC rule review required by Texas Government Code §2001.039. The chapters reviewed by L/H/L were Chap. 1, 3, 4, 20A, 21, 24, 26, 27, 28A, & 28B.
- ▶ Co-chaired TDI-sponsored industry, provider, and consumer task force on Clean Claim issues.
- ▶ Chaired TDI Privacy Task Force.
- ▶ Attended THIRP board meetings and worked with THIRP on issues as they arose.
- ▶ Represented TDI on National Data Interchange Standards Task Force.
- ▶ Recently completed the second year of work under the federally funded State Planning Grant study of options for expanding health insurance to uninsured Texans. A comprehensive report of the findings was submitted to the U.S. Secretary of Health and Human Services. The report includes a summary of all survey activities and research, detailed information on characteristics of Texas' uninsured population, and numerous options for expanding coverage.

#### **Filing and Operations Division**

- ▶ Received 33,449 Life/Health rate and form filings.
- ▶ Received 2,003 HMO rate and form filings.
- ▶ Processed 11,681 Exempt Life/Health rate and form filings.
- ▶ Received 19,498 Property and Casualty rate and form filings.
- ▶ Processed 559 Property and Casualty rate and form filings.
- ▶ Processed \$630,705 in filing fees for Life and Health rate and form filings.
- ▶ Processed \$98,167 in filing fees for HMO rate and form filings.
- ▶ Processed \$15,200 in filing fees for Viatical Settlement form filings.
- ▶ Scanned 647,359 images for Property and Casualty Program.
- ▶ Scanned 344,102 images for Life/Health and HMO Divisions.
- ▶ Represented Texas on the following NAIC Working Groups: System for Electronic Rate and Form Filing (SERFF) Working Group, Filing Submission Uniformity/Metrics Subgroup, and Review Standards Checklist Subgroup.
- ▶ Completed Life, Health and HMO Billing System Design Document.
- ▶ Represented the Filings Intake Division or Department at various meetings and seminars.
- ▶ Reviewed, commented and assisted with a proposed rule to amend Filing Requirements and a proposed rule to implement a Life, Health and HMO billing system. The rule was adopted May 6, 2003.
- ▶ Assisted with the development of amended Summary Procedure rule.

#### **Licensing Division**

- ▶ Assisted in developing a rule adopted by the commissioner—Continuing Education and Adjuster Prelicensing Education Programs—Secs. 19.602, 19.1001–19.1019
- ▶ Reprogrammed and redesigned the printing of agent and adjuster licenses to improve the speed of printing and improve the appearance of the licenses to include the state seal and commissioner's signature.
- ▶ Implemented a new digital fingerprinting process at all agent/adjuster examination test sites to improve the quality of fingerprint product and to prepare for the future possibility of electronic transfer of the digital prints to the Department of Public Safety.
- ▶ Completed the request for proposal process and awarded a three year contract with a new examination vendor for examination of agents/adjusters.
- ▶ Created a new online search facility on our website for obtaining a listing of continuing education providers and courses.
- ▶ Updated the "Agent" section of the Texas Department of Insurance's website adding electronic copies of various forms required of agents including bond, change of address, and assumed name forms.

- ▶ Analyzed and arrived at a consensus solution for Texas to be able to participate in the National Insurance Producer Registry's Electronic Nonresident Licensing process. Texas will begin participation in the early part of Fiscal Year 2003–2004.
- ▶ Joined into an agreement with the Midwest Zone States regarding continuing education reciprocity. 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. The participating states have agreed that they will accept the credit hours without need of additional review.

#### **Life/Health Division**

- ▶ Reviewed and processed policies, contracts, related forms, rates, certifications, applications for registrations, risk assuming applications, rating methodologies and reports as appropriate for life, annuity, accident and health, prepaid legal, credit life, credit accident health and accident and health insurance, viatical and life settlement, accident and health small and large employer, long-term care, life illustration and Medicare supplement.
- ▶ Represented the L/H division or department at various meetings and seminars.
- ▶ Reviewed, commented, and is assisting with rules related to bills that were adopted during the 78th Legislative Session and Medigap issues.
- ▶ Responded to numerous legislative, consumer, and agent inquiries.
- ▶ Updated checklists and product resource guides on the Web site.
- ▶ Participated in the Agent Licensing Exam Focus Group.
- ▶ Participated in various conference calls and attended meeting for the development of standards for Term Life, Annuity and Disability products for the NAIC Interstate Compact Working Group effort.
- ▶ Continued populating the L/H/L Program Infobase with current and historical data and upgraded the software to a newer version.
- ▶ Continued implementing HB 2159 relating to credit life and credit accident and health.
- ▶ Assisted with the development of amended credit life and accident and health rules.
- ▶ Assisted with the development of amended filing rules.
- ▶ Assisted with the development of the 2001 CSO Mortality table rules.
- ▶ Assisted with the development of amended Summary Procedure rules.
- ▶ Continued to assist the Teacher Retirement System in the implementation of SB 273.
- ▶ Participated in Recodification of the *Texas Insurance Code* by reviewing and comparing new language to existing language.
- ▶ Participated in TDH Immunizations Stakeholders Group.
- ▶ Drafted bulletins to collect experience and expense data as well as reviewed and analyzed such credit life and credit accident and health insurance data for years 2000, 2001, and 2002.
- ▶ Received and completed CARFRA and SERFF filings.

#### **HMO Division**

- ▶ Completed review of 2,026 HMO forms filings.
- ▶ Conducted 28 quality of care examinations of HMOs.
- ▶ Completed 7,537 complaints regarding HMOs.
- ▶ Assigned 659 IRO case reviews.
- ▶ Assisted in the proposal and adoption of amendments to rules needed to implement SB 418 (78th Legislature) regarding prompt payment of claims. These rules amended the prompt payment of claim rules, utilization review agent rules, and provider contracting rules pertaining to bundling and down coding by HMOs and preferred provider benefit plans.
- ▶ Assisted in the proposal and adoption of amendments to rules pertaining to coverage for Diabetes needed to implement SB 982 (76th Legislature).
- ▶ Assisted in the proposal and adoption of rules pertaining to utilization reviews for health care provided under workers compensation insurance coverage.
- ▶ Proposed rules pertaining to exclusive provider benefit plans.

