

Part I

Report of Program Activities

This section of the Texas Department of Insurance's *122nd Annual Report* gives a brief summary of major activity of agency programs and divisions during Fiscal Year 1997. This report reflects the agency structure as it existed on August 31, 1997.

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Preface

The Texas Department of Insurance's primary initiatives during Fiscal Year 1997 sought to increase the availability of essential residential property and private passenger automobile insurance products. In addition, TDI sought to assure that enrollees in health maintenance organizations receive high quality care when they need medical treatment. Besides pursuing these initiatives, the Department endeavored to strengthen its ability to combat insurance fraud, protect and inform consumers and regulate the insurance industry fairly, firmly and efficiently.

The purpose of this Preface is to lend perspective to the Annual Report for FY 97 by describing TDI initiatives, examining market conditions and briefly outlining the overall financial condition of the insurance industry.

Availability

The availability of private passenger automobile insurance and residential property insurance, particularly at rates deemed affordable by consumers, has been a continuing issue in Texas. Concerns expressed by consumers and members of the Legislature led the Commissioner in April 1997 to establish a high-level TDI Task Force on Availability and Affordability¹ to continuously assess the marketplace and advise him on ways to address problems identified by the task force and others, both inside and outside the agency.

The paragraphs that follow describe residential property and private passenger automobile availability issues that arose during the fiscal year and actions taken by TDI to improve insurance availability in Texas.

Residential Property Insurance. Anecdotal evidence suggesting a shortage of residential property insurance in some inner-city and rural communities led the 74th Legislature to direct TDI to establish a Market Assistance Program (MAP) that would bring insurable homes to the attention of licensed insurers voluntarily participating in the program.

In September 1996, the Commissioner adopted rules identifying 427 ZIP Codes as "underserved areas" eligible for the MAP. These areas include North Texas locales where a series of hail storms during the 1990s -- particularly the \$1.1 billion storms in May 1995 -- discouraged many insurers from writing new residential property business. TDI implemented the MAP in October 1996 and also established the Voluntary Inspection Program (VIP) and Property Protection Program (PPP)² mandated by the Legislature as adjuncts to its availability initiative.

The primary statistical information relating to residential property insurance availability consists of data from the Texas Catastrophe Property Insurance Association (renamed the Texas Windstorm Insurance Association, effective September 1, 1997), the Surplus Lines Stamping Office of Texas on personal lines policies written in the surplus lines market and the MAP. Each operates as a safety valve of sorts, providing coverage for those who cannot obtain it in normal insurance markets.

The state's residual market for coastal wind and hail risks, the Texas Catastrophe Property Insurance Association ("Catpool"), grew by 4,000 policies in Calendar Year 1996. The Catpool's rate of growth, however, has steadily declined from 15.5 percent in 1992 to 5.8 percent in 1996 (Figure I).

Figure I

**Texas Catastrophe Property Insurance Association
Policies Written and End-of-Year Risks in Force, CY 1990-1996**

Year	Policies Written	Risks in Force
1990	43,051	56,155
1991	44,980	54,145
1992	51,663	55,471
1993	57,144	64,804
1994	63,348	68,681
1995	68,903	89,660
1996	72,977	100,527
1997 (thru 6/30)	36,889	49,349

Source: Texas Catastrophe Property Insurance Association

Because the surplus lines market serves commercial and professional risks almost exclusively, increases in its personal lines writings sometimes are viewed as a symptom of availability problems. In Fiscal 1997, surplus lines premium volume for homeowners insurance shot up by more than one-third, as shown in Figure II.

FIGURE II

**Personal Lines Premium Volume as a Component of
Texas Surplus Lines Market, FY 1990-1997 (\$ millions)**

Fiscal Year	1991	1992	1993	1994	1995	1996	1997
All Lines	807.8	1,027.9	1,272.6	1,094.3	1,125.4	1,092.9	1,086.7
Personal Auto (Physical Damage)	14.4	38.7	46.8	14.6	9.6	1.1	0.88
Homeowners	4.0	14.0	22.8	22.4	22.1	27.0	36.4

Source: Surplus Lines Stamping Office of Texas

It should be noted, however, that total surplus lines premiums for homeowners insurance amounted to less than 1.5 percent of the \$2.4 billion in annual premium written by admitted companies for this line of insurance.

The Residential Property Insurance Market Assistance Program went through two stages in FY 97 as TDI sought the best approach for making it accessible for consumers and placing their applications

promptly before the 20 participating insurance companies and groups. When the MAP officially began operation in October 1996, consumers started the process by filing an application with “originating agents” who verified eligibility,³ obtained the property owners’ signatures and mailed the completed applications to TDI’s MAP Section. TDI placed key information from each application on an electronic bulletin board for review by participating companies.

Concerned about low numbers of both applicants and offers of coverage (“quotes”), the Department on July 1, 1997, significantly changed the MAP’s process for taking applications and placing them before insurers. TDI opened a toll-free telephone line (1-888-799-MAPP), which the Department widely publicized through news releases, camera-ready consumer columns for newspapers, TDI booths at home shows and other outreach efforts.⁴ Callers speak directly to MAP Section employees who, after determining the property is in an underserved ZIP Code, obtain necessary information, partially complete a consumer’s application, find an originating agent⁵ willing to work with the consumer and mail the form to the agent for completion. When the agent returns the signed, completed application, the MAP Section faxes it to all participating companies and groups. The toll-free line received almost 1,200 calls in the first two months after it was activated.

Although still lower than expected, consumer participation in the MAP and insurance company offers of coverage increased after the second stage began on July 1, 1997, as shown in Figure III. At the end of the fiscal year, TDI staff was working to identify the reasons for the wide discrepancy between quotes and policies issued.

Figure III

MAP Activity, FY 1997

	Stage I	Stage I	Stage II	Stage II	Total
	(10/15/96-6/30/97)	Monthly Average	(7/1/97-8/31/97)	Monthly Average	Both Stages
Eligible Applications	82	9.1	33	16.5	115
Coverage Offers (“Quotes”)	24	2.8	24	12	48
Policies Issued	3	0.35	3	1.5	6

Almost 80 percent of the eligible applications (90 of 115) came from Tarrant County, where the 1995 hail storms caused some insurance companies to be less receptive than in the past to new business. Another 18 of the 115 eligible applications were from Dallas County, where the 1995 hail storm also affected availability. Of the remaining seven eligible applications, two came from Nueces County and one each came from Aransas, Bexar, Galveston, Lubbock and Harris counties.

All five houses whose owners bought coverage through the MAP in Fiscal Year 1995 were in Tarrant County. Their insured values averaged \$66,400, and the annual premiums of their MAP policies averaged \$695.

The 74th Legislature’s availability initiative also authorized TDI to start a Voluntary Inspection Program (VIP) that would arm consumers with evidence of insurability when seeking homeowners and other residential property coverages. Rules implementing the VIP took effect October 30, 1996.

They provide for issuance of a “certificate of insurability” when a home passes a TDI-prescribed inspection conducted by a person authorized by TDI to perform such inspections. As of the close of the fiscal year, TDI had issued 70 certificates or licenses to VIP inspectors. A VIP certificate creates a presumption that a home is insurable. An insurer may not then use property condition as grounds for refusing to issue or renew a residential property insurance policy unless the insurer reinspects the property and specifies in its declination letter the deficiencies that make the property uninsurable.

The Commissioner acted to improve home insurance availability in older communities and low-income areas by adopting a rule effective September 1, 1997, that prohibits denial of residential property insurance based on the age or a minimum value of the building insured.

Three other FY 97 actions that present a long-range possibility of improving the residential property insurance market in Texas were:

- The 75th Legislature’s enactment of SB 1499, which authorizes the Commissioner to adopt for use in Texas the residential property insurance policy forms of national insurance organizations and large “national insurers.” This legislation addressed the long-standing complaint of agents and insurers that the exclusive use of standard, TDI-promulgated policy forms discouraged some out-of-state (“foreign”) companies from doing business in Texas.
- Replacement of Texas’ 80-year-old key rating system with the Insurance Services Office’s Fire Suppression Rating Schedule and Property Protection Class scoring system for recognizing differences in local fire protection as a component of property insurance rates. Texas was the only state not using the ISO system, another disincentive for writing homeowners insurance in Texas. Full implementation of this change for homeowners and other residential property coverages will take effect on February 1, 1998.
- Adoption of a new *Building Code for Windstorm Resistant Construction*, which will take effect on June 1, 1998. To qualify for coverage by the Texas Windstorm Insurance Association, new construction, additions and major repairs after that date must pass inspections carried out in accordance with the standards contained in the new code. House Bill 3383 of the 75th Legislature requires windstorm pool rate reductions for residential property built to the standards of the new code.

Private Passenger Automobile. As in Fiscal 1996, availability of auto insurance was inseparably linked with affordability issues. The following phenomena continued in Fiscal 1997:

- Declining applications to the Texas Automobile Insurance Plan Association (TAIPA)⁶, as shown in Figure IV. With rates for 1996 and 1997 set in compliance with state law at levels sufficient to pay claims and expenses, TAIPA no longer was a bargain for Texans who could not obtain insurance in the standard and preferred markets. (TAIPA rates throughout FY 97 were 92 percent above benchmark rates.) The mandatory take-out program for good drivers that began in December 1995 also contributed to the decline in TAIPA’s numbers..
- The rising market share of county mutuals, from 22 percent in 1995 to 27 percent in 1996⁷. County mutuals write at unregulated rates and traditionally have specialized in coverage for high-risk drivers at commensurate prices.

- The continuing failure of approximately 20 percent of Texas drivers to comply with Texas' financial responsibility law.

Figure IV

New Applications Processed by the Texas Automobile Insurance Plan, 1992-1997

Month	FY 1992	FY 1993	FY 1994	FY 1995	FY 1996	FY 1997
	(CY 91)	(CY 92)	(CY 93)	(CY 94)	(CY 95)	(CY96)
September	49,446	60,388	54,926	55,291	22,246	9,360
October	58,696	61,670	50,871	59,707	24,321	9,836
November	45,774	54,099	47,595	53,207	21,887	8,111
December	48,276	56,465	50,975	56,189	19,688	8,342
	(CY 92)	(CY 93)	(CY 94)	(CY 95)	(CY 96)	(CY 97)
January	51,752	54,819	49,585	48,615	22,949	9,318
February	52,634	68,668	58,388	50,804	15,582	10,080
March	62,360	78,319	79,703	64,241	25,531	10,648
April	63,057	76,124	59,989	61,473	29,444	9,894
May	56,959	63,347	61,393	52,704	26,283	8,806
June	59,825	68,062	67,374	47,369	22,648	8,332
July	53,300	53,747	51,519	21,980	21,901	7,712
August	52,857	55,712	63,691	25,731	14,757	7,082

Source: Texas Automobile Insurance Plan

On an annual basis, TAIPA applications in Calendar 1996 were fewer than half the total for 1995 and less than one-third of the 1992, 1993 and 1994 totals. This trend toward depopulation of TAIPA continued into the first nine months of 1997.

Figure V

Texas Automobile Insurance Plan Association (TAIPA) Applications, CY 1990-1996

Year	Applications
1990	168,135
1991	373,700
1992	685,366
1993	723,165
1994	716,036
1995	461,059
1996	214,744
1997 (thru Sept)	78,633

An ongoing issue was TAIPA drivers' low (29 percent) response rate to insurance companies' mandatory take-out offers despite the potentially large insurance premium savings that these offers represent. Late in the fiscal year, Commissioner Bomer suggested that TAIPA revise the plan to require insurers to automatically renew eligible⁸ TAIPA customers as voluntary business at standard or preferred rates. A customer could accept the new coverage simply by paying the first premium installment. The Commissioner's proposal was under study by TAIPA at the close of the fiscal year.

TDI issued a data call in September 1997 to obtain information indicating whether consumers who did not accept take-out offers were obtaining standard or preferred coverage elsewhere.

Data and reports from various sources indicating higher concentrations of TAIPA and county mutual auto policyholders in ZIP Codes with largely minority and/or low-income populations were a major concern of the Department in FY 97. Following the *Fort Worth Star-Telegram's* publication of an analysis showing such a concentration in seven inner-city ZIP Codes of Fort Worth, TDI set up a special toll-free telephone line for residents of those ZIP Codes to call to discuss their car insurance problems. TDI Consumer Protection specialists asked each caller a series of questions in an attempt to determine if unfair discrimination had occurred. Despite the issuance of two news releases and broad local publicity about the toll-free line, only 78 people from the targeted ZIP Codes called TDI. In view of the fact that 23,847 vehicles in the seven ZIP Codes were insured in either TAIPA or county mutuals, the response was too small to be statistically significant. Few callers said they had been denied coverage by standard or preferred companies; a higher percentage of callers complained about the rates they were charged by standard companies.⁹ Other data indicating that certain companies' market shares were lower in predominantly minority ZIP Codes than in mainly Anglo areas prompted the Department to initiate market conduct examinations of four companies. The examinations were ongoing at the close of the fiscal year.

One possible reason for the higher proportion of county mutual and TAIPA auto writings in inner-city neighborhoods is aggressive advertising by agents who can offer only those two higher-cost options. The advertising typically stresses the availability of one-month policies, low down payments and monthly payment plans that appeal to individuals who must live from paycheck to paycheck. Payment plans offered by these agents usually are with premium finance companies that may charge as much as 32.5 percent interest. To make coverage with standard and preferred companies more competitive and affordable, the Commissioner on August 28, 1997, revised the rule on auto insurance installment plans to reduce the maximum down payment and increase the minimum number of monthly installments. Major differences between the previous (1992) rule and the revised rule are summarized in Figure V.

Figure VI

Comparison of 1992 and 1997 Installment Plan Rules

Policy Period	1992 Rule Six-Month	New Rule (Effective 1/1/98) 12-Month	Six Months	12-Month
Maximum Down Payment	40%	25%	33-1/3%	16-2/3%
Minimum No. of Monthly Payments*	3	8	5	11

*Beginning with second month of coverage.

Health Care

Widening the availability of health care coverage, assuring fair treatment by managed care plans and maintaining high quality care by health maintenance organizations were priorities of both the Legislature and TDI during FY 97.

Health maintenance organizations continued their phenomenal Texas growth during the fiscal year. Enrollment in basic care HMOs increased from 2,396,825 on June 30, 1996, to 3,028,682 as of June 30, 1997, an increase of 26.4 percent.¹⁰ Figure VII traces the growth in HMO enrollment since 1981.

Figure VII

Texas HMO Enrollment Growth Calendar Year End 1981 - 1996

Year	Total HMO Membership*
1981	114,300
1982	170,100
1983	272,446
1984	392,800
1985	564,430
1986	780,598
1987	1,043,823
1988	1,300,000
1989	1,626,099

Year	Basic Service HMO Membership**	Single Service HMO Membership**
1990	1,320,707	542,315
1991	1,423,933	626,027
1992	1,485,764	857,515
1993	1,612,327	960,352
1994	1,806,109	1,131,716
1995	2,188,330	1,294,079
1996	2,717,778	2,218,659

* Note: From 1986 through 1989, the “approximate” membership count included both “Basic Service” HMO and “Single Service” HMOs. There were no “Single Service” HMOs before 1986. Taken from 1990 Annual Report, State Board of Insurance.

