

## CHAPTER 161

## S.B. No. 1156

An Act relating to the location, maintenance, and examination of books, records, accounts, and principal offices outside the state by certain domestic insurance companies and to expenses and fees for examination; amending the Insurance Code, as amended, by amending Articles 1.16, 4.10, and 4.11 and by adding Article 1.28.

*Be it enacted by the Legislature of the State of Texas:*

**SECTION 1.** Chapter 1, Insurance Code, as amended, is amended by adding Article 1.28 to read as follows:

**“Article 1.28. OUT-OF-STATE BOOKS, RECORDS, ACCOUNTS, AND OFFICES**

**“Section 1. (a)** *On giving written notice of intent to the commissioner of insurance, and if the commissioner of insurance does not disapprove within 30 days after that notice is given, a domestic insurance company, including a life, health, and accident insurance company, fire and marine insurance company, surety and trust company, general casualty company, title insurance company, fraternal benefit society, mutual life insurance company, local mutual aid association, statewide mutual assessment company, mutual insurance company other than life, farm mutual insurance company, county mutual insurance company, Lloyds plan, reciprocal exchange, group hospital service corporation, health maintenance organization, stipulated premium insurance company, nonprofit legal services corporation, or any other entity licensed under the Insurance Code or chartered or organized under the laws of this state that is an affiliated member of an insurance holding company system, as defined by Article 21.49, Insurance Code, as added by Chapter 356, Acts of the 62nd Legislature, Regular Session, 1971 (Article 21.49-1, Vernon’s Texas Insurance Code), may locate and maintain all or any portion of its books, records, and accounts and its principal offices outside this state at a location within the United States if the company meets the requirements of this section.*

**“(b)** *The domestic insurance company must be:*

**“(1)** *an affiliate of an insurance holding company system as defined in Article 21.49, Insurance Code, as added by Chapter 356, Acts of the 62nd Legislature, Regular Session, 1971 (Article 21.49-1, Vernon’s Texas Insurance Code), that has made the necessary filings as required by that article and that is in compliance with that article; or*

**“(2)** *a nonprofit legal services corporation whose claims and daily affairs are handled under contract by a foreign insurer licensed to do a similar business in this state.*

**“(c)** *The controlling person of the insurance holding company system must be legally domiciled in a jurisdiction within the United States.*

**“(d)** *The books, records, accounts, or offices of the domestic insurance company are under the company’s direct supervision, management, and control.*

**“(e)** *Both the domestic insurance company and the controlling person of the affiliated insurance holding company system must have duly appointed the commissioner of insurance as their attorney for service for all judicial and administrative processes.*

**“Section 2.** *The amount of the examination expenses incurred by representatives of the State Board of Insurance that is directly attributable to an examination of the books, records, accounts, and principal offices of a domestic insurance company located outside this state as provided by this article is not allowed as a credit on or offset to the amount of premium taxes to be paid by the domestic insurance company to the state, and this article prevails over any conflicting provisions in Articles 1.16, 4.10, and 4.11 of this code or any other law of this state.”*

**SECTION 2.** Article 1.16, Insurance Code, as amended, is amended to read as follows:

“Article 1.16. **EXPENSES OF EXAMINATIONS; DISPOSITION OF SUMS COLLECTED.** The expenses of all examinations of domestic insurance companies made on behalf of the State of Texas by the State Board of Insurance or under its authority shall be paid by the corporations examined in such amount as the Commissioner of Insurance shall certify to be just and reasonable.

“Assessments for the expenses of such domestic examination which shall be sufficient to meet all the expenses and disbursements necessary to comply with the provisions of the laws of Texas relating to the examination of insurance companies and to comply with the provisions of this Article and Articles 1.17 and 1.18 of this Code, shall be made by the State Board of Insurance upon the corporations or associations to be examined taking into consideration annual premium receipts, and/or admitted assets and/or insurance in force; provided such assessments shall be made and collected as follows: (1) expenses attributable directly to a specific examination including employees' salaries and expenses *and expenses provided by Article 1.28 of this Code* shall be collected at the time of examination; (2) assessments calculated annually for each corporation or association which take into consideration annual premium receipts and/or admitted assets and/or insurance in force shall be assessed annually for each such corporation or association. Provided further that the amount of all such assessments paid in each taxable year to or for the use of the State of Texas by any insurance corporation or association hereby affected shall be allowed as a credit on the amount of premium taxes to be paid by any such insurance corporation or association for such taxable year *except as provided by Article 1.28 of this Code.*

“*Examiners and other personnel employed by the State Board of Insurance when traveling on official state business related to the examination of insurance companies outside this state shall be reimbursed for the actual cost of transportation, lodging, meals, subsistence expenses, and parking fees or shall be paid a per diem rate established by the State Board of Insurance based on local economic conditions. The State Board of Insurance shall establish guidelines and procedures for the efficient and effective administration of these travel payment procedures and shall periodically revise and update these guidelines and procedures including the maximum actual or per diem allowance.*

“All sums collected by the State Board of Insurance provided in this Article shall be deposited in the State Treasury to the credit of the State Board of Insurance operating fund; and the salaries and expenses of the actuaries and examiners, and all other expenses relating to such examinations, shall be paid upon the certificate of the State Board of Insurance by warrant of the Comptroller of Public Accounts drawn upon such fund.

“If at any time it shall appear that additional pro rata assessments are necessary to cover all of the expenses and disbursements required by law and necessary to comply with this Article and Articles 1.17 and 1.18 of this Code, the same shall be made, and any surplus arising from any and all such assessments, over and above such expenses and disbursements, shall be applied in reduction of subsequent assessments.

“In case of an examination of a company not organized under the laws of Texas, whether such examination is made by the Texas authorities alone, or jointly with the insurance supervisory authorities of another state or states, the expenses of such examination due to Texas' participation therein shall be borne by the company under examination. Payment of such cost shall be made by the company upon presentation of itemized written statement by the Commissioner of Insurance and shall consist of the examiners' remuneration and expenses, and the other expenses of the State Board of Insurance properly allocable to the examination. Payment shall be made directly to the State Board of Insurance, and all money collected by assessment on foreign companies for the cost of examination shall be deposited in the State Treasury by the State Board of Insurance to the credit of the State Board of Insurance operating fund and shall be spent as provided by the General Appropriations Act only on warrants issued by the Comptroller of Public Accounts pursuant to duly certified requisitions of the State Board of Insurance.”

**SECTION 3.** Section 13, Article 4.10, Insurance Code, is amended to read as follows:

“Section 13. The amount of all examination and evaluation fees paid in each taxable year to or for the use of the State of Texas by an insurance carrier shall be allowed as a credit on the amount of premium taxes due under this article *except as provided by Article 1.28 of this code.* Any credit allowed by the provisions of this section is in addition to any other credits allowable by statute.”

**SECTION 4.** Section 8, Article 4.11, Insurance Code, is amended to read as follows:

“Section 8. The amount of all examination and valuation fees paid during each tax year to or for the use of the State of Texas by an insurance carrier shall be allowed as a credit on the amount of premium taxes due under this article *except as provided by Article 1.28 of this code.* Any credit allowed by the provisions of this section is in addition to any other credits allowable by statute.”

**SECTION 5.** *The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.*

Passed the Senate on April 10, 1985, by the following vote: Yeas 28, Nays 0; passed the House on May 9, 1985, by the following vote: Yeas 139, Nays 0, one present not voting.

Filed: May 24, 1985

Effective: Immediately