- ▶ Assisted HHSC with implementation and operation of the CHIP Program, including proposed refinements to CHIP benefit plans and marketing strategies, monitored the continued development of the medical and dental CHIP provider network, and reported data to HHSC concerning CHIP complaints.
- ▶ Represented the Commissioner on the Interagency Council on Genetic Services (Senate Bill 602, 76th Legislative Session) and TDH Morbid Obesity Task Force.
- ▶ Participated in TDH Diabetes Council's Standards and Outcomes Subcommittee.
- ▶ Represented TDI on the Traumatic Brain Injury Advisory Council.
- ▶ Represented TDI on HHSC Telemedicine Advisory Committee (HB 2700)
- ▶ Represented TDI on the Texas Board of Medical Examiner's credentialing committee.
- ▶ Participated in meetings with TDI's Clean Claim Working Group
- ▶ Spoke to numerous industry, provider, and consumer groups regarding managed care issues, including a TDI workshop on prompt payment of claims.
- ▶ Continued development of an Memorandum of Understanding to coordinate HMO examination elements and function with the HHSC.
- ▶ Certified and renewed 110 URAs.
- ▶ Certified three (3) IROs and renewed four (4).
- ▶ Responded to 131 open record requests.
- ▶ Drafted amendment to M.O.U. with Texas Workers Compensation Commission.

### Summary of Activity Intake Division Filings Received/Processed

**Figure 37**

	FY2001	FY2002	FY2003
<b>Flex-Rate Filings</b>			
Personal Auto	989	721	446
Commercial Auto	600	503	382
*Homeowners	124	144	221
<i>Total</i>	<i>1,613</i>	<i>1,368</i>	<i>1,049</i>
<b>Other Rate Filings</b>			
Commercial Property	538	494	725
Workers' Compensation	370	192	528
Intake Unit	0	0	5
General Liability	919	912	1,324
Professional Liability	258	175	320
Bond, Burglary, Title	381	409	453
Multi-Peril	888	891	886
<i>†Total</i>	<i>3,354</i>	<i>3,073</i>	<i>4,241</i>
<b>Policy Form, Endorsement and Rule Filings</b>			
Personal Automobile	109	55	161
Commercial Automobile	366	520	835
Intake Unit	19	12	9
Interline	6	0	13
Homeowners	84	165	234
Commercial Property	1,446	2,075	2,111
General Liability	2,280	4,065	4,143
Bond, Burglary	621	956	1,167
Workers' Compensation	188	376	418
Professional Liability	503	479	740
Multi-Peril	3,563	4,681	4,377
<i>Total</i>	<i>9,185</i>	<i>13,384</i>	<i>14,208</i>
<b>†Total P &amp; C Filings Received</b>	<b>14,152</b>	<b>17,825</b>	<b>†19,498</b>
Intake Unit Filings Processed	620	885	559

\* In FY2003, approximately 85–95 percent of homeowners coverage was written in non-rate regulated companies (such as Lloyds companies). These companies did not fall under the benchmark rate structure. Only rate-regulated companies were required to file their rates with TDI.

† FY2000 was the final year insurers were required to report tort reform savings in a separate filing. More than 2,000 tort reform filings were processed in FY2000.

‡ Total includes 197 SERFF Filings. Note: Rating Manual portion removed. Rating manuals are now included in Rate Filing figures.

**Figure 38 Number of Licenses, Certificates and Registrations under Commissioner's Jurisdiction**

License Type	FY1997	FY1998	FY1999	FY2000	FY2001	FY2002	FY2003
<sup>1</sup> Agents	216,493	231,680	244,878	255,644	261,951	216,464	234,992
Adjusters	31,458	32,620	35,390	38,498	37,524	46,458	43,452
<sup>2</sup> Full-Time Home Office Salaried Employees	N/A	N/A	2,498	3,323	3,707	3,205	3,721
<sup>3</sup> Vehicle Rental	N/A	30	48	N/A	N/A	N/A	N/A
<sup>4</sup> Specialty-Credit	0	0	0	718	1,250	2,030	2,537
<sup>4</sup> Specialty-Travel	0	0	0	231	330	455	529
<sup>4</sup> Specialty-Rental Car Company	0	0	0	58	60	64	73
<sup>4</sup> Specialty-Self-Service Storage Facility	0	0	0	43	48	49	62
<sup>5</sup> Specialty-Telecommunication Equipment Vendor						0	6
Life Counselors	113	120	124	124	122	143	158
Risk Managers	1,115	1,121	1,125	1,126	1,111	1,081	1,095
Re-insurance Inter-mediary	1,125	1,184	1,322	1,399	1,361	1,638	1,203
Premium Finance Companies	300	290	106	291	275	286	304
Third-Party Administrators	649	710	655	696	714	724	739
<b><sup>1</sup>Grand Total of Lines Regulated</b>	<b>251,253</b>	<b>267,761</b>	<b>286,146</b>	<b>302,151</b>	<b>308,453</b>	<b>272,597</b>	<b>288,871</b>

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

2 Registration only. Created by the 75th Legislature. Rules adopted in FY1998.

3 License type created by the 75th Legislature and repealed by the 76th Legislature.

4 Specialty License types created by the 76th Legislature.

5 Specialty Telecommunication License types created by the 77th Legislature.

**Figure 39 Summary of Activity Licensing Division**

	FY2000	FY2001	FY2002	FY2003
Total Filings Processed by Licensing Division	690,762	655,670	724,305	699,971
*Telephone Inquiries Answered	258,842	138,067	170,407	160,478

\* Licensing uses an Interactive Voice Response (IVR) to improve the Division's ability to respond to calls from companies, agents and the public. The IVR provides 24-hour, 7-day-a-week access to licensing information.

**Figure 40 Five-Year Summary of Agents License Statistics\***

Total Licenses	FY1998	FY1999	FY2000	FY2001	FY2002	FY2003
Issued	51,330	59,736	61,679	56,963	51,654	58,152
Renewed	97,242	84,527	103,397	67,865	81,662	75,186
Total Appointment Transactions	237,761	267,666	280,355	459,682	510,650	479,618
Total Current Agents & Adjusters Licenses	264,300	280,268	294,142	299,475	262,922	278,444
Other Licenses	3,461	5,878	8,009	8,978	9,675	10,427
<b>Grand Total of Licenses Regulated</b>	<b>267,761</b>	<b>286,146</b>	<b>302,151</b>	<b>308,453</b>	<b>272,597</b>	<b>288,871</b>

\* Beginning in FY2001, a renewal for a license that has multiple qualifications is counted as one renewal; previously, each qualification was counted as a separate renewal.