** Note: Membership numbers were compiled from annual statements filed by the HMOs. They include only HMO members. They do not include members of self-funded plans for which the HMOs had administrative services only (ASO) contracts. There may be duplication between basic service and single service enrollment.

The managed care market place in FY 97 was characterized by intense competition. The number of HMOs competing for employers’ health care dollars continued to grow although at a slower pace than in FY 96. At the close of the fiscal year, Texas had 70 licensed HMOs (both basic and single service), almost double the number on the books only two years earlier. Also showing significant, though slower, growth were Medicare HMOs, whose enrollment increased from 196,392 on June

30, 1996, to 244,622 one year later.¹¹ Figure VIII shows the growth in the number of Texas-licensed HMOs (basic and single service combined).

Figure VIII

**Texas Licensed HMOs
FY 1976 - 1997**

Year	No.	Year	No.
1976	1	1987	32
1977	3	1988	34
1978	4	1989	37
1979	7	1990	34
1980	9	1991	32
1981	8	1992	32
1982	11	1993	32
1983	12	1994	33
1984	12	1995	36
1986	24	1997	70

TDI accepted a major new responsibility at the beginning of FY 97 by contracting with the Texas Department of Health to investigate complaints, conduct examinations and, where necessary, initiate enforcement actions having to do with the availability, accessibility and quality of health care provided through HMOs.

The HMO Division investigated 1,377 complaints during the fiscal year. About half dealt with quality of care issues, including access to care, utilization review and refusal to pay for treatment. TDI reviews each complaint. Most are resolved through negotiations with the HMOs. When necessary, TDI conducts on-site examinations to determine whether an HMO is fully complying with Texas quality standards. Violations may lead to enforcement actions. One such action led to a consent order in which an HMO agreed to a \$1 million fine and corrective actions in response to findings by TDI quality examiners. Through both increased legislative funding and the reallocation of positions within the agency, TDI entered FY 98 with authorization for 10 quality-of-care examiners. Five positions are in the Financial Program’s Examinations Division; the nurse examiners filling these positions will conduct triennial quality examinations in tandem with financial and market conduct examinations. The other five nurse examiners are in the HMO Unit, where they will perform the quality-of-care portions of qualifying exams for new HMOs and quality-of-care reviews for approval of service area expansions. All 10 are available for targeted examinations based on excessive or particularly severe patient complaints.

Senate Bill 385 of the 75th Legislature permanently transferred quality of care responsibilities from TDH to TDI, ending more than 25 years of bifurcated HMO regulation. This bill also codified patient protection rules issued by the Commissioner in 1995 and 1996, added an explicit statutory prohibition against “gag rules” in HMO provider contracts and required the Office of Public Insurance Counsel to prepare reports comparing the benefits and services of HMOs operating in Texas.

The 75th Legislature was the most productive in Texas history in terms of new laws designed to improve the availability of health care, curb potential abuses and assure quality of care. Its output included legislation to implement provisions of the federal Health Insurance Portability and Accountability Act of 1996 ("Kassebaum-Kennedy Act"). At the close of the fiscal year, TDI was in the process of implementing 34 managed care and health insurance bills passed in the regular session of 1997. These included measures that:

- Activate the Texas Health Insurance Risk Pool for people unable to obtain individual health coverage because of pre-existing medical conditions.
- Create the Texas Healthy Kids Corporation as a mechanism for parents to buy health insurance only for their children.
- Strengthen capital and surplus requirements for HMOs.
- Provide independent review of decisions by HMOs and insurance companies not to pay for medical treatment and allow medical malpractice suits against health plans when negligent decisions by the plans harm patients.
- Prohibit the use of genetic information in underwriting and rating group health benefit plans.
- Make businesses with as few as two employees (including the owner or owners) eligible for small employer health plans.

Insurance Fraud

Deterring and reducing insurance claim fraud that has risen to an estimated \$120 billion a year in the United States requires tremendous cooperation among all concerned, from insurance company adjusters who often are the first to identify possibly fraudulent claims to state and federal district attorneys who prosecute the offenders. TDI's Insurance Fraud Unit took a leading role in FY 97 in strengthening the teamwork that is essential for detecting and convicting all types of insurance fraud practitioners, including those who drive up rates by filing claims for non-existent or faked accidents and inflated medical and hospital bills.

The extent of claim fraud in Texas is suggested by the large number of investigations in progress at the close of FY 97. The Fraud Unit had 39 ongoing health care fraud investigations and 114 open property and casualty fraud investigations.

Strong new working relationships were established between the Fraud Unit, the Travis County District Attorney, as well as district attorneys in several other areas of Texas. In addition to continuing productive ties with district attorneys in most larger urban areas, the Fraud Unit conducted joint investigations and prosecutions during FY 97 with 10 new district attorneys.

Of particular importance were the first two cases in which district attorneys accepted TDI's offer of special prosecutors from the Fraud Unit. In one case, a Yoakum County jury assessed Richard Sommers Moreland Jr., a former Dallas insurance agent, 10 years in prison for defrauding an elderly widow of \$92,000. In the other, a jury trial at Bryan ended when Joyce Marie Martin accepted a plea agreement calling for two concurrent five-year prison sentences for filing fake auto insurance and disability insurance claims supported by documentation from a fictitious doctor.

A multi-pronged assault on claim fraud of all types was signaled when the former State Health Care Fraud Task Force broadened its scope to include property and casualty claims and changed its name to Health Care and Claimant Fraud Working Group. Members of the group represent insurance company special investigative units, state and federal agencies and the Fraud Unit. TDI initiated the group to improve information sharing about fraudulent claim activity, provide participants with training opportunities and improve the quality of referrals for criminal prosecution.

During FY 97, the Fraud Unit identified new trends in organized property and casualty claim fraud activity. For example, staged automobile accident rings increasingly use false identities of innocent individuals and vehicles salvaged in other states and transferred to Texas. Both developments make tracking suspected individuals and vehicles more difficult than in the past.

In addition to claim fraud investigations, the Fraud Unit also concluded a number of major unauthorized insurance cases. Several major rental car companies that had marketed automobile excess liability policies without the appropriate insurance licenses agreed to consent orders obligating them to premium refunds totaling approximately \$13 million. In another unauthorized insurance case, an investigation by the Fraud Unit led to a cease-and-desist order against an unlicensed California operation, U. S. Fire & Casualty Company Inc., that was selling illegal auto liability policies to Mexican drivers for trips into Texas. At least one Texan had an unpaid claim following an accident with one of these drivers. In another case, an unlicensed medical malpractice insurance operation, Professional Liability Insurance Co. Ltd. and two individuals in Atlanta, Georgia, failed to abide by a cease-and-desist order, which resulted in fines totaling \$235,000. The order imposing the fine was on appeal at the close of the fiscal year.

A strength of the Fraud Unit is its status as a law enforcement agency, which gives it access to computer databases that are restricted to commissioned peace officers. In FY 97, the Fraud Unit received on-line access to the Harris and Dallas County district clerk's office. Information accessible through this means includes arrest, bond, prosecution and disposition information on suspects, defendants and cases referred in those counties.

More information on Fraud Unit activities, including statistics on cases and criminal prosecutions, is contained in the body of this Annual Report.

Rates

Personal Lines

The Commissioner of Insurance is responsible by law for setting benchmark rates for automobile insurance and for residential property insurance sold by companies subject to rate regulation.¹² Texas' system allows insurers to set their own rates for these lines of insurance without prior approval so long as the rates fall within a flexibility band of 30 percent above and 30 percent below the benchmarks established by the Commissioner. Insurers have 30 days from the effective date of new benchmark rates to file their rates. Companies must, however, obtain prior approval before using rates that fall outside the flexibility band.

Flex-rated companies' rate filings are routinely reviewed by TDI property and casualty actuaries to verify that they are mathematically supported and meet Texas standards for reasonableness. TDI actuaries challenged rates filed by a major insurance group as a result of such a review. The group, TDI and the Office of Public Insurance Counsel settled this case on August 29, 1997, with a consent order obligating the group to refund excess premiums totaling \$42.7 million.

In addition, the Commissioner promulgates rates for the Texas Automobile Insurance Plan Association and, as part of the benchmark process, for wind and hail coverage for residences covered by the Texas Catastrophe Property Insurance Association (“Catpool”), now known as the Texas Windstorm Insurance Association (“Windpool”).

During FY 97, the Commissioner approved residential property insurance benchmark rate increases averaging 11.8 percent, statewide, effective February 1, 1998. The increase was the first since the State Board of Insurance raised rates 15.2 percent in 1991, and resulted largely from adding 1995’s catastrophic hail losses into the benchmark rate base for the first time. Benchmark rate increases varied among the 23 rating territories and were highest in areas hardest hit by the hail storms. The Commissioner capped territory increases at 25 percent. By sub-line, benchmark rates were increased an average of 14.2 percent for homeowners but were reduced 7 percent for renters insurance, 5.6 percent for dwelling fire and 5.5 percent for extended coverage.¹³

The Commissioner also made February 1, 1998, the effective date for the transition from key rating to the ISO Public Protection Class scores for recognizing differences in local fire suppression capabilities in residential property rates. Changes in local homeowner and fire insurance benchmark rates attributable to the change were capped at 10 percent.

Meanwhile, homeowners received additional opportunities to cut their own premiums when the Commissioner adopted rules providing the following new discounts:

- Mandatory 8 to 12 percent for homes equipped with state-approved sprinkler systems.
- Optional 5 percent for permanently marking personal property as a deterrent to burglars.
- Optional 10 percent for installing approved dry hydrants in rural or unprotected areas.

Private passenger automobile insurance benchmark rates were not changed during the fiscal year. For various reasons, the State Office of Administrative Hearings hearing on the merits did not begin until March 11, and the SOAH judges’ recommendations reached TDI late in the fiscal year.

Effective February 1, 1997, auto insurers were authorized to give optional discounts of 10 percent for youthful drivers who are full-time students with academic averages of at least “B” or 3.0 on a 4.0 scale.

Workers’ Compensation

Workers’ compensation reforms that took effect on January 1, 1991, dramatically improved insurers’ loss ratios from this line of coverage. Sharply rising losses before the reforms had led to both steep rate increases and a shortage of coverage. By contrast, the workers’ compensation market in Texas

today is characterized by much lower loss ratios, vigorous competition and reduced rates. Figure IX traces the decline in losses following enactment of the reforms.

Figure IX

Workers' Compensation Premiums and Losses CY 1984-1996

Year	Direct Premiums Earned	Direct Losses Incurred	Loss Ratio
1984	1,650,182,931	1,594,997,500	96.7
1985	1,687,856,021	1,917,302,860	113.6
1986	2,188,767,980	2,280,769,800	104.2
1987	2,422,313,700	2,536,416,940	104.7
1988	2,879,387,370	3,157,071,340	109.7
1989	3,415,483,990	3,597,452,080	102.4
1990	4,077,110,900	3,870,449,090	94.9
1991	4,482,722,270	3,566,693,250	79.6
1992	2,840,828,890	2,021,781,550	71.2
1993	2,035,422,990	1,288,450,390	63.3
1994	1,918,794,110	743,389,241	38.7
1995	1,723,022,760	1,055,689,540	61.3
1996	1,686,697,980	1,156,101,630	68.5

Rates also continued to drop. By the end of FY 97 filed rates averaged approximately 21 percent below 1991 levels. Figure X tracks the decline in average filed rates since the effective date of the reform legislation. Rates are expressed as percentages below those of 1991, the last year of standard -- or "benchmark" -- rates promulgated by the old State Board of Insurance.

FIGURE X

Texas Workers' Compensation Average Rate Level by Quarter, CY 1992 - 1997

Year	Quarter	Average Rate Level
1992	1	0.00%
1992	2	0.54%
1992	3	5.63%
1992	4	4.99%
1993	1	2.21%
1993	2	2.51%
1993	3	3.38%
1993	4	0.00%
1994	1	-3.76%
1994	2	-4.46%
1994	3	-8.05%
1994	4	-12.80%
1995	1	-13.53%
1995	2	-14.62%
1995	3	-13.79%
1995	4	-17.73%
1996	1	-15.25%
1996	2	-18.58%
1996	3	-19.03%
1996	4	-19.19%
1997	1	-20.80%
1997	2	-20.88%
1997	3	-21.17%
1997	4	-21.17%

The percentages shown in Figure X are based on filed rates. Actual rates in the marketplace are lower because of such considerations as experience rating and the use of schedule rating plans. A schedule rating plan provides for higher or lower rates based on such factors as safety devices, condition and care of workplace premises and employee selection, training and supervision.

Banks in Insurance

In 1996, the Commissioner issued interim guidelines to bring Texas into compliance with the U. S. Supreme Court's decision¹⁴ preempting all state laws that interfere with the power extended by the National Bank Act to national banks in places with 5,000 or fewer people to act as insurance agents. Under authority of those guidelines, TDI licensed 17 banks as agents in FY 97. House Bill 3391 of the 75th Legislature replaced the interim guidelines with new *Texas Insurance Code* provisions enabling small-city banks to obtain agent licenses. The new statutes allow banks licensed as agents to have additional insurance offices only in places with populations of 5,000 or less. It also

establishes certain consumer protections, including prohibitions against tying insurance sales to loan or credit transactions.

Shortly before the end of the fiscal year, a U. S. District Court in Austin issued a summary judgment ruling that provisions of the National Bank Act also preempt *Texas Insurance Code* provisions that prohibit national banks -- in places of any size population -- from selling annuities.¹⁵ The judgment is now final.

Solvency

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

Through analysis of financial statements, regular financial examinations, communication with other states' insurance departments and other means, TDI monitors insurance companies and health maintenance organizations to assure their financial soundness. The Department's responsibilities include early identification of troubled companies, followed by swift and effective rehabilitation where possible and removal from the marketplace through receivership and liquidation when rehabilitation is not possible. Rehabilitative measures may include merger with stronger companies. Effective solvency regulation protects consumers, preserves the integrity of the guaranty association system and minimizes the loss of state tax revenue that results from the failure of licensed companies.¹⁶

With the availability of excess capital markets and reinsurance capacity, FY 97 showed continuation of the long-term trend toward consolidations through acquisitions and mergers of companies. There were 26 insurance company acquisitions and consolidations totaling \$7.13 billion in FY 97, compared to 28 acquisitions and consolidations for \$6.32 billion in FY 96. Thirteen HMO acquisitions and consolidations totaling \$5.33 billion were subject to TDI approval, compared to seven in 1996. The number of domestic insurance companies declined from 530 to 517. By comparison, Texas had 764 domestics in FY 87. Overall, Texas closed the fiscal year with 2,053 licensed insurance companies, domestic and foreign, compared with 2,074 a year earlier.¹⁷

As indicated by Figure XI, the number of domestic insurance company insolvencies declined during the mid-1990s and stood at one each in FY 95 and FY 96 but rose to three in FY 97. Texas domestic companies placed in receivership in FY 97 were Insurance Corporation of America (ICA), a medical malpractice insurance writer; United Republic Insurance Co.(URIC), a reinsurer, and Texas Central Life Insurance Co. The Texas Property and Casualty Insurance Guaranty Association's estimated claims liability for the ICA insolvency is \$34 million. URIC presents no guaranty association liability because, by law, reinsurance business has no such protection. The Texas Central Life insolvency involves an estimated \$2.5 million claim liability for the Texas Life, Accident, Health and Hospital Service Insurance Guaranty Association. The Commissioner also declared three foreign companies (Coastal States Life Insurance Co., Lutheran Benevolent Insurance Exchange and Confederation Life Insurance Co.) "impaired," clearing the way for guaranty

association payment of Texans' claims against them. The three impairments of foreign companies compared with two in FY 96.