**Figure 41 Numbers and Types of Agents Licenses FY2001-FY2003\***

	FY2001	FY2002	FY2003
County Mutual (Part of Group 2)	†	4,623	4,193
General Lines-Life, Accident, Health and HMO (Group 1 Life)	120,088	124,146	136,944
General Lines-Property and Casualty (Local Recording, Solicitor and Non-Resident Fire/Casualty)	58,309	61,940	67,416
Insurance Service Representative	1,883	2,249	2,477
Life not to Exceed \$15,000 (Part of Group 2)	†	1,466	1,320
Limited Lines (Prepaid Legal Services, Agricultural and part of Group 2)	35,524	16,860	15,364
Managing General Agent	2,602	1,646	1,713
Pre-Need (Part of Group 1)	†	1,472	3,146
Surplus Lines	3,312	2,062	2,419
†Variable Contracts	40,233	‡	‡
<b>Total</b>	<b>261,951</b>	<b>216,464</b>	<b>234,992</b>

\* Some licenses were consolidated and/or re-named by SB 414, 77th Legislature.

† New license type in FY2002.

‡ The 77th Legislature added variable contracts (VC) to the lines that may be written by General Lines-Life, Accident and Health (GL-LAH) Agents. Prior to 2002, agents selling VC were required to have both a GL-LAH license and a GL-VC license.

**Summary of Activity  
Miscellaneous Lines**

**Figure 42**

	FY2001	FY2002	FY2003
TPA On-Site Examinations	0	0	0
TPA Desk Audits Conducted	22	7	1
TPA New Licenses Issued	53	61	47
TPA License Exemptions Granted	67	83	84
New Premium Finance Licenses Issued	17	20	37
Premium Finance Licenses Renewed	282	288	270

**Number of Premium Finance Companies and Loans' Value  
CY1996-CY2002\***

**Figure 43**

CALENDAR YEAR	NUMBER OF COMPANIES	NUMBER OF PREMIUM LOANS	VALUE OF LOANS
1996	306	404,532	\$1.65 billion
1997	300	443,278	\$1.76 billion
1998	292	455,492	\$1.54 billion
1999	291	468,129	\$1.68 billion
2000	283	408,892	\$1.69 billion
2001	281	387,866	\$1.90 billion
2002	304	332,663	\$2.54 billion

\* These figures are reported in calendar years, and 2002 is the last full calendar year available.

**Summary of Activity  
Life/Health Filings**

**Figure 44**

	FY2000	FY2001	FY2002	FY2003
Filed	23,854	26,788	31,133	33,449
Accepted	22,804	25,853	30,195	32,197
Approved	6,165	6,614	9,354	8,398
Disapproved	3,944	3,486	3,072	3,177
Exempt	5,831	7,343	8,735	11,681

**Summary of Activity  
Health Maintenance Organization Filings**

**Figure 45**

	FY2000	FY2001	FY2002	FY2003
New Forms Received	2,672	3,599	2,640	2,003
Forms Completed	2,949	3,258	2,447	2,026

**Summary of Activity  
Utilization Review Filings**

**Figure 46**

	FY2000	FY2001	FY2002	FY2003
Applications Received	52	31	17	15
Applications Pending Review	13	16	7	6
Registered Utilization Review Agents Approved	14	5	2	1
Certified Utilization Review Agents Approved	66	51	21	15
Certified and Registered URAs renewed	18	94	76	94

**Summary of Activity  
HMO Complaints**

**Figure 47**

	FY2000	FY2001	FY2002	FY2003
Complaints Received	5,446	7,716	9,468	7,261
Complaints Closed	5,132	*7,131	9,414	7,537
Medicare Complaints Forwarded	*1,533	*5,132	3,362	563
HMO Quality of Care Examinations Completed	*32	*21	23	28

\*Note: Data revised after 2001 Annual Report released.

**Summary of Activity  
HMO Projects/Inquiries**

**Figure 48**

	FY2000	FY2001	FY2002	FY2003
Projects/Inquiries Received	120	145	248	197
Projects/Inquiries Completed	120	145	248	197



# Consumer Protection

**C**ONSUMER PROTECTION assists Texans by helping resolve insurance complaints; providing insurance information to the public through a toll-free Consumer Help Line, publications and the Internet; and reviewing insurance advertising.

The Consumer Protection Program consists of five activities:

**Complaints Resolution** reviews consumer disputes with insurance companies, agents and other regulated insurance businesses. Staff examine complaints for violations of the *Texas Insurance Code* and the *Texas Administrative Code* and recommend enforcement action when appropriate. The complaints resolution process results in the return of millions of dollars in premium refunds and additional claim payments to consumers. Staff handle complaints involving home, auto, life and health coverage.

**Information Assistance** responds to calls to the agency's toll-free Consumer Help Line, 1-800-252-3439. These phone lines are staffed from 8 a.m. to 5 p.m. Central time, Monday through Friday. Staff answer questions regarding most lines of insurance; provide information about companies and agents, including license status and complaint histories; and help consumers file insurance-related complaints. The section also maintains TDI.nfo, an electronic information database to help TDI respond consistently and efficiently to consumer questions. Information Assistance helps non-English speakers through its Spanish-speaking staff and use of the AT&T Language Line. Service for hearing- or speech-impaired consumers is provided through Relay Texas at 1-800-735-2989 (TDD/TTY).

**Public Education** develops and distributes informational materials to increase consumers' understanding of insurance products and to help consumers shop wisely for the insurance they need. Publications also are accessible through the Internet. Consumers may order complaint forms and publications 24 hours a day, seven days a week, by calling a toll-free automated telephone line, 1-800-599-SHOP (7467). Public Education also coordinates a Speakers Bureau that provides presentations for civic and community organizations and consumer groups. In partnership with other state and federal agencies, Public Education operates the federally funded Health Information, Counseling and Advocacy Program (HICAP), which provides statewide training to volunteer benefits counselors who assist senior citizens in their local communities.

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

**The Special Work Assignments Team (SWAT)** enhances Consumer Protection's business processes by developing means of improving efficiency and effectiveness. SWAT coordinates the program's business planning activities and oversees production of program information published on the agency's Web site.

## Highlights

In Fiscal Year 2003, Consumer Protection:

- ▶ Assisted consumers in Southeast Texas following flooding resulting from severe storms in November and December 2002. More than 20 staff provided assistance at five Disaster Recovery Centers following the storms.
- Assisted consumers in South and Southeast Texas following Hurricane Claudette in summer 2003. Twenty-nine employees provided assistance at four Disaster Recovery Centers following the hurricane.

- ▶ Returned more than \$48 million to consumers in additional claims payments and refunds as a result of complaints resolution.
- ▶ Responded to more than 671,000 inquiries, including more than 281,000 calls to the Consumer Help Line, more than 2,000 written inquiries, and more than 388,000 inquiries made via the Internet.
- ▶ Conducted 574 Speakers Bureau presentations throughout Texas on insurance issues.
- ▶ Distributed 2.7 million publications, including more than 800,000 rate guides. Rate guides provide information to help Texans save money on their insurance. TDI publishes rate guides for automobile, homeowners, Medicare supplement, long-term care and workers' compensation insurance.
- ▶ Maintained consumer information on TDI's Internet Web site. Items accessed most frequently were company profiles, publications, the on-line complaint form and the Internet Complaint Information System. Consumer publications recorded more than 1.3 million hits.
- ▶ Reviewed more than 6,100 insurance advertisements to ensure compliance with state laws and TDI rules.
- ▶ Was recognized by the Area Agencies on Aging with the "Together We Can" award for the HICAP Program, which trains and assists benefits counselors providing one-on-one assistance to Texas seniors in local communities.
- ▶ Initiated or expanded partnerships with governmental agencies to promote TDI services and enhance outreach activities, including partnerships with:
  - County tax assessor-collector offices to distribute rate guides and other insurance information.
  - Texas high schools to distribute information about insurance to students.
  - The Office of the Texas Attorney General to conduct outreach at community events.
  - The Texas Department on Aging, the Texas Legal Services Center and local Area Agencies on Aging statewide to conduct the HICAP Program for older Texans.
  - The Division of Emergency Management and representatives of the insurance industry in the Texas State Disaster Coalition, which is designed to enhance responses to disasters.

**Total Number of Complaint Cases Closed**

**Figure 49**

**FY1997–FY2002**

YEAR	CASES CLOSED
FY1997	17,650
FY1998	18,829
FY1999	22,472
FY2000	28,005
FY2001	28,996
FY2002	34,364
FY2003	41,294

**Additional Claim Payments to Consumers**

**Figure 50**

**FY1997–FY2002**

YEAR	CLAIM PAYMENTS
FY1997	\$17.0 million
FY1998	21.3 million
FY1999	24.4 million
FY2000	32.0 million
FY2001	31.4 million
FY2002	46.6 million
FY2003	45.9 million

**Figure 51 Restitutions/Refunds to Consumers**  
**FY1997–FY2002**

---

<b>YEAR</b>	<b>RESTITUTIONS OR REFUNDS</b>
FY1997	\$1.2 million
FY1998	1.3 million
FY1999	1.2 million
FY2000	1.8 million
FY2001	*636,000
FY2002	1.9 million
FY2003	2.2 million

*\* Fewer complaints involving large refunds of annuity premiums were received in FY2001.*

**T**HE STATE FIRE MARSHAL'S OFFICE (SFMO) develops and promotes methods of protecting the lives and property of the citizens of Texas from fire and related hazards. The SFMO works in cooperation with the public, regulated fire service industry, all branches of the fire service, local governments and other state governments. In addition to staff located in the headquarters office, the State Fire Marshal's Office deploys field staff throughout the state, providing rapid response for investigations and inspections and reducing travel expenses.

The State Fire Marshal's Office provides the following major services:

## **Fire/Arson Investigation Services**

- Fire/Arson Investigations investigates all line-of-duty deaths of firefighters, and, upon request, investigates fire scenes throughout the state and assists local law enforcement authorities.
- The Arson Hotline is a toll-free number for the public to report suspicious activity involving fires. The hotline, 1-877-4FIRE45 (1-877-434-7345), is staffed 24 hours a day.
- Canine Teams consist of a handler, who is a certified peace officer/arson investigator, and a canine that has been certified and trained to detect hydrocarbons. The canines' keen sense of smell helps them identify areas for evidence collection at fire scenes.
- The Forensic Arson Laboratory, based in Austin, provides accelerant testing services and analysis of fire scene debris to law enforcement and public safety organizations. The lab is accredited by the American Society of Crime Laboratories Directors.
- The Mobile Response Unit houses a self-contained command center, interview room, computer and audio-visual workstations and telecommunications systems used at fire scenes.

## **Fire Industry Licensing Services**

- Fire Industry Licensing issues registrations, licenses and permits to individuals and companies working in the fire alarm, extinguisher, sprinkler and fireworks industries.
- Fire Industry Investigations, upon complaint, conducts investigations of fire alarm, extinguisher and sprinkler systems to ensure compliance with state law. They also inspect fireworks retail sites to ensure compliance with adopted safety standards.

## **Fire Safety Inspection Services**

- Fire Safety Inspections conducts fire safety inspections of public buildings and private facilities in Texas, including 24-hour care facilities, state buildings, universities, prisons, day-care centers, hotels and motels.
- Inspections are conducted based on need or in response to a request or complaint. Inspections of storage, handling and use of flammable liquids are conducted at retail service stations throughout the state.

## **Fire Prevention and Outreach Services**

- Fire Safety for Texans is a series of fire and burn prevention curriculum guides for grades K–12 developed by the State Fire Marshal's Office. The SFMO believes the key to reducing fires and fire deaths is a comprehensive, age-appropriate approach to fire safety education. Each guide includes lesson plans, teacher and student materials.
- The Juvenile Firesetter Intervention Program assists fire departments to establish their own community-based fire setter intervention programs for juveniles. An advisory team of fire prevention professionals in existing juvenile intervention programs helped develop a "model" intervention program that can be easily adapted to meet the individual needs of fire departments. Assistance is extended to existing programs by providing information, material and technical support, and by providing a means of networking among the various local programs in Texas.
- Public Protection Classification (PPC) Oversight assists local fire departments, upon request, with PPC and the ISO Fire Safety Rating Schedules. These ratings affect insurance premiums on local property insurance.