Figure XI

Texas Domestic Insurance Company Receiverships, FY 1983-1997

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

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

Factors contributing to the small number of domestic insurer insolvencies in recent years include general conditions in the economy, stronger statutory requirements, enhanced regulatory tools, including financial databases, and early intervention in the affairs of financially troubled companies. Over the past two years, these interventions by the Department's Conservation of Companies Activity resulted in 19 mergers, assumptions or dissolutions that averted the necessity of court-ordered receivership.

A potential source of financial problems for all businesses, including insurance companies, is the impending arrival of the Year 2000. Many computer programs, unless corrected, will register the date change as the Year 00. Such an event would adversely affect numerous company calculations and transactions. These disruptions and any resulting litigation could threaten the solvency of some companies. During FY 97, TDI undertook an initiative to assure that all insurers operating in Texas will be prepared for the Year 2000. This included a "Year 2000 Alert" letter from the Commissioner to all companies and the addition of Year 2000 questions to financial examinations.

Insurance regulators consider a number of ratios when analyzing the financial health of individual companies and the total industry. Among the most significant is the capitalization ratio, i.e., the ratio of surplus (net worth) to assets, which indicates the ability of companies to withstand unforeseen or developing losses. Figure XII indicates that Texas-licensed property and casualty companies, both

domestic and foreign, increased their aggregate surplus-to-assets ratio to 34.81 percent as of December 31, 1996. This continues the trend of steady growth during the past few years. The year-end 1996 ratio for life and health insurers, whose surplus requirements are generally less than those of property and casualty companies, rose slightly to 6.51 percent from year-end 1995.

Figure XII

**Capitalization Ratio (Surplus as a Percentage of Assets)
Insurers Licensed in Texas, CY 1990-1996**

	Property/Casualty	Life/Health
1990	27.71	6.06
1991	29.17	6.21
1992	28.14	6.17
1993	29.95	6.38
1994	29.86	6.57
1995	32.45	6.41
1996	34.81	6.51

Nationally, both the life/health and property/casualty segments of the insurance industry showed record net income in 1996.

A. M. Best Co. reported that life companies posted net income totaling \$18.36 billion, a 37.7 percent increase from the previous year. This increase was a major contributor to the life/health industry's second consecutive year of double-digit growth -- in this case, 11.1 percent -- in capital and surplus. Industry analysts attributed most of the \$14 billion increase in capital and surplus to strong equity markets.¹⁸

Likewise, A. M. Best said investment income was largely responsible for the 18.5 percent increase in after-tax income for property/casualty companies, to a record total of \$24.4 billion. Return on equity improved from 9.8 percent in 1995 to 10.2 percent in 1996.¹⁹

Profitability continued through the first half of 1997 on the property and casualty segment due to a lack of catastrophes and unusually high returns on equities. Similarly, the life segment enjoyed the same high returns on equities and continued improvement in mortality rates. The added profitability is expected to continue to be reflected in improvements to surplus levels for both life and property/casualty insurers.

Conclusion

The annual report that follows describes through narrative and statistics the Department's efforts to regulate the \$40 billion-a-year insurance industry during Fiscal Year 1997.

Endnotes

¹ Members are the associate commissioners for Technical Analysis and Consumer Protection, the deputy commissioner for Property and Casualty Lines, the manager of Market Conduct Examinations and TDI's senior policy advisor.

2 The PPP offers insurers incentives to issue residential property insurance policies providing basic coverages that customers may expand through the use of endorsements that add other coverages. This "cafeteria" approach enables residents of underserved areas to tailor their residential property policies to their needs and incomes. Premium on these policies is not taxable and does not count toward market share for determining a company's degree of participation in assessments by the Texas Catastrophe Property Insurance Association .

3 To be eligible, a home must be in a ZIP Code designated as "underserved," must be an insurable risk and must have been denied coverage by at least two licensed insurance companies ("admitted carriers"). The two denials may include a non-renewal or cancellation of an existing policy.

4 Additional outreach planned as of the end of the fiscal year included billboards to be tested in Austin, Houston and Harlingen and a City of Arlington utility bill insert.

5 TDI surveyed all local recording agents in 1996 to determine which were willing to serve as originating agents. About 400 responded. The MAP Section works from this list in trying to find originating agents located near the consumers who call for assistance.

6 TAIPA is the state's assigned risk plan for drivers who cannot obtain basic auto liability insurance in the voluntary market. Its rates are promulgated by the Commissioner of Insurance in accordance with Texas Insurance Code Article 21.81, Section 5. The statute requires rates to be set "in an amount sufficient to carry all claims to maturity and to meet the expenses incurred in the writing and servicing of the business."

7 Some of this increase probably was due to USAA's purchase of a county mutual and its transfer to that company of all or most of the Texas auto business previously written by USAA Casualty Insurance Co.

8 A driver who has been assigned to an insurance company by TAIPA for three years and has had no tickets or accidents during that time is eligible for the mandatory take-out offer.

9 An additional 56 calls about auto insurance came from outside the targeted ZIP Codes, making a total of 134 calls.

10 Texas Department of Insurance, Health Maintenance Organizations, Financial Report, Basic Service, Second Quarter, 1997, page 70.

11 Ibid., page 76.

12 In 1996, approximately 70 percent of the homeowners market was written by Lloyds companies and reciprocal exchanges, which, by law, are exempt from rate regulation.

13 Residential property insurance rates subject to flex-rating formerly included those for farm and ranch and farm and ranch owners insurance. Senate Bill 1499 of the 75th Legislature declared FR and FRO to be commercial lines and no longer subject to flex rating.

14 Barnett Bank of Marion County, N.A. vs. Bill Nelson, Florida Insurance Commissioner.

15 Texas Bankers Association et al vs. Elton Bomer, in his Official Capacity as Commissioner of Insurance.

16 Guaranty associations assess active insurers for the funds necessary to pay covered claims against insolvent companies. The insurers recover their assessments through state premium tax credits taken in 10 equal installments over a 10-year period.

17 In addition to the insurance companies, Texas had 67 domestic and three foreign HMOs at the end of the fiscal year.

18 BestWeek, Life/Health Supplement, Release 7, August 25, 1997, page L/H 1.

19 BestWeek, Property/Casualty Supplement, Release 3, July 21, 1997, page P/C 1.

Commissioner's Office

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

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

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

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

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

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

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

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

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

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

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

Government Relations serves as TDI's liaison with the Legislature and other governmental entities. Major responsibilities include helping the Commissioner (1) determine the legislative needs of the agency, (2) report to the Legislature, (3) coordinate and track agency-wide responses to legislative and constituent inquiries, (4) monitor and analyze legislation affecting the agency, (5) update agency staff on status of legislation, (6) coordinate the appearance of agency staff for testimony before various legislative committees, (7) oversee implementation of legislation, (8) compile and index all insurance and agency-related legislation adopted by the Legislature, (9) distribute requested information to legislators, committees and other governmental entities and (10) research and review possible appointments to various boards and committees required to assist the department.

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

- Media -- researching, writing, editing and distributing news releases announcing agency actions; arranging news conferences; conducting and coordinating interviews with the news media; assisting the Commissioner in drafting articles and consumer columns for various publications and TDI's new Internet web site; operating NEWSline, a toll-free information line that gives radio stations prerecorded insurance information; maintaining a special Internet web page for information of interest to the news media; providing weekly news media tips on upcoming hearings; providing expertise in radio-television production; and responding to information requests.
- Insurance Regulators -- coordinating electronic mail among TDI, other state insurance departments and the National Association of Insurance Commissioners.
- Legislators -- coordinating the writing and editing of the Annual Report to the Governor and Legislature.
- Public/Industry -- writing speeches; writing and editing the agency's regulatory newsletter (*Texas Insurance News*); working with other TDI programs to provide information of interest through a new Internet web site; writing and overseeing production of radio and television public service announcements (PSAs) and other videos; writing and editing consumer brochures in cooperation with other TDI divisions; and responding to information requests.
- Internal communications responsibilities include producing the agency's employee newsletter (*The Bulletin Board*); providing a weekly summary of significant trade journal articles; issuing electronic news and information bulletins to TDI staff; sending out electronic agency news items; and helping edit various agency reports and documents.

Accomplishments & Actions

Major insurance regulatory actions and accomplishments of the Texas Department of Insurance in Fiscal Year 1997 included:

ACCIDENT, HEALTH, HMOs

- Contracting with the Texas Department of Health to carry out TDH's day-to-day responsibilities of monitoring HMO quality of care. (TDI received this responsibility, statutorily, on September 1, 1997.)
- Issuing Medicare supplement rule amendments, including open enrollment period for persons younger than 65 who qualify for Medicare, usually because of a disability.
- Implementing a rule requiring fair treatment of pharmacists by HMOs.
- Adopting rules for medical child support and rules implementing federal law on tax-qualified long-term care policies.
- Appointing a nine-member board for the Texas Health Insurance Risk Pool.

ADMINISTRATIVE

- Repealing 116 unnecessary rules.
- Installing an agency Internet web site to improve information sharing with the insurance industry, consumers and other government agencies.
- Implementing a routine ethics training program.

AGENTS

- Reorganizing Agents Licensing and creating a nine-person Phone Assistance Group to free technicians for primary responsibilities.
- Adopting new continuing education rules, including ethics and regulation course requirements.
- Enacting new rules governing fees charged by local recording agents.

AUTOMOBILE

- Adopting a rule requiring auto insurers to offer more reasonable installment plans, including lower down payments and more monthly installments.
- Providing new auto rate guides for viewing or printing from the Internet.

AVAILABILITY

- Establishing the residential property insurance Market Assistance Program (MAP) to help consumers in underserved areas find insurance for their homes.
- Creating an in-house Task Force on Availability and Affordability.
- Adopting rules for the Voluntary Inspection Program, as well as rates and rules for the Property Protection Program, clearing the way for sale of PPP policies.
- Prohibiting denial of residential property insurance because of a home's age or failure to meet minimum value requirements.

CONSUMER ASSISTANCE

- Revamping the auto and homeowner rate guides, providing additional information and making them available on the Internet through TDI's web site.
- Adding workers' compensation and Medicare supplement rate guides to TDI's web site, along with most of TDI's consumer publications.
- Dispatching Consumer Protection and Property and Casualty staff to help victims of the Jarrell tornado, Wimberly flooding, Bandera flooding and Travis County flooding.

ENFORCEMENT

- Negotiating a consent order under which Banner Life refunded more than \$6.5 million to 389 older Texans who bought universal life policies they thought were investment plans.
- Objecting to a nationwide class-action settlement of consumer complaints against Prudential for churning and other unfair sales practices. As a result, Prudential agreed to pay \$2 million in penalties, refund an estimated \$25 million to policyholders and reduce the burden of proof imposed on those seeking alternative dispute resolution.
- Negotiating an agreement in which Kaiser Permanente agreed to pay a \$1 million fine (\$250,000 probated) and take steps to improve quality of patient care.
- Reaching an agreement for Allstate to refund \$42.7 million in auto premiums as a result of alleged overcharges built into 1995 and 1996 filed rates.

FRAUD

- Providing a special prosecutor to Yoakum County and obtaining a 10-year prison sentence for Richard Sommers Moreland Jr., charged with defrauding elderly women in an insurance investment scam.
- Investigating the sale of unauthorized liability insurance by eight rental car firms, which led to the companies agreeing to refund \$13 million in premiums.

LOSS CONTROL

- Completing a Loss Mitigation Advisory Committee study on insurance debits and credits to encourage the use of stronger roofing materials.

NAIC

- Assuming a leadership role in the nationwide development of an automated agents licensing system and an electronic rate and form filing system.

PROPERTY

- Adopting the ISO Fire Suppression Rating Schedule to replace the Key Rate system as the method for factoring local fire protection capability into homeowner rates.
- Adopting new residential property insurance discounts for home sprinkler systems, permanently marked personal property and installation of dry hydrants.
- Adopting a new coastal building code for wind-resistant construction.

- Adopting optional large deductible premium credits for dwelling, farm and ranch and farm and ranch owner policies.

SOLVENCY

- Prohibiting Mid-Continent Life from issuing new policies in Texas because of its hazardous financial condition.
- Sending Year 2000 alerts to all companies, advising that TDI will make Year 2000 preparedness part of each company's financial examination.

TITLE

- Ordering title rates to remain unchanged and raising the agents' share of the title policy premium from 81 percent to 82.25 percent.

TORT REFORM

- Working with UT's LBJ School of Public Affairs on a special study to gauge the effect of reforms on liability insurance in Texas. The study was done as part of TDI's preparation for the 1997 hearing on tort reform savings.

Other Highlights

Chief of Staff and Senior Associate for Administration

- Overseeing agency efforts to provide temporary staffing, planning and resources for the Texas Healthy Kids Corporation and the Texas Health Insurance Risk Pool.
- Supervising production of the agency's Business Plan and operation of the TDI Planning Workgroup.
- Coordinating the consolidation of the State Fire Marshal's Office and TDI in accordance with Senate Bill 371.
- Monitoring implementation of issue papers that recommend ways to make specific agency processes more efficient.

General Counsel/Chief Clerk

- Reviewing and advising the Commissioner in 115 rulings in connection with contested cases handled by the State Office of Administrative Hearings, including benchmark and other rate cases.
- Advising the Commissioner on eight appeals of decisions, including decisions of the Texas Catastrophe Property Insurance Association ("Catpool") and the Texas Workers' Compensation Insurance Facility.
- Providing legal and clerical services in connection with the adoption of 14 new *Texas Administrative Code* rules, the repeal of 21 rules and the amendment of 21 previously adopted rules. Thirteen proposed rules were pending at the end of FY 97.

- Reviewing, processing and advising the Commissioner on 32 specialized rules under Articles 5.96 and 5.97 of the *Texas Insurance Code*.
- Completing the process for streamlining the agency's internal rulemaking process.
- Continuing the updating of TDI's database of Commissioner orders. The database now includes 17 years of orders by insurance commissioners and the former State Board of Insurance.
- Converting the key databases for indexing Commissioner decisions from an outdated Paradox database to a new agency standard Access database and expanding other automated records.
- Providing the Commissioner's Agendas on TDI's web site and working with other areas to circulate proposed rules and bulletins via the web site.

Chief Economist

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

Executive Services

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

Internal Audit

- Conducting five financial-related or performance audits, including a review of the policy forms and endorsements approval process, electronic data processing and TDI phone services.
- Serving as the Department's liaison to external auditors on four audits: State Auditor's Office (SAO) audit of the liquidation process, SAO audit of the Texas Health Reinsurance System, SAO statewide financial audit and the State Comptroller's post payment voucher audit.
- Serving as an adviser on 10 projects, including the open systems migration, Internet Policy Committee, Planning Work Group, external license testing service

controls/contract renewal, “Year 2000” project, State Fire Marshal transition team and audit of TDI’s workers’ compensation statistical agent.

- Serving as an adviser to a federal task force that recovered approximately \$3.5 million embezzled from a defunct insurance company.
- Conducting nine investigations as authorized under Section 2102.003 (2) (E) of the *Government Code*.

Government Relations

- Providing legislators and committees with information and resource witnesses on 17 agency recommendations, all of which passed during the 75th Legislature. (The *Texas Insurance Code* requires the Commissioner to recommend necessary changes in state insurance laws to each legislative session.)
- Providing technical assistance to legislators concerning requirements of the *Texas Insurance Code* and TDI rules adopted and published in the *Texas Administrative Code*.
- Working with bill authors, sponsors, industry and agency staff to implement legislation addressing health insurance availability and portability, banks selling insurance, Texas Health Insurance Risk Pool, HMO quality of care, Healthy Kids Corporation, agents study and other legislation passed by the 75th Legislature.
- Coordinating legislative implementation plans for TDI and publishing the plans on TDI’s Internet web page.
- Producing bound volumes of all insurance-related legislation adopted during the 75th Legislature, as well as on-line links to electronic copies of the bills via TDI’s web site.
- Coordinating appointment of numerous members to advisory committees and boards.
- Coordinating agency efforts involving other governmental and quasi-governmental entities, including the Texas Health Insurance Risk Pool.

Public Information Office

- Working with the MAP Section, Consumer Protection and other areas of the agency on a public awareness concerning programs to improve homeowners insurance availability in Texas. PIO’s portion of the effort included production of three consumer columns, 21 news releases, a TV public service announcement distributed to 100 stations in affected areas and help in producing consumer brochure about the MAP.
- Working with the Fraud Unit and other divisions to heighten public awareness of insurance fraud, including production of 25 news releases, one consumer column and a 12-page consumer brochure, as well as distribution of a video advising consumers how to protect themselves against insurance fraud.
- Working with the Chief of Staff, Information Services, Consumer Protection, Regulation and Safety, Publications and other areas of the agency to create the agency’s new Internet web site, which includes extensive information for consumers,

the industry and the news media. The site offers a special “HurricaneLink” with information about hurricanes and hurricane preparedness.

Figure I - 1. Summary of Activity — Commissioner's Office

	FY96	FY97
Commissioner Hearings/Meetings	68	59
Commissioner's Orders*	1,526	1,405

* Commissioner’s Orders in FY97 included 239 disciplinary orders, 89 rules/manual orders, 836 company activities orders, 111 authority/delegation orders and 130 other types of orders.

Figure I - 2. Commissioner's Hearings By Type — FY96-FY97

	FY96	FY97
Total Hearings Conducted for Commissioner	159	137
Benchmark Rate Hearings	4	4
Disciplinary	120	102
License Applications	7	11
Application for Exempt Filing	0	0
Applications by Corporate Agents to Withdraw Statutory Deposits	0~	0
Appeals/Other*	28	14

NOTE: A number of actions, no longer require a hearing.

* “Appeals/Other” includes appeals of emergency (ex parte) cease-and-desist orders and of actions taken by the Texas Workers’ Compensation Insurance Fund, now known as the Facility Insurance Corporation, and the Texas Catastrophe Property Insurance Association (“Catpool”), now known as the Texas Windstorm Insurance Association (“Windpool”).

Figure I - 3. Summary of Activity — Internal Audit

	FY96	FY97
Projects Completed	24	25
Reports Issued	11	24

Figure I - 4. Summary of Activity — Public Information Office

	FY96	FY97
Press Releases	103	117
News Tips*	37	52
NEWSLine Audio Releases**	21	50
Speeches/Testimony	***37	21
General Information	4,999	4,974

Requests		
Electronic Bulletins	666	624
Electronic Managers'	0	0
Memos		

* Sending News Tips to the media each week about events of public interest taking place at TDI began in FY96.

** Offering of NEWSline audio releases for radio stations began in FY95.

*** Number corrected to reflect actual number of speeches written.

Legal and Compliance

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

Legal and Compliance consists of six sections:

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

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

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

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

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

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

Legal and Compliance also oversees the agency's Library.

Highlights

Major accomplishments by Legal and Compliance for Fiscal Year 1997 included:

- Providing \$74,283,159 in restitution to consumers and requiring payment of \$3,987,603 in administrative penalties, fines and forfeitures in FY97. The record amount of restitution and penalties included: (1) an order that Allstate refund \$42.7 million to an estimated 750,000 Texas policyholders who allegedly were overcharged for auto liability insurance; (2) an order that Prudential Insurance Co. of America pay a \$2 million penalty and refund an estimated \$25 million to policyholders for alleged deceptive sales practices; and (3) an order that Kaiser Foundation Health Plan of Texas pay a \$1 million penalty for alleged patient record problems, refusal to pay for emergency care services in violation of TDI rules and failure to follow quality assurance procedures.
- Drafting new Medicare Supplement rule amendments allowing open enrollment for individuals on Medicare because of disability.
- Performing regulatory legal work necessary to convert the Texas Workers' Compensation Insurance Facility to a private corporation.
- Providing legal services in connection with the establishment of the Texas Healthy Kids Corporation.
- Providing assistance with implementation of the Federal Health Insurance Portability and Accountability Act (Kassenbaum-Kennedy). This included changes to small employer rules and Chapter 26, and required additional rules for large employers, the Health Insurance Risk Pool and HMO legislation.
- Performing legal work necessary to transfer the State Fire Marshal's Office to TDI.
- Preparing rules concerning medical child support. The adopted rules concern enforcement of certain child support and medical support obligations; sets forth requirements for insurers concerning adopted children; sets out prohibitions against denial of enrollment of a child who is the subject of a medical child support order based on certain grounds.
- Preparing rules concerning underserved areas as part of the state's Market Assistance Program (MAP). The adopted rules implement an efficient, cost-effective mechanism

to assist Texas consumers in obtaining residential property insurance in designated underserved areas of the state including rural areas.

- Preparing a new building code that required stronger and more up-to-date standards for building along the Texas Coast. The code amended the Texas Catastrophe Property Insurance Association (TCPIA) standards to qualify for coverage through the TCPIA, now known as the Texas Windstorm Insurance Association.
- Preparing rules concerning long-term care. These adopted rules: (1) ensure that consumer protection standards for long-term care insurance contracts sold in Texas are no less favorable than standards adopted in nationally recognized model laws and regulations; (2) allow the sale of long-term care insurance contracts, which will qualify insureds, under certain conditions, for favorable tax treatment under the Health Insurance Portability and Accountability Act of 1996; and (3) require disclosure by insurers if the policy is intended to qualify for favorable tax treatment under the act.
- Providing legal services to assist in contracting for HMO quality of care examination services.

Figure I - 5. Summary of Activity - Legal and Compliance

	FY93	FY94	FY95	FY96	FY97
Cases Received	4,553	2,287	2,425	2,535	1,541
Cases Closed	4,458	5,639	2,975	2,530	1,654
License Revocations	36	60	95	108	76
License Denials	34	22	14	51	41
License Suspensions/ Suspensions of Writing *	14	14	4	6	11
Cease & Desist Orders	16	14	26	4	4
Monetary Forfeitures/ Restitution Orders	262	250	74	71	54
Assurances of Voluntary Compliance	0	0	0	44	50
Forfeitures/Assessments/ Restitution**	\$962,250	\$6,173,865	\$19,324,154	\$2,179,383	\$78,270,762
Cases Referred to Attorney General/ District Attorneys***	199	117	134	0	1

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

** The FY97 restitution total of \$78,270,762 includes: (1) \$25 million in restitution and a \$2 million penalty Prudential Insurance Co. agreed to pay in February 1997, (2) a \$1 million penalty Kaiser Foundation Health Plan of Texas agreed to pay in April 1997 and (3) \$42.7 million in restitution Allstate agreed to pay in August 1997.

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

NOTE: "Judgments Assessed Against Unauthorized Insurance Operations," is now reported by the Fraud Unit.

Insurance Fraud Unit

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

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

The Unit consists of six sections:

Unit Management includes the Associate Commissioner, Director of Operations and Director of Investigations. By statute, the Director of Investigations functions as the Chief Investigator, who supervises and directs all peace officers and coordinates and oversees all investigations conducted by the Fraud Unit.

Licensed Entities investigates fraud cases involving companies, agents and other TDI licensees, including third party administrators, continuing care retirement communities and eligible surplus lines insurers.

Unauthorized Insurance examines fraud cases involving unlicensed insurance operations. Among these are entities falsely claiming exemption from regulation under the Employee Retirement and Security Income Act (ERISA), including unlicensed Multiple Employer Welfare Associations (MEWAs).

Property and Casualty investigates staged accident rings, arson and fake burglary claims, staged slip-and-fall cases and other suspicious liability insurance claims.

Health Care examines reports of fraudulent billing by health care providers, as well as reports of unlicensed providers and fraud rings involving health insurance claimants, providers and attorneys. Fraudulent billing may include instances of overbilling, double-billing, billing for procedures not performed and “unbundling” of charges to artificially inflate billings.

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

Fraud Unit History

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

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

The 74th Legislature in 1995 made significant changes in TDI’s fraud enforcement authority. Legislation authorized the Commissioner of Insurance to commission eligible fraud investigators as peace officers, removed the requirement that a pattern of fraud be established before TDI could investigate alleged consumer and provider fraud cases and

defined insurance claim fraud in greater detail and provided criminal penalties, ranging from a Class C misdemeanor to a first degree felony, for insurance claim fraud.

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

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

Highlights

Major accomplishments by the Insurance Fraud Unit for Fiscal Year 1997 included:

- Obtaining 69 indictments on 54 individual subjects on charges that included theft, conspiracy, insurance fraud, misapplication of fiduciary property and securing execution of a document by deception.
- Arresting, either directly or with other law enforcement officers, 14 suspects indicted on charges involving alleged insurance fraud.
- Obtaining 38 convictions, through various Texas district attorneys, on charges resulting from Fraud Unit investigations.
- Obtaining 21 indictments against 19 people in a major staged-accident case investigation in the Wichita Falls area.
- Obtaining the first courtroom conviction of a defendant by Fraud Unit attorneys prosecuting under appointment as special assistant district attorneys in the trial of Richard Moreland.
- Obtaining the first conviction through jury trial using Penal Code Chapter 35 (Insurance Fraud) by prosecutors in Dallas County.
- Working with the Department of Public Safety on an undercover operation involving sale of fake automobile liability insurance cards.
- Obtaining Consent Orders against rental car companies who sold supplemental liability insurance coverage through unlicensed agents that will result in more than \$13 million in restitution to Texas insureds.
- Establishing or improving working relationships with District Attorney's Offices throughout Texas by joint investigation or prosecution of cases.
- Improving cooperation and coordination of statewide anti-fraud efforts by expanding the Health Care Fraud Working Group to include all interested insurance companies,

law enforcement agencies and the Texas Workers' Compensation Commission and renaming the group Health Care and Claimant Fraud Working Group.

- Establishing the procedures and process for obtaining criminal history checks on all new or renewal insurance agent licensing applicants through the Texas Law Enforcement Telecommunications System (TLETS).

Figure I - 6. Summary of Activity - Insurance Fraud Unit

	FY96	FY97
Cases Received	501	1,221
Cases Closed	546	584
Cease & Desist Orders	8	9
Other Enforcement Orders	11	17
Assurances of Voluntary Compliance	5	5
Monetary Forfeiture/Restitution Orders	2	10
Forfeitures/Assessments/Restitution	\$10,643,619	\$14,303,069
Cases Referred to Attorney General/District Attorneys	111	165
Indictments*	73	69
Arrests By Fraud Unit Peace Officers**	34	14
Convictions	22	38

*This figure for FY97 constitutes a total of 69 indictments returned on 54 individual subjects.

**This figure represents only arrests executed directly by Fraud Unit Peace Officers or in which Fraud Unit Peace Officers participated. In FY96 one staged-accident case in Wichita Falls resulted in 19 arrests; subsequent legal proceedings in that case occurred during FY97.

Figure I - 7. Judgments Assessed Against Unauthorized Insurance Operations - FY95-FY97

Judgment	FY95	FY96	FY97
Civil Penalties	\$16,026,000	\$8,182,000	\$726,200
Premium Tax Liabilities	\$1,450,678	\$10,692	\$126,735
Miscellaneous Liabilities	\$749,146	\$216,810	\$5,000
Direct Restitution to Texas Consumers	\$1,100,000	\$166,747	\$13,025,000

Financial

Financial licenses all companies operating in Texas and monitors the solvency and market conduct of 2,142 licensed insurance companies and health maintenance organizations (HMOs). In addition, the program seeks to rehabilitate companies that fall short of solvency standards and eventually liquidates the few that cannot be rehabilitated.

The total of all insurers, HMOs, third party administrators and continuing care retirement communities (CCRCs) holding certificates of authority from the Texas Department of Insurance is 2,694. Annual statements filed by insurers and HMOs for Calendar Year 1996 reported \$43.9 billion in Texas premiums and \$33.2 billion in claim payments to Texas policyholders. These companies reported aggregate assets of \$3.1 trillion, liabilities of \$2.7 trillion and capital and surplus of \$401.4 billion. More information from insurance company annual statements may be found in Part IV of this report.

Financial Program consists of six activities:

Insurer Services licenses both foreign and domestic insurance companies, maintains company charter files and processes and approves certain transactions for admitted insurance companies. Beginning in Fiscal Year 1997, Insurer Services took over the responsibility of processing licensing applications for health maintenance organizations. It registers eligible non-admitted insurers and risk retention/purchasing groups, oversees statutory deposits of licensed companies and corporate agencies and maintains the agency database of both licensed and registered companies. The activity also tracks purchasing alliances formed under the Small Employer Health Insurance Availability Act.

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

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

Examinations performs statutory examinations of insurers, 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. The activity suggests ways to correct deficiencies uncovered by the examinations and initiates referrals for further regulatory action. In addition, the activity processes annual operations reports required of premium finance companies. Eighty percent of the professional staff hold one or more designations signifying achieved knowledge in the field of insurance examinations. To hold down travel expenses and provide adequate oversight of the examination process, regional offices are maintained in Dallas, Houston and San Antonio.

In Fiscal Year 1997, Examinations acquired the additional responsibility for quality of care examinations of managed care entities. The responsibility for this function was transferred to the agency from the Texas Department of Health as part of an interagency contract, a change later made permanent through legislation. During Fiscal Year 1997, quality of care examinations were primarily conducted by third parties under contract with the agency. In Fiscal Year 1998, however, these examinations will be conducted primarily by agency staff.

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

Rehabilitation tools include informal actions, such as management conferences, as well as progressively more formalized tools, including required filings of business plans with TDI analysts assigned to a financially troubled company. Formal actions may include issuing hazardous financial condition orders that provide for the company to plan and implement specific corrective actions.

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

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

If supervision or conservatorship fails, the Commissioner may ask the Attorney General to petition the District Court in Travis County to place the company in receivership, which

involves liquidation of the insurer by a special deputy receiver and payment of outstanding covered claims by the appropriate guaranty association. Such petitions may be requested if the company's financial condition has deteriorated, rehabilitation is not possible and the company is insolvent and/or impaired.

Liquidation Oversight analyzes business plans, budgets and expenses of all SDRs. It also monitors the state's guaranty associations to ensure that receivership claims and complaints are handled properly and the records of delinquent insurers are maintained during and after receivership.

Program Services supports the other activities within the Financial Program by maintaining the program budget and personnel records and actions; coordinating technical and specialized training, inventory control, annual statement filings and computer/systems support; and assisting in reporting Legislative Budget Board performance measures.