- The Texas Fire Incident Reporting System (TEXFIRS) collects data from fire departments and compiles statistics to determine the impact of fire on lives and property. Each year a summary of the fires reported, *Fires in Texas*, is published. This data helps in the development of laws, standards and prevention programs. Data and reports are available to all fire departments and to the public upon request. Information is used to plan fire prevention programs at the state level.

In addition to the service provided by these four divisions, the SFMO is also statutorily responsible for the investigation of fire fighter line-of-duty deaths (LODD). The 77th Texas Legislature established this authority and empowers the SFMO to investigate the manner and cause of fire fighter line-of-duty deaths. The State Fire Marshal is directed, by statute, to publish a report on the findings of each investigation and an annual report to the Texas Insurance commissioner. The LODD investigation program is multi-disciplinary—involving staff with a broad range of expertise and experience. The SFMO also involves members of the Texas fire service to assist with the fireground operations review component of the investigation. These volunteers represent numerous organizations and are chosen for the substantial fireground investigation expertise.

### **History**

The Legislature established the position of State Fire Marshal in 1910 and charged the State Board of Insurance members to select one of its members to be “Fire Marshal of the State Insurance Board.” Duties included investigating fires to determine their cause, inspecting buildings to identify fire hazards and requiring the removal and correction of identified fire hazards.

The Fire Marshal’s duties were redefined by the Legislature seven more times between 1913 and the early 1970s, with the Commissioner of Insurance handling the State Fire Marshal duties for many years. In 1975, a separate Office of the State Fire Marshal was established, and in 1991, the Legislature removed the office from the Texas Department of Insurance (TDI) and merged it with the Texas Commission on Fire Protection. In 1997, the Legislature returned the Office of State Fire Marshal to TDI.

### **Highlights**

In Fiscal Year 2003, the State Fire Marshal’s Office:

- ▶ Continued an aggressive, on-site fire safety inspection project on state university campuses with a special focus on full-campus inspections. SFMO inspectors worked with university officials to remedy any dangerous situation uncovered by the inspections.
- ▶ Conducted seven firefighter line-of-duty deaths investigations.
- ▶ Sponsored an annual State Fire Marshal’s Conference in Austin with more than 150 local fire marshals in attendance. The conference focused on enhancing local understanding of the state’s regulatory process and on increasing interaction among fire marshals statewide.
- ▶ Focused on new indoor fireworks retail outlet inspections where greater safety hazard exists.
- ▶ Provided PPC Oversight assistance to local communities resulting in approximately 50 on-site visits, 800 telephone assistance conferences and processing over 100 submissions.

**Summary of Activity    Figure 52**  
**Fire Marshal's Office**

	<b>FY2002</b>	<b>FY2003</b>
TEXFIRS incident reports processed	1,251,402	3,260,431
Informational/educational presentations conducted	1,036	1,860
Fire investigations completed	678	550
Reported value of property fires investigated	\$229,619,723	\$357,769,202
Percent of fire investigations found to be incendiary	51	50
Number of suspects referred for prosecution	133	87
Percent of referred suspects indicted	67	89
Conviction rate of indicted suspects	91%	92%
Samples analyzed in arson laboratory	2,303	2,568
Juvenile Firesetter Intervention Programs formed or expanded	79	70
Companies and personnel licensed for Fireworks, Extinguisher, Alarm and Sprinklers	11,250	11,445
Investigations/inspections of complaints against Fire protection equipment/fireworks industries	1,290	1,038
Buildings inspected/re-inspected for fire safety hazards	10,308	8,701

## Administrative Operations

**ADMINISTRATIVE OPERATIONS** is headed by the agency's chief of staff. It performs the agency's internal financial functions and provides operational support ranging from computer and database services to professional development and training. The program consists of five activities.

**Administrative Services**, led by the Chief Financial Officer, supports the agency in the areas of budget and planning, accounting, purchasing, mail services and building and records management. It also monitors TDI's compliance with oversight requirements set for state agencies by the Legislature. It consists of three divisions.

**Financial Services** maintains the agency's financial records, prepares supporting documents required for a proper audit trail, establishes internal financial controls to detect errors and irregularities, prepares the agency's annual financial report and develops and recommends rates for maintenance taxes and assessments. In addition, the division handles budget and planning functions, including the Legislative Appropriations Request (LAR), the agency's Strategic Plan, the agency's annual operating budget and the agency's performance measure reports. Finally, the division monitors expenditures, develops projections to help programs stay within budget, monitors the agency's performance against targets in the Strategic Plan and monitors the agency's compliance with certain Article IX provisions of the General Appropriations Act.

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

**Purchasing and Contract Administration** is responsible for obtaining all goods and services for the agency. This includes establishing contracts, verifying taxes, soliciting procurement opportunities on the Electronic State Business Daily and maintaining an audit trail for each procurement made. In addition, the division must track all contract employees; procurement of recycled items and contracts established with out-of-state vendors. The Purchasing division administers the agency's Historically Underutilized Business Program to ensure that the agency makes a good faith effort to utilize minority and woman-owned businesses when purchasing goods and services and monitors all service contracts through the agency's Contract Administration program to ensure that each contract is properly administered by agency customers.

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

- Providing advice and assistance in applying technological solutions to business problems.
- Building and maintaining new applications or purchasing applications and/or systems to meet agency needs.
- Working to manage agency data efficiently and effectively.
- Supplying appropriate and timely technical training to employees.
- Planning and implementing agency-wide automation and information technology projects.

The Information Technology Services division consists of four sections:

**The Customer Services section** includes two subgroups: **Customer Support's** responsibility is to oversee the process whereby requests for service are received, evaluated and tracked to completion. Software and hardware support are provided directly at the workstation as

well as by remote control. Classroom training is provided for all standard business products. All printing services, LAN and local, are monitored and assistance is provided when needed. The group also provides phone services, cabling and other telecommunication services. **The Business Analysts** perform consulting services and analysis, which include defining customer automation requirements as they relate to agency strategies and business processes. The group also includes programmers who address short-term automation requests from the program areas as well as any unscheduled system maintenance requirements and production problems.