Conservator's Report

At the beginning of Fiscal Year 1997, Conservation had 41 insurance companies under supervision, conservatorship or special administrative and court-directed actions. Another 36 came to Conservation during the fiscal year, while 40 were closed, leaving a year-end balance of 37 companies.

Liquidation Oversight's Receivership Report

Three key components in overseeing receiverships are:

Special Deputy Receivers — When insolvent insurers are placed in receivership by the District Courts in Travis County, the Commissioner is designated as Receiver. The Commissioner as Receiver contracts with a special deputy receiver (SDR) to administer receivership estates. The SDR is selected through a competitive bid process.

Guaranty Associations — Covered claims against receivership estates are paid by one of three guaranty associations: Texas Property and Casualty Insurance Guaranty Association; the Life, Accident, Health and Hospital Service Guaranty Association; and the Texas Title Insurance Guaranty Association. The associations assess member insurance companies for part of the funds necessary to pay the claims and recover the remainder from assets of the receivership estates.

Special Master — The District Court in Travis County has appointed a special master for an indefinite term to expedite closure. Receivership court costs are funded out of assets of the estates.

New Receiverships

Three insurers — two property and casualty and one life, accident and health company — were placed in receivership in Fiscal Year 1997. One property and casualty company was placed into receivership in each of the Fiscal Years 1995 and 1996. No health maintenance organizations (HMOs) were placed in receivership during FY 97.

In FY 97, the Commissioner issued orders declaring three foreign companies — one property and casualty company and two life, accident and health companies — to be impaired. The agency evaluates on a case-by-case basis whether to seek district court orders allowing seizure and liquidation of company assets or holdings located in Texas. The majority of receivership actions against foreign companies are left to the states where the companies are domiciled.

The Texas Property & Casualty Insurance Guaranty Association made no assessments in FY 97 and refunded \$10 million to member insurers. The Texas Life, Accident, Health and Hospital Service Guaranty Association made \$51 million in assessments in Fiscal Year 1997 and issued \$27 million in credits to member insurers, which was netted against 1995 assessment revenue. The Title Insurance Guaranty Association made no assessments in FY 97.

No unauthorized entities were placed into receivership in Fiscal Year 1997. Such actions are now generally handled through cease-and-desist orders or actions by the Texas Attorney General.

Existing Receiverships

During the fiscal year, eight receivership estates were liquidated and closed. That left 32 active receiverships in the process of liquidation — 27 property and casualty companies, four life, accident and health companies and one title company. Liquidation Oversight anticipates closing 18 of the 32 receiverships in FY 98.

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

Highlights

Major accomplishments by Financial for Fiscal Year 1997 included:

- Integrating health maintenance organization (HMO) quality of care examinations into existing processes.
- Leading a Year 2000 assessment of the insurance industry.
- Initiating an agency-wide effort to integrate the regulation of market conduct issues.
- Creating a business plan to guide the Program through Fiscal Year 1998.

- Overseeing development and implementation of a comprehensive on-line examination management and billing system.
- Concluding several multi-billion dollar acquisitions or restructuring filings under the Texas Holding Company Act and other statutes.
- Reviewing approximately 260 license applications, service area expansions, service agreements and other filings regarding HMOs.
- Improving a professional training program that resulted in more than 9,000 hours of continuing professional education for Financial Program staff.
- Recovering through Special Deputy Receivers some \$31 million in assets (above the cost of recovery), while keeping administration costs to only 31.95 percent of net asset recoveries. SDRs also provided guaranty associations with \$33.8 million in cash to allow the guaranty associations to pay claims of insolvent insurance companies without assessing industry members for this amount.
- Coordinating the privatization of the Worker's Compensation Facility whose assets exceed \$500 million and whose obligation to policyholders extend over 25 years.
- Initiating several regulatory interventions (supervision, conservatorship, etc.) in cases involving potentially troubled insurers and other entities.
- Filling two positions for accredited property and casualty actuaries, and, thereby, providing Financial with the actuarial expertise to fulfill its goals.

Figure I - 8. Insurance Companies in Supervision/Conservatorship

	FY96	FY97
Balance of Companies		
Beginning of Fiscal Year	42	41
Referred During Fiscal Year	<u>14</u>	<u>23</u>
Total	56	64

Figure I - 9. Insurers Under Court-Directed/Special Administrative Action

	FY96	FY97
Under Court-Directed Action	0	0
Under Special Administrative Action	9	13
Under Hazardous Financial Condition Action (Article 1.32)	<u>3</u>	<u>0</u>
Total	12	13

Figure I - 10. Disposition of Companies under Rehabilitation

	FY96	FY97
Total (Figure I-8 & Figure I-9)	68	77
Cases Closed		
Rehabilitated	10	15
In Receivership	1	4
Dissolved	5	7
Other Changes*	<u>11</u>	<u>14</u>
Total Cases Closed	27	40
Balance at End of Fiscal Year	41	37

*FY97: Other changes included: 3 entities moved from supervision to conservatorship; 4 entities moved from supervision to administrative oversight; 1 entity moved from conservatorship to administrative oversight; 2 entities moved from administrative oversight to supervision; 3 entities moved from administrative oversight to conservatorship; and 1 entity moved from Article 1.32 to conservatorship.

Figure I - 11. Texas Guaranty Association Assessments - 1975-1997

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

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

Figure I - 12. Assessments for Life, Accident & Health Guaranty Fund - FY75-FY97

1975 = \$600,000
1976 = \$0
1977 = \$0
1978 = \$1.2 million
1979 = \$1.84 million
1980 = -\$0-
1981 = \$3 million
1982 = \$10 million
1983 = -\$0-
1984 = \$4 million
1985 = \$8 million
1986 = \$5 million
1987 = \$33.5 million
1988 = -\$0-
1989 = \$16.36 million
1990 = \$112.48 million
1991 = \$24.97 million
1992 = \$63.26 million*
1993 = \$66.24 million*
1994 = \$22.1 million
1995 = \$83 million
1996 = \$68.88 million
1997 = \$51.1 million

*Due to carryover from assessments in prior years.

Figure I - 13. Assessments for Property & Casualty Guaranty Fund - FY75-FY97

1975 = \$3.31 million
1976 = \$4.12 million
1977 = \$0
1978 = \$0
1979 = \$0
1980 = \$0
1981 = \$0
1982 = \$0
1983 = \$0
1984 = \$0
1985 = \$20 million
1986 = \$20 million
1987 = \$41.68 million
1988 = \$0
1989 = \$41.23 million
1990 = \$61.02 million
1991 = \$122.60 million
1992 = \$112.33 million*
1993 = \$119.26 million*
1994 = \$194.94 million
1995 = \$0
1996 = \$0
1997 = \$0

*Due to carryover from assessments in prior years.

Figure I - 14. Summary of Activity — Holding Company

	FY96	FY97
Applications for Affiliate Transactions and Acquisition of Control or Exemptions Received	716	785
Pending Applications Closed	734	770

Figure I - 15. Summary of Closed Applications — Holding Company

	Closed at End of FY96	Closed at End of FY97
Reinsurance Arrangements	118	140
Management, Data Processing Service, Cost Sharing Arrangements	168	200
Pledge of Assets and Pooling of Assets	4	2
Investment in, Valuation of, Affiliates	15	9
Purchase of Securities, Real Estate, Treasury Stock	28	41
Affiliate Loans and Mortgage Loan Participation	14	16
Lease Arrangements	30	26
Issuance of Surplus Debentures/Notes	23	38
Payments On Money Advanced	17	17
Dividends and Other Distributions to Shareholders	179	162
Consolidated Tax Returns	41	25
Financing Arrangements	5	9
Exemption from Commercially Domiciled	13	8
Acquisitions of Control	34	31
Exemptions from Acquisition of Control	34	42
MGA Agreements	9	4
Informational Filing by HC Exempt Insurers	<u>2</u>	<u>2</u>
Total	734	770

Figure I - 16. Amount Paid for Control of Domestic Insurance Companies, FY93-FY97

1993 = \$737,610,966*
1994 = \$356,875,872
1995 = \$2,550,643,350**
1996 = \$6,319,751,750***
1997 = \$7,130,712,854****

* The figure for 1993 can be attributed to one acquisition having a purchase price of approximately \$723 million.

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

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

Figure I - 17. Texas Policyholder Premiums, Claim Payments — CY92-CY96

Year	Premiums	Claim Payments	Payments as % of Premium
CY 1992	\$34.9 billion	\$28.7 billion	82.2%
CY 1993	\$37.3 billion	\$27.2 billion	72.9%
CY 1994	\$39.7 billion	\$29.0 billion	73.1%
CY 1995	\$42.1 billion	\$33.0 billion	78.4%
CY 1996	\$43.9 billion	\$33.2 billion	76.0%

Figure I - 18. Total Capital/Surplus of Insurance Companies Operating in Texas — CY92-CY96

Year	Total Capital/Surplus
CY 1992	\$257.3 billion
CY 1993	\$293.9 billion
CY 1994	\$308.6 billion
CY 1995	\$356.3 billion
CY 1996	\$401.4 billion

Figure I - 19. Number of Examinations — FY94-FY97

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

* Corrects numbers found in 1994 Annual Report.

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

Figure I - 20. Number of Quality of Care (QOC) Examinations — FY97

Year	Number of Exams
FY 1997*	20

* New function in FY 97.

Figure I - 21. Number of Actuarial Opinions Reviewed — FY93-FY97

Year	Number Reviewed
1993	1,980
1994	2,012
1995	1,844
1996	2,012
1997	1,937

Figure I - 22. Number of Actuarial Examinations Performed — FY93-FY97

Year	Number of Exams
1993	82
1994	93
1995	89
1996	97
1997*	98

* Includes 15 examinations conducted by third party contractors during FY 1997.

Figure I - 23. Number of Reserve Valuation Reports Reviewed — FY93-FY97

Year	Reports Reviewed
1993	255
1994	151
1995	139
1996	*79
1997	*81

*Reports being reviewed are now limited primarily to life companies under examination and life companies requesting certificates of valuation.

Figure I - 24. Actuarial Projects Completed — FY93-FY97

Year	Projects Completed
1993	294
1994	286
1995	286
1996	255
1997	281

Note: Actuarial Projects are shown as completed when one or more hours are spent on written responses. They also include reports, meetings or other long-term efforts. Long-term efforts spanning several months

are counted as a project for each month in which such efforts continue.

Figure I - 25. Number of Reinsurance Arrangements Reviewed — FY93-FY97

Year	Arrangements Reviewed
1993	540
1994	232
1995	*168
1996	*169
1997	209

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

Figure I - 26. Continuing Care Retirement Communities (CCRCs) Filings

	FY96	FY97
Applications Reviewed	1	0
Licenses Issued	1	0
Disclosure Statements Filed	17	19

Figure I - 27. Number of Company Licenses Under Commissioner's Jurisdiction

License Type	FY93	FY94	FY95	FY96	FY97
Insurance Companies	2,143	2,130	2,108	2,074	2,053
Health Maintenance Organizations	32	33	36	62	70
Premium Finance Companies	360	309	304	308	300
Continuing Care Retirement Communities	18	18	18	19	19
Third Party Administrators	395	445	467	513	552
Total	2,948	2,935	2,936	2,976	2,994

Regulation and Safety

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

Primary responsibilities include:

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

General management, led by a senior associate commissioner, provides management and operational direction for all the activities. Each activity operates independently while sharing information and expertise as needed. Regulation and Safety consists of five groups:

Property/Casualty Group consists of three divisions, Casualty Insurance Lines Division, Safety Division and the Title Division.

Casualty Insurance Lines Division regulates policy forms for property and casualty insurance, which includes commercial and personal lines.

- **Commercial Lines** regulates policy forms for commercial property, general liability, surety bonds and commercial auto.
- **Personal Lines** regulates policy forms for personal auto and homeowners insurance, as well as professional liability insurance and the Market Assistance Program (MAP).
- **Intake Unit** receives all rule, rate and policy form filings and provides an initial compliance review before forwarding them for technical review and final action.

Safety Division provides safety and loss prevention services that affect several property and casualty lines of insurance.

- **Inspections and Fire Safety** oversees commercial property inspection and rating functions performed by a private organizations and seeks to cut losses through improved construction standards.
- **Windstorm Inspections** inspects structures in the 15 coastal counties where building code inspections are required for wind and hail coverage through the

Texas Catastrophe Property Insurance Association, renamed on September 1, 1997, as the Texas Windstorm Insurance Association

- **Engineering Services** provides expertise in construction, design and engineering, including building code modeling.
- **Loss Control** conducts mandatory inspections of insurance company loss control programs and administers the state's amusement ride safety insurance program and the agency's catastrophe response plan. As part of Loss Control, the Government and Industry Liaison promotes safety, provides educational materials and collects, reviews and distributes information relating to safety, loss control, accident prevention, building construction and mitigation of losses.

Title Division regulates policy forms for title insurance, oversees licensing and financial examination of title agents.

- **Title Insurance** oversees licensing of title agents, direct operations and escrow officers.
- **Title Examinations** conducts comprehensive examinations of title agents licensed in Texas.

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

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

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

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

Licensing Group oversees the licensing and regulation of insurance agents, adjusters, risk managers, life insurance counselors, reinsurance intermediaries, third party administrators and premium finance companies. It consists of six divisions:

Applications Unit reviews and processes applications for licensure for 16 different types of licenses with 44 different authorities, ranging from basic life to property-casualty agents' licenses and adjusters to risk managers' licenses; oversees the agent fingerprinting process that began August 1, 1996; registers additional trade names and trade locations and records sponsors of solicitors and insurance service representatives. This unit issues approximately 4,000 new licenses per month

Administrative Services Unit oversees administration of 16 different types of licenses with 44 different authorities; produces certificates and other records on

license status; cancels licenses when requested by the licensee and records address and name changes for all licensees. This unit processes an average of 7,000 filings per month.

Renewals, Appointments and Continuing Education Unit reviews and processes renewals, records and cancels agent appointments, registers continuing education providers and courses, processes reciprocal agreements and oversees other training courses for agents and adjusters. This unit also oversees the self-service modem access program that allows agents and companies to check the status of individual licenses directly from the agent license database. Each month this unit processes approximately 5,800 renewals, 24,000 new appointments and appointment cancellations, approves 13 new continuing education providers and approves 300 new continuing education courses.

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

Miscellaneous Lines Unit licenses third party administrators and premium finance companies.

- **Third Party Administrator (TPA)** licenses, regulates and examines TPAs, which administer plans under contract with insurance companies, HMOs and/or self-funded plans (ERISA or non-ERISA). TPA also, upon request, exempts TPAs that administer only single-employer ERISA self-funded plans. TPAs often handle claims processing and the collection of premiums for life, health, accident, annuities, disability, pension and other employee benefits. Ninety-one new TPAs were licensed and 33 TPAs were exempted during Fiscal Year 1997.
- **Premium Finance** licenses independent finance companies, insurance agents, insurance companies, banks and savings and loans that engage in the business of financing insurance premiums. In Fiscal Year 1997, the Licensing Group issued 21 new premium finance licenses and renewed 297 premium finance licenses.

Phone Assistant Group responds to approximately 16,000 to 17,000 inquiries per month, fielding phone calls from agents, companies and the public and answering questions about license, appointment status and general inquiries about the licensing process. This unit also assists 75 to 90 walk-ins per week.

Life/Health Group consists of four divisions; Policy Approval, Filings Intake, Actuarial and Data/Research.

Policy Approval Division is divided into review teams. The Employer team reviews group accident and health products normally sold to employers. The Non-employer team reviews accident and health products sold to individuals, associations and other groups. The Senior Products team oversees review of Medicare supplement and Medicare select filings, long-term care products and

viatical settlement and accelerated benefit filings. The Life team reviews group and individual life insurance products. The Annuities/Prepaid Legal team reviews annuity and prepaid legal filings. The Credit team reviews credit insurance products.

Actuarial Division reviews individual accident and health, credit insurance and HMO premium rate filings, actuarial memoranda, actuarial information for individual and group life, accident and health policies and small employer benefit plans. The division also reviews actuarial data and loss ratios for Medicare supplement and long-term care products. Special projects handled by the division included evaluation of competitive bidding practices under the Texas Employees Uniform Benefits Act and cost projections for the Texas Health Insurance Risk Pool. This division also provides assistance in enforcement issues on rate cases.

Data/Research Division oversees collection and analysis of group health market data, researches employer-related legislation, compiles reports on a variety of health insurance issues and performs other data collection as required by the Legislature.

Filings Intake Division receives all filings and conducts an initial screening for compliance with basic filing requirements.

Health Maintenance Organization/Utilization Review Agent/Quality Assurance (HMO/URA/QA) Group regulates HMOs and utilization review agents doing business in Texas, reviews and analyzes HMO and URA form filings, oversees HMO quality of care complaints and examinations and handles applications for utilization review agents wanting to do business in Texas.

HMO/URA/QA consists of three sections:

Health Maintenance Organization reviews and analyzes HMO filings such as evidences of coverage and related filings for HMOs writing commercial, Medicare risk and small employer coverages.

Quality Assurance monitors HMO quality of care by conducting on-site examinations, investigating complaints and identifying disturbing trends in managed care.

Utilization Review Agent checks utilization review plans filed in connection with utilization review agents' applications for certification.

Highlights

Major accomplishments by the Regulation and Safety Program during Fiscal Year 1997 included:

Property/Casualty Group

Casualty Insurance Lines Division

Commercial Lines

- Updating the Texas Windstorm Insurance Association manual to recognize newly designated catastrophe areas and increasing statutory limits available through the Association.

- Providing technical assistance to the Policy Re-write committee of the Texas Windstorm Insurance Association in converting the existing catastrophe policy and endorsements into separate, simplified personal and commercial lines language.
- Assisting the Agents Licensing Division's Examination Focus Group in reviewing examination materials for various types of licenses, including local recording agent, managing general agent, surplus lines agent, insurance adjuster and others.
- Upgrading Commercial Property's professional status, with seven of eight staff members receiving professional designations.
- Providing detailed analysis and recommendations on insurance bills pending before the 75th Legislature.

Personal Lines

- Assisting with adoption of several staff recommendations, including:
 - Amendments to the *Auto Manual* rule on driver improvement course credits.
 - Implementation of a drug and alcohol driving awareness training credit.
 - Establishment of a 10 percent credit for academic achievement.
 - Amendments updating the Private Passenger Automobile Physical Damage Rating Symbol used to determine premiums for some coverages.
 - Numerous changes to the Plan of Operation for the Texas Automobile Insurance Plan Association (TAIPA). TAIPA filed four petitions asking for the changes. Staff drafted the Commissioner's Orders.

Title Division

Title Insurance

- Updating and formatting the *Basic Manual of Rules, Rates, and Forms for the Writing of Title Insurance in the State of Texas*, license application forms and escrow audit reporting forms for publishing on the TDI Internet web page.
- Providing technical assistance to Chief Clerk's staff and Technical Analysis Division's actuaries on completion of 1994 title insurance rules and rates hearing and commencement of 1996 title insurance rules and rates hearing.
- Assisting with adoption of several staff recommendations to implement legislative changes, including amendments to the *Basic Manual of Rules, Rates, and Forms for the Writing of Title Insurance in the State of Texas*.

Title Examinations

- Producing a 30-minute educational video with assistance from TDI's Public Information Office and the Texas House of Representatives Video/Audio Services. Copies of the video were mailed to 539 licensed title insurance agents and 11 title insurance companies.
- Working with the Data Services Unit revising and updating the 1996 call to Texas title insurance agents for statistical information.
- Assisting with adoption of several staff recommendations, including implementing and expanding the Title Examinations program with funding from the Texas Title Insurance Guaranty Association. The expanded program included the addition of seven new positions and inclusion of a review of title agents' statistical reports in the

examination program, plus in-depth reviews of the statistical reports of the largest title agents.

Safety Division

Engineering Services

- Developing an audit plan for the windstorm program to identify areas of inconsistency in regarding enforcement of the *Windstorm Resistant Construction Guide* and to find ways to achieve consistency in the inspection process. Following the audits, detailed internal audit programs were developed for each field office.
- Assisting the Building Code Advisory Committee in editing the proposed *Building Code for Windstorm Resistant Construction* and preparing a final recommendation for the Commissioner of Insurance.
- Serving as staff resource witnesses in the hearing to consider adoption of the *Building Code for Windstorm Resistant Construction*.
- Meeting with builders and coastal representatives to discuss their concerns with the *Windstorm Resistant Construction Guide* and the proposed *Building Code for Windstorm Resistant Construction*.
- Participating in the development of an educational program on the existing *Windstorm Construction Guide*.
- Reviewing and preparing a report on ISO's filing of *Building Code Effectiveness Grading Schedule*.
- Participating in the Insurance Institute for Property Loss Reduction's meetings on building codes, roof coverings and wind damage mitigation.
- Reviewing and overseeing the development of product evaluations for building products.

Inspections and Fire Safety

- Helping adopt a nationwide commercial property class rating schedule for use in Texas effective January 1997. Class rating will eliminate the need for specific property inspections by approximately 40 percent. Class rating, when fully implemented, will provide more accurate commercial property rates, save time and cut inspection costs.
- Implementing a new Voluntary Inspection Program (VIP) as adopted by the 1995 Legislature that provides homeowners with a "certificate of insurability" if their homes pass an inspection by a credentialed inspector, qualified by TDI. The Inspections and Fire Safety section developed the inspection procedures and guidelines, criteria for inspectors and the inspection certificates. The section licenses and certifies eligible VIP inspectors.

Windstorm Inspections

- Switching database software to Oracle Forms 4.5 greatly increased data entry efficiency and improved customer service.

Loss Control

- Providing insurance support for Federal Emergency Management Agency (FEMA) disaster field offices, disaster recovery centers and TDI's 1-800 consumer helpline in response to Central Texas floods in July 1997.
- Assisting insurance companies with their loss control programs, which led to positive ratings for 95 percent of the programs.

Workers' Compensation Group

- Helping adopt major changes to rules, endorsements and forms in the *Workers' Compensation Manual* and distributing those changes to insurance companies, interested parties and purchasers of the manual.
- Reviving the procedure of reviewing workers' compensation policies to determine compliance with rules and regulations in accordance with TDI's Business Plan.
- Assisting in selling the Workers' Compensation Insurance Facility to Swiss Re, the second largest reinsurer in the world.
- Developing rules allowing the pass-through of deficits/surpluses of the Texas Workers' Compensation Insurance Facility to retrospectively rated policyholders written in the voluntary market.
- Setting up the *Workers' Compensation Rate Guide* and other workers' compensation information on the Internet for easier access to the consumer.

Licensing Group

- Reorganizing the Licensing Group and establishing a Phone Assistance Group to field all incoming phone calls from agents, companies and the public and answer questions about license and appointment status and general inquiries about the licensing process. They also handle walk-ins.
- Issuing the first insurance license to a bank/operating subsidiary on October 18, 1996, as provided for in Commissioner's Bulletin No. B-0043-96. The June 20, 1996, bulletin was issued to comply with federal law.
- Providing monthly articles by the Licensing Group Deputy Commissioner and staff for use in the *Texas Insurance News* and *Licensing Update* (a Licensing Group monthly publication).
- Creating a web page on the Internet for the Licensing Group.
- Upgrading modem equipment and increasing the number of agents and companies connecting by modem to TDI's Licensing Database.
- Completing work on TDI's portion of the Producer Database (PDB) that is under the direction of the Insurance Regulatory Information Network (IRIN). TDI agent database information is uploaded nightly. Industry and other state regulators can access the information through the NAIC.

Life/Health Group

- Reviewing and analyzing more than 700 pieces of proposed health-related legislation.
- Reviewing and analyzing more than 24,000 life, accident, and health related filings.

- Coordinating the work of the Mandated Benefits Review Panel.
- Assisting with adoption of several staff recommendations, including:
 - Long-term care regulations that comply with new federal laws.
 - Rules to streamline disclosure requirements for individual Preferred Provider Organization (PPO) products.
 - Rules expanding the types of life insurance tests allowed for HIV antibodies.
 - Rules concerning health care coverage for children who are the subject of a medical support order.
- Implementing an audit process to provide regulatory oversight of exempt filings.
- Preparing the *HMO Maternity Benefits Report* for the 75th Legislature.
- Researching and preparing the 1997 HMO Consumer Report.
- Co-sponsoring a Compliance Workshop with the Consumer Protection Division.
- Making 14 presentations to consumer and industry groups.
- Representing the Commissioner of Insurance on the Healthcare Information Council.

Health Maintenance Organization/Utilization Review Agent (HMO/URA) Group HMO Unit

- Assuming responsibility for all HMO complaints beginning December 1, 1997, including complaints formerly handled by the Texas Department of Health.
- Receiving a grant that allowed HMO/URA to work with LBJ School of Public Affairs interns on the issues of quality and availability of health care provided by managed care organizations.
- Establishing and maintaining a database to track trends on the type and number of complaints received against specific HMOs.
- Developing an auditing system for HMO complaints.
- Helping develop rules for small and large employer groups.
- Providing technical expertise and participating as resource witnesses in hearings for the Senate Interim Committee on Managed Care and Consumer Protection.
- Making 30 presentations on aspects of managed care to industry and consumer groups.
- Reviewing and analyzing more than 240 legislative proposals relating to HMOs, URAs and independent review agents (specialty physicians and providers who review appropriateness of medical treatments and utilization criteria).
- Assisting the Board of Pharmacy Examiners' Managed Care Task Force in developing recommended rules regarding HMOs and pharmacy benefits.
- Assisting in the transition of the HMO licensing function to the Financial program.

HMO Quality of Care

- Assuming oversight authority for HMO quality of care on September 1, 1996, and establishing procedures for examining HMOs and investigating for compliance with new quality of care rules. The authority was transferred from the Texas Department of Health to the Texas Department of Insurance, HMO/URA/QA Group, as part of an interagency agreement. The Legislature made the change permanent during the 1997 session.

- Conducting 29 on-site quality of care, complaint and service area expansion examinations.
- Preparing 45 deficiency letters and monitoring 45 corrective action plans for compliance.
- Developing and implementing a complaint database for reporting to the Texas Department of Health.

URA Unit

- Establishing and maintaining a database of 124 specialty physicians and providers to review appropriateness of medical treatments and utilization criteria.
- Working with the Utilization Review Advisory Committee to develop rules on Utilization Review Agent renewal standards, Independent Review Organizations and other legislative changes to URA rules.

Figure I - 28. Summary of Activity — Personal Auto

	FY96	FY97
Rate and Form Filings Processed	123	63
Commissioner’s Orders	9	10
Bulletins/Mailings	11,037	16,861
Hearings/Meetings (In Hours)	532.25	703.25

Figure I - 29. Summary of Activity — Personal Property

	FY96	FY97
Requests for Information	14,463	15,217
Certificates Issued	12,215	9,786
Complaints Processed	1,105	1,140
Rules, Rates and Policy Forms Processed	235	432

Figure I - 30. Summary of Activity — Professional Liability

	FY96	FY97
Individual Risk Submissions	5,634	*5
Commissioner Orders	2	0
Written Complaints	54	24
Letters, Memos and Bulletins	1,137	1,172
Rate and Form Filings	433	529
Multi-Peril Filings	106	325
Open Records Requests	NA	215

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

Figure I - 31. Summary of Activity — Commercial Automobile

	FY96	FY97
Total Experience Rating Files Processed	57,231	61,855
State Agency Auto Policies	24	25
Processed Telephone Calls	14,446	15,750
Resolved Complaints	7	5
Visitors	69	86
Total Consumer Inquiries/Complaints	14,502	15,841
Rate and Form Filings Processed	406	523
Individual Risk Submissions (IRS)	1,957	3,158

Figure I - 32. Summary of Activity — Commercial Property

	FY96	FY97
Requests for Information	9,749	8,882
Number of Complaints Processed	39	56
Rules, Rates and Policy Forms Processed	1,468	2,292

Figure I - 33. Summary of Activity — Bond

	FY96	FY97
Rules and Policy Forms Processed*	816	899
Experience Ratings Processed	287	115
Commissioner Orders Processed	7	0
Consent to Rate Applications Processed	4,429	4,813
General Information Requests **	2,291	1,483

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

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

Figure I - 34. Summary of Activity — General Liability

	FY96	FY97
Individual Risk Submissions - Processed	9,344	0*
Call/Visitors - Processed	6,702	6,836
Form/Rule Filings - Processed	2,452	2,289
Complaints - Processed	13	24

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

Figure I - 35. Summary of Activity — Title Insurance

	FY96	FY97
Annual Escrow Audits Reviewed*	427	525
Field Examinations/Audits Conducted*	103	184
Technical Examinations*	NA	59
New Agency Contracts/Revisions*	406	405
Complaints	167	175
General Information Requests	4,330	3,827
Rates, Rules and Policy Forms	1	9
Commissioner Orders	1	1
Hearings**	0	2
Meetings**	104	142
Licenses Issued (includes renewals)*	3,952	4,212
Licenses Cancelled*	1,421	1,259

*Several functions were absorbed by the Financial Program and Licensing Group in January 1993. Tables in the Financial Program and Licensing Group, however, do not break out activity totals involving only title insurance.

**Reported in hours.

Figure I - 36. Numbers of Agents/Licenses Under Commissioner's Jurisdiction - Title Insurance

Agents/Licenses	FY96	FY97
Title Agents	527	533
Title Agent Licenses	1,440	1,422
Direct Operations	23	24
Direct Operation Licenses	23	24
Escrow Officers	3,942	4,032
Escrow Officer Licenses	4,274	4,211

NOTE: Licensing functions were absorbed by the Title Insurance Section in September of 1994 from the Licensing Group. Tables in the Licensing Group, however, do not break out activity totals involving title insurance.