**The Computer Strategic Initiative Group** is responsible for mapping the direction of the division to ensure current developments and trends in technology are addressed and prioritized. This unit is also responsible for developing and implementing an information technology planning process that is integrated with all other TDI planning processes, including a wide range of strategic and tactical planning functions and coordination of technology needs such as contingency planning and information security. Additionally, the group plans and monitors the capital and operational budgets, monitors technology-related development projects, administrates software documentation, administrates a technical library that houses all authorized software licenses and documentation, and performs personnel and timekeeping functions.

**The Innovative Development Group** is responsible for implementing browser-based application development technology, which will allow TDI to gradually move all of its network-based applications to the Web.

**The Applications and Production Group** is composed of three subgroups: **The Networking and Web Support Subgroup** is responsible for the day-to-day monitoring and maintenance of the agency's major computing platforms. They ensure the agency's infrastructure and networked computer systems, including Local Area Networks (LAN), Wide Area Networks (WAN), and server-based software, such as e-mail, are fully operational. Network staff provide file/data backups and recovery, as well as continuous capacity planning. Protecting the agency against intrusion attempts and viruses on the agency's networks, Web server, and e-mail is a high priority therefore all protection software is monitored and updated, if necessary, on a daily basis. Statistical reports are provided to document any intrusion attempts as well as any Web access issues and to provide Web-site blocking updates. Networking staff also verify that a current disaster recovery plan for TDI's infrastructure is in place and functional through a process of technical planning, periodic testing, and continuous monitoring of backup processes. In addition to these Network-related functions, a portion of the Network and Web Support group is responsible for the technical administration of TDI's Web site. **The Applications Subgroup** is responsible for the development of new applications, as prioritized by the Planning Work Group (PWG), as well as for enhancement and maintenance of existing applications. Finally, the **Data Management Team** is responsible for data and database administration.

**Human Resources** promotes agency goals by:

- developing, implementing, and interpreting personnel policies and procedures
- assisting customers with personnel and benefits needs
- providing staff development opportunities to assist employees and managers in obtaining professional development, ultimately increasing the overall effectiveness of the agency workforce, and
- staffing the agency switchboard.

Human Resources currently consists of three sections.

**The Management and Administration Section** of Human Resources is responsible for the day-to-day management of Human Resources operations and personnel. The management



team responds to the needs of not only the Human Resources division but also agency management and personnel. The team analyzes and researches human resource issues and develops HR division initiatives. The team actively engages in quality control and ongoing review and improvement of internal policies and procedures in order to more efficiently and effectively provide human resources services to the agency. In addition, the team ensures compliance with the Americans with Disabilities Act and coordinates the Employee Assistance Program and the State Employee Incentive Program.

**Personnel and Benefits** fulfills a wide range of human resource functions for the agency, including payroll, personnel, leave accounting, benefits, and reporting. These functions include managing and monitoring the following operations:

- the agency hiring process
- payroll records and information
- agency employment records
- personnel actions
- agency time records and leave programs
- insurance, disability, and retirement benefits and programs
- agency performance management system
- employee exit interviews, and
- the Human Resources Information System that maintains statistical employment information as required by state and federal law and agency policy.

**Professional Development and Information** provides staff development and organizational development services to the agency. Professional Development and Information provides the following:

- technical insurance training
- designing, coordinating, and conducting management and employee training, including New Employee Orientation
- tracking and maintaining employee training records, including those for on-line courses
- producing various statistical training reports
- coordinating the agency's Tuition Reimbursement Program, and
- coordinating the agency's Wellness Program.

This section also includes the agency switchboard staff who are responsible for the following functions:

- staffing the agency switchboard
- maintaining the key telephone and key word listings, and
- making reservations for Hobby Building conference rooms.

Human Resources conducted a customer service survey in June 2003. Seventy-five percent of the respondents rated Human Resources overall level of service as above average or excellent. The overall results of the survey indicate that Human Resources is providing needed services to employees.

**Business Planning and Redesign (BPR)** works with other agency planners and managers to facilitate agency planning by coordinating the business and strategic planning processes. The primary functions of Business Planning and Redesign are leading the business planning process, developing and managing projects, facilitating intra-agency communication, analyzing agency processes, recommending changes that are aimed at improving the agency, leading TDI's disaster recovery planning activities, and enhancing TDI's ability to respond to customer needs.

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

## Highlights

In Fiscal Year 2003, Administrative Operations:

### Administrative Services

- ▶ Developed and produced the agency's FY2004 Operating Budget.
- ▶ Coordinated projects and prepared documents in support of the agency's FY04/05 Legislative Appropriations Request and FY2003–2007 Strategic Plan as requested by the Legislative Budget Board and Governor's Office of Budget and Planning during the 78th Legislative Session.
- ▶ Coordinated 418 fiscal notes to the Legislative Budget Board during the 78th Legislative Session.
- ▶ Monitored and projected agency expenditures by strategy, object of expense and organizational unit.
- ▶ Maintained a travel cap tracking system that enabled the agency to operate in compliance with the General Appropriations Act.
- ▶ Assisted in preparation of the quarterly FTE State Employee Reports to the State Auditor's Office, pursuant to the General Appropriations Act.
- ▶ Monitored performance measures monthly to evaluate progress on strategic plan performance measures.
- ▶ Reported performance measures quarterly to the Legislative Budget Board.
- ▶ Prepared the FY2002 Annual Financial Report and the Binding Encumbrance and Accounts Payable Report.
- ▶ Developed maintenance tax rates, examination/overhead assessment and premium finance assessment.
- ▶ Processed 6,345 payment vouchers and 28,357 cash receipts.
- ▶ Assisted in developing a billing system for form filings.
- ▶ Assisted in the development, and implemented a process to account for and transfer Texas Online subscription fees.
- ▶ Participated in the Texas Building and Procurement Commission Post-Procurement and Payment Audit, in which TDI received a 99 percent compliancy rating.
- ▶ Posted procurement opportunities on the Electronic State Business Daily.
- ▶ Administered the agency Contract Management and Administration Process.
- ▶ Implemented the HUB Subcontracting Program in the agency's Special Deputy Receiver Program.
- ▶ Administered support to the Historically Underutilized Business (HUB) program and made good faith efforts to utilize HUBs in the agency's procurement process.
- ▶ Prepared and submitted the agency's FY2002 Recycle Report to the Texas Building and Procurement Commission (TBPC).
- ▶ Prepared and submitted semi-annual and annual reports to TBPC of all contracts established with vendors not residing in Texas.
- ▶ Tracked and reported all contracts requiring LBB contract notification.
- ▶ Tracked and reported all contracts requiring bid out and awarded to HUBs.
- ▶ Tracked and reported all contract workforce contracts through the Comptroller's USAS contract profile system.
- ▶ Processed approximately 1,700 purchase orders.
- ▶ Processed 1,141,381 pieces of agency mail.
- ▶ Microfilmed 577,312 documents and stored 1,586 cubic feet of records through the Texas State Library for record retention.
- ▶ Processed 2,057 work orders through the Texas Building and Procurement Commission.
- ▶ Coordinated six building improvement projects and modular furniture installations and renovations.
- ▶ In December 2002, TDI received the Gold Safety Award from the State Office of Risk Management. Four program areas were accident/injury free in FY2003. The monetary expenditures for workers compensation claims were reduced by 19 percent from the previous year.
- ▶ Developed and implemented an agency-wide conservation plan.