Figure I - 37. Summary of Activity — Intake Unit Filings Received/Processed

Flex-Rate Filings	FY96	FY97
Personal Auto	750	741
Commercial Auto	715	709
Homeowners	184	430
Total	1,649	1,880
Other Rate Filings		
Commercial Property	536	635
Workers' Compensation	124	254
General Liability	2,841	2,302
Professional Liability	657	768
Bond, Burglary, Title	420	322
Multi-Peril	899	1,625
Total	5,477	5,906
Policy Form, Endorsement and Rule Filings		
Personal Automobile	68	77
Commercial Automobile	379	390
Intake Unit	19	9
Homeowners	53	64
Commercial Property	973	1,312
General Liability	2,368	2,003
Bond, Burglary	814	487
Workers' Compensation	272	242
Professional Liability	581	545
Multi-Peril	2,368	3,117
Total	7,895	8,246
Rating Manual*		
Bond, Burglary	243	1
Commercial Automobile	26	0
General Liability	170	6
Homeowners	1	0
Intake Unit	0	0
Multi-Peril	541	9
Personal Automobile	2	0
Professional Liability	0	3
Commercial Property	295	2
Workers' Compensation	50	0
Total	1,328	21
Rating Plans*		
Bond, Burglary	64	0
Commercial Automobile	37	0
General Liability	242	0
Multi Peril	148	0

Personal Automobile	0	0
Professional Liability	155	1
Commercial Property	87	0
Workers' Compensation	128	5
Total	861	6
Total P & C Filings Received	17,210	16,059
Intake Unit Filings Processed	111	347

*Effective 10/1/96, Rating Manuals and Rating Plans were merged into the "Rates" category.

Figure I - 38. Summary of Activity — Inspections and Fire Safety

	FY96	FY97
Property Inspections Conducted	*1,142	961
Telephone Calls Processed	2,116	1,703
Number of Requests for Copies of Fire Rate Information	20,029	**9,690
Number of VIP Licenses/Certificates Issued***	NA	70

*Includes dwellings and special request inspections.

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

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

Figure I - 39. Summary of Activity — Windstorm Inspections

	FY96	FY97
Applications	22,620	21,591
Inspections	61,871	57,110
Certificates of Compliance	19,785	20,200
Windstorm Fees Received	\$220,235	\$158,861

Figure I - 40. Summary of Activity — Engineering Services

	FY96	FY97
Supplements Published	266	505
Key Rates Reviewed	201	363
Building Code Interpretations	402	1,415
Product Evaluations	146	523
Visitors Served	135	117
Telephone Calls Processed	3,989	3,738

Figure I - 41. Summary of Activity — Loss Control

	FY96	FY97
Total Evaluations Completed	171	201
Companies Rated Adequate	170	192
Companies Rated Less Than Adequate	1	9
Number of Companies Evaluated for Licensure	12	12
Loss Control Representative Applications Reviewed	96	121
Field Safety Representatives with a Specialty in Hospitals	17	22

Figure I - 42. Summary of Activity — Amusement Ride Safety and Insurance Act

	FY96	FY97
Policies Approved	201	320
Inspection Certificates Approved	1,308	1,401
Number of Injuries	135	83
Inspector Applications	*6	46
Number of Owners Under Compliance Monitoring	**	251

* New Program initiative for FY 96.

** New Summary of Activity started in FY 97.

Figure I - 43. Summary of Activity — Workers' Compensation Oversight Group

	FY96	FY97
Written Inquiries Processed	273	189
Complaints Processed	435	444
Letters Written	1,134	1,186
Telephone Calls Processed	8,666	10,208
Number of Experience Rating Modifiers Reviewed	359	461
Brochures Distributed by Mail	1,263	856
Number of Policies Reviewed	*	661

*New category in FY97.

Figure I - 44. Summary of Activity — Workers' Compensation Classification

	FY96	FY97
Number of Inspections	568	528
Number of Days Traveled	202	191
Total Miles Traveled	40,482	40,819
Average Travel Cost Per Inspection	\$39.99	\$44.27
Letters & Telephone Calls	26,165	21,984
Visitors	35	32
Types of Inspections Made:		
Insured Requests	45	41
Insurer Requests	195	183
Agent Requests	66	63
Department Requests	262	241

Figure I - 45. Summary of Activity — Workers' Compensation Retrospective Rating/Group Purchase/Deductibles

	FY96	FY97
Number of Telephone Calls	1,754	1,589
Number of Letters	891	803
Number of Visitors	88	97
Number of Groups Certified	55	46
Number of W.C. Circular Letters Distributed	9,000	13,200
Number of W.C. Rate Guides Distributed	589	208
Number of Open Records Requests		
Group Plans	51	7
List of Certified Groups	28	15
Rate Filings	39	14
Schedule Rating Plans	16	8
Misc. Open Records Requests	147	172
Forms Received		
Retro Option V	663	522
Retro Large Risk Option	417	345
Retro Tabular Option	13	9
Deductible Notifications	5,429	3,374
Filings Reviewed		
Group Programs	63	52
Rate Filings	148	168
Rating Plans & Misc. Filings	124	151
Retro Election Notices	1,086	876
ARRP Adjustments	99	9

Figure I - 46. Number of Licenses and Certificates Under Commissioner's Jurisdiction

License Type	FY93	FY94	FY95	FY96	FY97
Agents*	176,547	189,042	187,070	203,603	216,493
Adjusters	22,435	26,317	26,958	28,897	31,458
Life Counselors	84	86	91	98	113
Risk Managers	862	941	1,012	1,084	1,115
Reinsurance Intermediary	NA	786	919	1,054	1,125
Premium Finance Companies	360	309	304	308	300
Third-Party Administrators	393	445	467	513	649
Title **	1,761	1,531	****	****	****
Escrow Officers **	6,187	4,916	****	****	****
Direct Operations ***	51	9	****	****	****
Grand Total of Lines					
Regulated *	208,680	224,382	216,821	235,557	251,253

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

** FY93 count does not reflect any license canceled during FY93. FY94 reflects cancellations.

*** FY93 count includes all counties per direct operations. FY94 reflects only direct operations.

**** FY95-FY97 Title, Escrow, Director licenses are reported now by Regulation and Safety's Property and Casualty Division. See Page 41.

Figure I - 47. Summary of Activity - Licensing Group

	FY96	FY97
Total Filings Processed by Licensing Group*	560,519	500,141
Telephone Inquiries Answered	206,057	202,071

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

Figure I - 48. Five-Year Summary of Agents License Statistics

Total Licenses	FY93	FY94	FY95	FY96	FY97
Issued	50,299	44,202	48,801	54,522	49,785
Renewed	51,867	70,491	61,752	89,906	71,253
Total Appointment Transactions	126,093	210,542	269,633	303,430	287,785
Total Current Licenses					
Agents & Adjusters	198,982	215,359	214,028	232,500	247,951
Other Licenses *	NA	**9,023	***2,793	3,057	3,302
Grand Total of Licenses Regulated *	NA	224,382	216,821	235,557	251,253

*Previous computer database did not allow count of all license authorities.

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

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

Figure I - 49. Numbers and Types of Agents' Licenses FY96-FY97

Agents	FY96	FY97
Group I Life	90,749	94,598
Group II Life	29,821	29,819
Variable Contracts	20,973	23,580
Local Recording	22,511	23,309
Solicitor	13,176	14,087
Insurance Service Rep	1,475	1,704
Non-Resident Fire/ Casualty	6,632	7,040
Managing General	3,386	3,575
State/Salary/Special	4,692	4,915
Agricultural	255	237
Surplus Lines	1,557	2,147
Prepaid Legal	1,921	3,296
HMO	6,455	8,186
Total	203,603	216,493

Figure I - 50. Summary of Activity - Miscellaneous Lines

	FY96	FY97
TPA On-Site Examinations	26	29
TPA New Licenses Issued	84	91
TPA License Exempt Granted	28	33
New Premium Finance Licenses Issued	33	21
Premium Finance Licenses Renewed	275	297

Figure I - 51. Number of Premium Finance Companies, Loans, Value - CY92-CY96*

Calendar Year	Number of Companies	Number of Premium Loans	Value of Loans
1992	361	641,367	\$1.51 billion
1993	309	636,550	\$1.75 billion
1994	307	645,682	\$1.83 billion
1995	308	563,364	\$1.46 billion
1996	306	404,532	\$1.65 billion

*These figures are reported in calendar year, and 1996 is last full calendar year available.

Figure I - 52. Summary of Activity — Life/Health Policy Forms Reviewed

	FY96	FY97
Filed	26,242	24,401
Accepted	24,796	23,080
Approved	10,134	7,809
Disapproved	3,704	2,540
Exempt	5,966	7,992

Figure I - 53. Health Maintenance Organization (HMO) Filings

	FY96	FY97
Applications Processed	23	NA*
Service Area Expansions/ New Divisions	25	NA*
New Forms Received	4,927	3,323
Forms Completed	4,808	3,347

* Handling of HMO license applications and service area expansion applications moved to the Financial Program in FY97. See Page 26.

Figure I - 54. Utilization Review Filings

	FY96	FY97
Applications Received	47	39
Applications Incomplete	15	17
Applications Pending Review	10	8
Registered Utilization Review Agents Approved	4	2
Certified Utilization Review Agents Approved	41	40

Consumer Protection

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

The **Consumer Protection Program** consists of five activities:

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

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

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

Public Education, in cooperation with other TDI activities, develops informational materials to increase consumers' understanding of insurance products, encourage wise shopping and promote TDI consumer services. Publications include rate guides, brochures and fliers available in English and Spanish. Many publications also are accessible through the Internet. Consumers may order complaint forms and information brochures 24 hours a day, seven days a week, by calling a toll-free automated telephone attendant at 1-800-599-SHOP (7467). Public Education also coordinates a Speakers Bureau that delivers public presentations, workshops and information displays to civic

organizations and community and minority groups, as well as business and industry associations. In partnership with other state and federal agencies, Public Education operates the federally funded Health Information, Counseling and Advocacy Program (HICAP), which provides statewide training to volunteer benefits counselors who assist senior citizens in their local communities with insurance problems.

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

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

Highlights

Major accomplishments by Consumer Protection during Fiscal Year 1997 included:

- Responding to more than 338,700 inquiries, including over 304,600 calls handled by Information Assistance (including one month in which a record number of over 30,000 inquiries were answered), plus over 33,200 handled by Complaints Resolution staff. Complaints Resolution also processed more than 17,500 written complaints.
- Producing increased payments of additional money to consumers as a result of Consumer Protection's intervention in response to their complaints; the total amount of additional claims paid and additional premium refunds was \$18.2 million, an increase of 13.6 percent from FY 96.
- Recommending administrative action against a major HMO for failure to file required advertising materials. This recommendation from the Advertising Unit ultimately resulted in imposition of a \$200,000 fine.
- Conducting a focus group on redlining issues to address ways to increase the availability of homeowners and automobile insurance in underserved areas.
- Initiating, in cooperation with Regulation and Safety, a Market Assistance Program Outreach project, exceeding targets for number of cities hosting events; developing partnerships with the U.S. Department of Housing and Urban Development (HUD) and the Texas Department of Housing and Community Affairs has enhanced these continuing efforts.
- Distributing more than 1,044,000 copies of publications, a record high, including over 203,000 rate guides, providing information that can help Texans obtain the best value for their insurance dollar.
- Conducting 347 presentations throughout Texas on insurance issues and reaching an estimated 1.9 million consumers through the agency's Speakers Bureau.
- Distributing 131,300 insurance-related publications during the Houston Auto Show.

- Increasing the number of bilingual publications from six to 18, with another nine under development, and conducting 33 presentations in African-American and Hispanic communities in 10 cities.
- Continuing an educational outreach program to older Texans, reaching more than 15,100 individuals through 61 training programs.
- Completing Public Education's first full year of its Disability Outreach project, exceeding both its distributed publications and its events targets.
- Initiating partnerships with governmental agencies to educate consumers regarding auto insurance, including:
 - Reviewing high school student curricula, in conjunction with the Texas Education Agency, to better reach high school students with insurance information.
 - Teaming with Capital Metro to make presentations to groups interested in organizing car-pools.
- Continuing the Beaumont field office pilot project, providing special outreach with a focus on insurance availability to South East Texas consumers, agents and industry representatives; field office staff made 47 presentations and distributed 102,500 publications during FY 97.
- Incorporating references to key provisions from 33 bills enacted by the 75th Legislature into consumer publications.
- Re-engineering the Advertising Unit's work processes, resulting in reducing average processing times from the first quarter to the last by over 70 percent and cutting pending counts significantly.
- Implementing a new on-line information database, the Consumer Protection Infobase supported by "FolioViews," to provide quick and easy access to reliable information and reference material.
- Creating an Intake Unit in Complaints Resolution, which contributed to achieving a 40-day average processing time for complaints, a 10 percent reduction from FY 96.
- Re-engineering both the format and the production process for the automobile and homeowners rate guides; the new guides provide more useful information than earlier versions at less than half the expense.
- Introducing some of the most popular items on the TDI's new Internet web-site, based upon the number of recorded hits. Consumer Protection's contributions to the web-site include all insurance-related publications as well as an interactive complaint form, permitting consumers to present their grievance to Consumer Protection electronically.
- Spearheading efforts to implement several recommendations contained in TDI's issue report, *Turning the Corner*, including:
 - Obtaining executive approval of a revised publications process, with the designation of a "publications keeper" to maintain a master inventory of all TDI publications, confirmation of final approval authority for publications, and adoption of standards for information regarding how the public can contact TDI by telephone, e-mail, and Internet and electronic bulletin board sites.
 - Participating in TDI's Internet "gatekeepers team," which manages the exchange of forms and data with TDI's customers via the Internet.

- Hosting, in cooperation with the TDI Purchasing division, a historically underutilized business (HUB) fair, to acquaint HUB vendors with opportunities for bidding for TDI contracts and purchases; as evidence of success, 55 percent of all Consumer Protection’s printing contracts in FY97 went to HUB vendors.
- Beginning preliminary analysis for a major redesign of the Complaint Inquiry System, with objectives including development of specifications for better system edits, reporting capabilities and ease of use.

Figure I - 55. Total Number of Complaint Cases Closed — FY93-FY97

FY93 = 24,652
FY94 = 23,083
FY95 = 20,847
FY96 = 16,709
FY97 = 17,650

Figure I - 56. Additional Claim Payments to Consumers — FY93-FY97

FY93 = \$20.6 million

FY94 = \$11.3 million

FY95 = \$10.6 million

FY96 = \$14.8 million

FY97 = \$17.0 million

Figure I - 57. Restitutions/Refunds to Consumers — FY93-FY97

FY93 = \$0.4 million

FY94 = \$1.1 million

FY95 = \$1.9 million

FY96 = \$1.2 million

FY97 = \$1.2 million

Technical Analysis

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

Technical Analysis consists of five activities:

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

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

During FY 97, actuarial staff reviewed more than 4,000 tort reform rate adjustment filings. Analysis of these adjustment filings showed that Texas liability policyholders will save more than \$441.2 million in calendar year 1997 premiums. In addition to monitoring these filings, actuarial staff assisted in preparing for the third tort reform rate adjustment hearing. As a result of that August 26 hearing, the Commissioner ordered an estimated \$610.2 million in tort reform rate cuts through Calendar Year 1998. Because the reductions are expressed as a percentage of rates, total 1998 savings will depend on the premium volume.

The tort reform filings combined with an increased number of routine rate filings led to a slight increase over the FY 96 filing review workload. The number of rate filings reviewed rose slightly from 7,846 in FY 96 to 7,944 in FY 97.

In addition, Property and Casualty Actuarial challenged automobile rate filings made by Allstate Insurance. Negotiations between TDI and Allstate resulted in the company refunding \$42.7 million to current and former policyholders. This represents the largest

insurance refund in state history. The consent order issued by Commissioner Bomer on August 29 detailing the terms of the refund also required a 6 percent reduction in Allstate's average rates for current policyholders.