**Figure 53 Comparison of Maintenance Tax Rates  
FY1993–FY2003**

TYPE	MAX LEGAL RATE	FY93	FY94	FY95	FY96	FY97	FY98	FY99	FY00	FY01	FY02	FY03
Motor Vehicle	0.2	0.058	0.069	0.068	0.055	0.066	0.056	0.058	0.055	0.057	.060	.053
Fire	1.25	0.525	0.606	0.656	0.436	0.418	0.370	0.381	0.358	0.352	.401	.330
Workers' Compensation	0.6	0.200	0.386	0.120	0.093	0.096	0.085	0.072	0.055	0.060	.069	.051
Casualty	0.4	0.210	0.295	0.319	0.209	0.251	0.197	0.232	0.200	0.186	.210	.180
Title	1.0	0.132	0.187	0.171	0.110	0.135	0.174	0.123	0.144	0.086	.111	.073
Life, Accident and Health	0.04	0.040	0.040	0.040	0.040	0.040	0.040	0.040	0.040	0.040	.040	.040
Third-Party Administrators	1.0	0.5	0.222	0.235	0.310	0.339	0.313	0.244	0.218	0.237	.330	.265
*HMO Multi-Service	\$2.00	\$0.78	\$1.23	\$1.27	\$0.68	\$0.80	\$1.21	\$1.08	\$1.08	\$1.11	1.10	\$1.32
*HMO Single Service		\$0.42	\$0.62	\$0.38	\$0.22	\$0.27	\$0.41	\$0.36	\$0.36	\$0.37	0.37	\$0.44
*HMO Limited Service							\$0.41	\$0.36	\$0.36	\$0.37	0.37	\$0.44
Prepaid Legal	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	0.030	0.020	0.30	.022

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

### Information Technology Services

- ▶ Supported technology planning at the state level by participating in DIR's Architecture Components for the Enterprise (ACE) initiative and at the national level by participating in the System for Electronic Rate and Form Filing (SERFF) Consortium as well as NAIC's Strategic Systems Planning Working Group. ITS was well-represented in the ACE initiative, with its Director having served on the Steering Committee, and technical staff members having been selected to serve on all nine subcommittees. For both national groups, ITS' Director demonstrated a strong leadership presence by serving as Chairman of the Board of Directors for the SERFF Consortium and Chair of the NAIC Working Group.
- ▶ Monitored project management to ensure the percentage of scheduled projects completed on time and within budget remained consistently high (88 percent in FY2003).
- ▶ Implemented a cross-sectional matrix of teams to further strengthen ITS project coordination, strategic planning, and communication.
- ▶ Supported agency staff by responding to over 13,000 Help Desk calls.
- ▶ Updated the agency Technology Infrastructure Roadmap for Fiscal Years 2003 through 2007 to guide TDI's future technology decisions.
- ▶ Monitored technology-related bills during the 78th Legislative Session and provided assessments of their possible impact on the agency.
- ▶ Compiled, organized, and stored electronic technology product documentation in a central location, and registered each product in an agency software database.
- ▶ Helped enhance the agency's seventh year of Internet presence by:
  - Promoting use of TDI's Web site. Monthly "hits" increased to more than one million per month by August 2003, up nearly 150,000 from August 2002.
  - Working with agency programs to add pertinent and timely information to the Web site, including proposed rules, interactive company profile information, interactive consumer complaint forms, a variety of pamphlets and publications, rate guides, lists of agents, listings of companies and insurance/agency forms.
- ▶ Helped encourage state business on the Web, including:
  - Continuing participation as one of eight original state agencies on the TexasOnline web site by offering insurance agents the ability to renew licenses online, including paying their renewal fees, and 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.
  - Continuing to allow customers to renew agency publication subscriptions over the Internet, including payment of subscription renewal fees.
- ▶ Improved the agency's infrastructure and electronic communications by:
  - Replacing TDI's core backbone infrastructure including replacing switches, reconfiguring all hubs and routers, and upgrading to Gigabit network cards.

- Upgrading all workstations to the latest release of the Oracle database client.
- Shifting emphasis to the utilization of web development tools to accelerate and standardize the implementation of web-enabled applications.
- Completing procedures and guidelines for standardizing application and product documentation.
- Deploying over 300 personal computers as part of TDI's obsolescence plan.
- Determining the feasibility of converting to a managed print environment using multifunctional devices to replace current obsolete network printers and copiers.
- Researching, testing, and installing a new operating system (Microsoft Windows XP) for the new personal computers and a new office software suite (Microsoft Office XP) for desktops as a part of TDI's obsolescence plan.
- ▶ Continued agency-wide and ITS specific disaster recovery and contingency planning by:
  - Conducting an Information Technology Services disaster recovery exercise at the agency's disaster recovery site.
  - Reformatting and updating the division's disaster recovery plan to reflect procedural and personnel changes.
  - Utilizing older servers and other available information technology equipment at the disaster recovery site to eliminate the need for TDI to obtain outside disaster recovery services.
- ▶ Refined information security at TDI by:
  - Strengthening the security requirements for passwords.
  - Implementing a security sweep process by which spot checks are made throughout the agency to ensure good security practices are being followed.
  - Scheduling a scan and penetration test of the TDI network by the Security Office of the Department of Information Resources.
- ▶ Completed business unit Information Technology initiatives, including:
  - Creating a secure web application for collecting suspected insurance fraud information as reported by consumers and special investigative units.
  - Creating a database to track and post Volunteer Inspection Program (VIP) inspectors and to generate certificates, licenses, and renewal letters.
  - Creating an interface to allow Consumer Protection staff to query data from the Agent's License COSMOS application.
  - Developing an on-line application to allow subscribers to access the Texas Insurance News (TIN) from TDI's website.
  - Replacing Folio SiteDirector with LivePublish to manage the Intranet's information database.
  - Developing a method to allow the COSMOS system to print professional documents for the Agent's License program, such as Licenses, Appointment Letters, and Clearance Letters.
  - Developing an interface to allow Life/Health staff to access data maintained in the Property and Casualty Rate/Form Tracking System.
  - Enhancing the Open Records Tracking System to assist customers in navigating, entering, querying, and reporting Open Records Requests.

#### **Human Resources**

- ▶ Met with program areas to provide workforce planning information, including retirement data, and to discuss incorporating workforce needs into program area business plans.
- ▶ Continued to improve communication of Human Resources information by making more information available to agency employees through the Intranet, and 50-minute training sessions for managers.
- ▶ Continued participation in the Texas State Human Resource Association (TSHRA), State Agency Coordinating Committee (SACC), the SACC HR Subcommittee and the SACC Training and Development Subcommittee.

- ▶ Delivered legislatively mandated sexual harassment and discrimination training, and achieved 100 percent compliance with mandate.
- ▶ Began development of in-house leave accounting system. Anticipated completion is January 2004.
- ▶ Held recognition ceremony to present awards for state service and State Employee Incentive and Productivity participation.
- ▶ Developed and delivered comprehensive end of fiscal year annual reports to program areas. Information on vacancies, time to fill positions, turnover rates and projections on human resource related issues were provided to and discussed with program heads.
- ▶ Processed 364 personnel actions for the agency, including merit raises, promotions, transfers and separations of employment.
- ▶ Participated in the State Employee Charitable Campaign and achieved a 32 percent participation rate from TDI employees.
- ▶ Delivered 21 Wellness Program events through a new year-round wellness program initiative.
- ▶ Delivered 454 hours of training, including segments on new employee orientation, Spanish, communication, customer service, defensive driving and management training.
- ▶ Continued delivery of management training in two tracks—one for new managers/team leaders and the other for tenured managers based on results of 2001 Training Needs Assessment.
- ▶ Delivered 320.5 hours of insurance training, including in-house Chartered Property Casualty Underwriter (CPCU), insurance regulation, and a new Introduction to Life and Health Insurance course.
- ▶ Developed and Administered Agency-Wide Customer Service Assessment.
- ▶ Reviewed Hobby Building for Compliance with the Americans with Disabilities Act.
- ▶ Implemented agency-wide reduction in force to meet budget reductions required of the agency.
- ▶ Reviewed and revised agency's Catastrophic Management Plan.

#### **Business Planning and Redesign**

- ▶ Assisted programs with implementing FY2002–2003 business plan projects and initiatives.
- ▶ Directed the agency's FY2004–2005 business planning process.
- ▶ Coordinated Planning Work Group meetings that provide an agency-wide forum for discussing and prioritizing projects requiring Administrative Operations support.
- ▶ Served as the Customer Relations Representative and helped customers seeking information or assistance from TDI.
- ▶ Served as the liaison for external customers seeking information or assistance from TDI about TDI forms.
- ▶ Worked with the Public Information Office to redesign TDI's Web site to make it easier for customers to locate information about TDI.
- ▶ Assisted HR in compiling program workforce planning needs, by incorporating into TDI's business planning process
- ▶ Worked with HR and Information Technology Services (ITS) to define the requirements for an online leave accounting system.
- ▶ Maintained the Agency-Wide Information Page on TDI's Intranet, providing access to and updates on agency projects and processes.
- ▶ Worked with ITS, Administrative Services (AS) and program areas to test and update disaster recovery/business continuity plans for each work group and the agency as a whole.
- ▶ Prepared a report recommending improvement to the operations of TDI's Windstorm Program.
- ▶ Assisted programs by communicating with the Foundation for Insurance Regulatory Studies in Texas regarding grants that benefit TDI.

- ▶ Worked with HR to successfully administer the State Employee Incentive Program, with HR responsible for overall program administration and BPR responsible for evaluating the suggestions and preparing implementation plans for approved suggestions.
- ▶ Assisted programs in evaluating the need, costs and benefits of projects requiring Administrative Operations support.
- ▶ Continued to lead a multi-phased project aimed at improving the way TDI creates, uses, revises, processes and stores agency records and forms.
- ▶ Recommended policies regarding the regulation and use of electronic records.

The Business Planning and Redesign division continued to evaluate employee suggestions for agency improvements and develop implementation plans for approved suggestions. The division worked closely with the programs, individually and through the Planning Work Group, to monitor progress on current business plans and business plan projects, and to coordinate agency-wide projects. Business Planning and Redesign staff also supported the programs by refining and communicating the process for developing project proposals for approval and by providing advice and consultation on specific project proposals. Additionally, the Business Planning and Redesign director serves as the Commissioner's designated Customer Relations Representative, TDI's Forms Manager, and the agency contact for grant proposals submitted to the Foundation for Regulatory Studies in Texas. The division also responds to customers seeking information or assistance from TDI.

#### **Employee Ombudsman and Ethics Advisor**

- ▶ Assisted TDI employees in resolving a variety of workplace issues and conflicts through counseling, coaching, mediation and facilitation.
- ▶ Provided management skills assistance to specific divisions and departments.
- ▶ Represented TDI as a speaker and presenter at conferences, workshops and seminars that addressed various workplace issues, including sexual harassment, discrimination training, and conflict management training.

This page is intentionally blank.