Property and Casualty Actuarial also assisted the Commissioner in negotiations with eight rental car companies accused of selling supplemental liability insurance without an insurance agent license. Each of the companies signed consent orders providing refunds, in varying amounts, to customers who had purchased the coverage, although the companies maintained they had done nothing wrong. The car rental companies involved were Hertz, Avis, Alamo, Thrifty, Dollar, National, Budget and the five Texas-based Enterprise companies. A new Texas statute now allows rental car companies to obtain agent licenses to sell liability insurance on car rentals, and TDI has proposed rules and forms to create standardized liability policies for use by car rental firms.

In Fiscal Year 1996, a new actuary recruitment program introduced the progressive mentor concept. Actuaries now receive on-the-job supervision and study guidance from other actuaries who have successfully completed more Casualty Actuarial Society exams. More competitive private sector salaries probably will entice actuaries away from the agency as they acquire higher certification; as mentors, however, they will share general actuarial knowledge and job-specific skills with actuaries preparing for certification exams.

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

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

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

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

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

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

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

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

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

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

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

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

- o Analyzing market data used in identifying underserved areas for both residential property and auto insurance.
- o Providing data for calculating assigned risk auto quotas.
- o Providing data for calculating insurer participation levels in the Texas Catastrophe Property Insurance Association.
- o Providing data for determining the effect of the newly adopted fire suppression rating system.

- o Calculating the impact of special programs designed to improve auto insurance availability.
- o Evaluating market trends.
- o Providing data for pricing newly adopted residential property and auto endorsements.
- o Calculating division performance measures.

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

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

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

Special Deputy Receiver (SDR) Contracting Process Unit oversees the SDR and subcontractor application process. This oversight includes determining eligibility through background and reference checks and scoring and processing applications. A total of six new SDR applications and 32 new subcontractor applications were reviewed in FY 1997. Additional responsibilities include assisting the Commissioner of Insurance Selection Committee, handling bid solicitations and contract negotiations and overseeing contract compliance for the 18 SDRs under contract who manage 31 active receiverships.

Highlights

Major accomplishments by Technical Analysis for Fiscal Year 1997 included:

- o Reviewing more than 4,000 tort reform rate adjustment filings, reflecting that Texas liability insurance policyholders will save an estimated \$441.2 million in premiums during the second year of tort reform.
- o Increasing consumer and industry access to insurance data and reporting forms by making them available on the agency's web site.
- o Improving access to title insurance rate making data by making comprehensive title agent data available electronically for the first time.
- o Challenging automobile rate filings made by Allstate Insurance, resulting in Allstate's refunding \$42.7 million to current and former policyholders, the largest insurance refund in state history.

- o Developing a package of standardized statistical reports for private passenger auto and residential property coverages, thereby increasing ease of access to information previously available only through SAS.
- o Continuing to improve the Early Warning process by streamlining the harvesting of necessary data and eliminating redundant indicators.
- o Automating Early Warning market conduct indicators based on information in the agency's complaint system.
- o Developing a training program and reporting guide to assist insurers in reporting closed claim information accurately.
- o Negotiating consent orders with eight major car rental companies, resulting in more than \$7 million in refunds to more than 500,000 Texas customers who purchased rental car supplemental liability insurance even though the companies were not licensed to sell insurance in Texas.

Figure I - 58. Premium and Saving Reported by Line of Insurance (in millions)*

	1995**	1996	1997	1998***
	Direct Written Premium	Estimated Savings	Estimated Savings	Projected Savings
Farmowners/Ranchowners Liability	\$53.7	\$0.8	\$0.9	\$0.9
Medical Malpractice	\$320.8	\$32.7	\$34.9	\$45.5
General Liability	\$1,087.2	\$115.8	\$105.8	\$143.8
Commercial Multi Peril	\$431.7	\$36.0	\$48.3	\$65.6
Products Liability	\$95.6	\$11.9	\$11.1	\$16.0
Commercial Automobile	\$588.8	\$59.8	\$62.3	\$70.0
Private Passenger Automobile				
Rate Regulated Companies	\$2,121.5	\$142.9	\$141.0	\$212.7
Non Rate Regulated Companies	\$588.6	\$35.6	\$36.9	\$55.7
Totals:	\$5,287.9	\$435.5	\$441.2	\$610.2

* August 26, 1997 summary of tort reform filings received by the Texas Department of Insurance.

** Estimates are based on 1995 Direct Written Premium, the most recent year for which data is complete.

*** Because reductions are expressed as a percentage of rates, total 1998 savings will depend on the premium volume.

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

Figure I - 59. Closed Claim and Quarterly Market Data Reports Collected

	FY96	FY97
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Individual Closed Claim Reports	14,846	*10,401
Summary Closed Claim Reports	657	662
Closed Claim Reconciliation Reports	803	848
Supplemental Closed Claim Data Call Responses	NA	*829

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

Figure I - 60. Other Statistical Reports Collected

	FY96	FY97
Title Insurance Agents	522	535
Title Insurance Underwriters	16	15

Figure I - 61. Rate and Rating Plan Filings in FY96-97

	Filings Processed FY96	Filings Processed FY97	Processed In 90 Days FY 96	Processed In 90 Days FY 97
Regular Filings	4,758	3,889	50.7%	48.2%
Tort Reform Filings	3,088	4,055	69.5%	73.8%
Total Filings processed	7,846	7,944	58.0%	61.3%

Figure I - 62. Summary of Activity - Early Warning

	FY96	FY97
Company reviews performed by EWWG	21	*NA
Referrals to other TDI divisions for appropriate regulatory action	15	35
Follow-up memoranda regarding prior referrals	**	1
FYI memoranda to other TDI divisions regarding companies already subject to regulatory activity	**	44
Reviewed by EW staff and deferred to other divisions' prioritization schemes	**	477
Reviewed by EW staff and "passed" in accordance with agreed criteria	**	***1,505
Total company reviews performed by staff	1,711	2,062

* This function is no longer performed.

** These activities are components of the total, below, but the individual figures are not broken out for FY 96.

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

Administrative Operations

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

The program consists of five activities:

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

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

IS consists of four sections:

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

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

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

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

Administrative Services, led by the Chief Financial Officer, supports the agency in the areas of budget and planning, accounting, purchasing, publications, 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 four divisions:

Accounting maintains the agency's financial books and records, prepares supporting documents required for a proper audit trail, establishes internal financial controls to detect errors and irregularities, prepares the agency's annual financial report and develops and recommends rates for maintenance taxes, examination overhead assessments and premium finance assessments needed to fund the agency.

Budget and Planning prepares the Legislative Appropriations Request (LAR), the agency's Strategic Plan every two years, the agency's annual operating budget and the agency's monthly performance reports. The division also monitors expenditures, develops projections to help programs stay within budget, monitors the agency's performance against targets in the Strategic Plan and monitors the agency's compliance with certain Article IX provisions of the General Appropriations Act.

Building and Records Management deals with all building-related services, including space planning and management, security, employee parking, records retention, property inventory and warehousing, and administers the agency's Risk Management Program.

Publications, Mail Services and Purchasing designs, illustrates and produces agency publications and materials; handles, tracks and delivers all mail, including inter-agency memos and correspondence; and purchases goods and services for the agency.

Figure I - 63. Comparison of Maintenance Tax Rates - FY88-FY97

Type	Max legal rate	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
Motor Vehicle	.2	.058	.067	.133	.091	.07	.058	.069	.068	.055	.066
Fire	1.25	.406	.729	.711	.711	.574	.525	.606	.656	.436	.418
Workers' Compensation	.6	.180	.163	.467	.268	.217	.200	.386	.120	.093	.096
Casualty	.4	.207	.343	.318	.297	.210	.210	.295	.319	.209	.251
Title	1	.122	.156	.464	.322	.178	.132	.187	.171	.110	.135
Life, Accident and Health	.04	.032	.032	.040	.040	.040	.040	.040	.040	.040	.040
Third-Party Administrators	1.0	1.0	1.0	1.0	1.0	.8	.5	.222	.235	.310	.339
HMO Basic*	\$2.00	\$1.10	\$0.98	\$1.21	\$1.21	1.25	\$0.78	\$1.23	\$1.27	\$0.68	\$0.80
HMO Single Service*				\$.61	\$.60	\$.62	\$0.42	\$0.62	\$0.38	\$0.22	\$0.27
Prepaid Legal	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0

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

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

It consists of Administration and three sections or centers:

Administration provides the overall management and direction of the division, analyzes and researches human resources issues, implements the division's business plan, works with management and the Ombudsman in managing the Equal Employment Opportunity (EEO) program, oversees agency compliance with the Americans With Disabilities Act (ADA) and coordinates the annual employee satisfaction survey. It also reviews key performance measures from each center.

Personnel and Benefits Center (PBC) maintains employee records, posts job openings, assists in hiring employees, conducts position classification audits and implements agency personnel policies. It also advises employees on benefits, maintains pay and benefit records, processes the monthly payroll, keeps required statistics and records and maintains the Human Resources database systems.

Professional Development Center (PDC) assesses employee and agency training needs; researches, designs, coordinates, conducts and evaluates management and employee training; conducts new employee training; provides insurance training; tracks and maintains employee training records; produces statistical reports on training efforts; coordinates the agency's tuition reimbursement program; and provides liaisons to each program area to solve various training and development issues.

Information and Operations Center (IOC) manages the agency's recruitment process, employee wellness and Adjustable Work Opportunities and Leave programs. It also conducts employee exit interviews and oversees the agency's implementation of the Human Resources Information System (HRIS). The center's staff maintains job applications, job postings, agency time records and the employee performance evaluation system. It also routes telephone calls to appropriate departments within the agency and maintains the key telephone listing and agency phone directory.

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

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

In FY 97, the division refined the business plan monitoring and reporting process and prepared status reports on business plan initiatives and "Turning the Corner" recommendations. Business Planning and Redesign worked closely with the programs, individually and through the Planning Work Group, to develop TDI's FY 98 Business Plans and to establish business planning as a sound and useful management tool. Business Planning and Redesign staff also supported the implementation of new legislation, including the merger of the State Fire Marshal's Office with TDI. The division also

supports the programs by developing grant proposals to implement projects, and providing advice and consultation on management of projects

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

Highlights

Major accomplishments by Administrative Operations during Fiscal Year 1997 included:

Information Services

- Helping TDI plan ahead for information technology investments that support the program area business plans.
- Participating with Business Planning and Redesign in establishing a workgroup of agency planners to ensure all automation projects meet the agency's most important business needs. The workgroup gives each business initiative a thorough hearing, including a cost/benefit analysis, and helps ensure that approved projects are given adequate resources, well-defined deliverables and reasonable deadlines.
- Streamlining processes and workflows to make IS more responsive to agency business plans.
- Improving agency Internet tools, including developing an Intranet that makes it easier for TDI employees to exchange information. IS also implemented a firewall to protect the integrity of TDI data and equipment, and established an Internet home page to make educational material, regulatory matters, announcements and other material easily available to consumers, insurance companies, agents, vendors and other state agencies.
- Consolidating staff and reducing space requirements. IS closed operations in the computing center at the old Main Insurance Building, 1110 San Jacinto, at the end of 1996. Staff moved to the Hobby Building. IS sold the equipment at the old site, saving the state the cost of moving and storing the equipment. By the end of FY97, IS had reduced space requirements by about 70 percent.
- Eliminating the agency's aging mainframe technology. TDI decommissioned the mainframe equipment in January 1997 after migrating to a less expensive UNIX operating system. Additionally, IS consolidated the mainframe and LAN technology into a network-based system. The changes are expected to reduce the overall computer infrastructure maintenance costs by about \$400,000 per year in the FY98-99 biennium.

- Upgrading the agency's network, servers, printers, client PCs and software, including moving to Windows 95, to improve overall agency efficiency, access to data and automation performance.
- Implementing the Year 2000 compliance project, and beginning the modification, testing and certification of application code necessary to eliminate date representation problems in agency hardware and software.
- Converting to an industry standard network operating system (NOS) that facilitates sharing of information with the public, regulated entities and other government organizations.
- Working with the National Association of Insurance Commissioners (NAIC) to reduce costs and increase efficiency of the regulatory process by implementing the producer database and an electronic rate and form filing process.

Administrative Services

- Preparing the FY 96 Annual Financial Report and the Binding Encumbrance and Accounts Payable Report for FY 96.
- Implementing a new cash receipt system (CARS) that eliminated the use of paper receipts and duplicate data entry.
- Assisting in the development of a new examination/overhead assessment billing system.
- Developing rates for maintenance tax, examination/overhead assessment, premium finance assessment and the workers' compensation maintenance tax surcharge.
- Processing 5,602 payment vouchers and 24,051 cash receipts during FY 97.
- Coordinating preparation of more than 338 fiscal notes to the Legislative Budget Board for the 75th Legislative Session.
- Developing and producing the agency's FY 98 Operating Budget.
- Coordinating projects and preparing documentation in support of the agency's FY 98/99 Legislative Appropriations Request (LAR) and five-year strategic plan (FY 97-FY 2001).
- Monitoring and projecting agency expenditures by strategy, object of expense and organizational unit.
- Maintaining a salary tracking system that enabled the agency to stay in compliance with the General Appropriations Act, Article IX, Section 153 (the "FTE cap") and assisting in preparation of the quarterly FTE State Employee Reports to the State Auditor's Office.
- Developing and publishing monthly and quarterly performance reports to monitor progress on agency performance measures.
- Filling 491 graphic design requests and producing more than 9.26 million pages of agency publications.
- Processing 1.2 million pieces of agency mail.
- Processing more than 2,514 purchase orders and procuring 4,325 items.
- Coordinating planning, necessary renovations and purchase of \$260,000 in modular furniture to meet the Legislature's mandate on space utilization.

- Completing required submissions and obtaining TWCC approval for the agency Risk Management Program.
- Microfilming 904,675 documents and storing 1,668 cubic feet of records through the Texas State Library for records retention.
- Assisting in planning and implementing transfer of the State Fire Marshal's Office from the Texas Commission on Fire Protection to TDI. Transition issues included budget, space, inventory, purchasing and travel.

Human Resources (HR)

- Receiving Texas Commission on Human Rights approval of TDI's *Human Resources Personnel Policies and Procedures* and *Affirming EEO Action Plan*.
- Completing the State Auditor's Office Position Classification Audit and internal agency classification audit, resulting in position audits on all classified positions.
- Achieving 100 percent compliance with a Commissioner's mandate that performance evaluations be completed on all employees, marking the second consecutive year for accomplishing this directive.
- Evaluating and testing a Human Resources Information System (HRIS) that will provide a central repository for employee data. Conversion from multiple systems to a single system is anticipated in FY 98.
- Delivering 97 hours of enhanced management training, including segments on smart hiring, performance management, personnel and legal issues, sexual harassment and ethics.
- Delivering 461.75 hours of employee training, including segments on communication, writing, workplace conduct and new employee orientation.
- Delivering 239 hours of insurance training, including in-house Chartered Property Casualty Underwriter (CPCU), insurance regulation, property and casualty and basic insurance courses.
- Providing orientation for approximately 131 new employees as part of the New Employee Orientation program.
- Processing 871 personnel actions for the agency, including merit raises, promotions, transfers, releases and other forms of separation.

Business Planning and Redesign Division (BPR)

- Implementing a process for monitoring and reporting on business plan initiatives and *Turning the Corner* issues.
- Coordinating Planning Work Group meetings that provide an agency-wide forum for discussing and prioritizing projects requiring Administrative Operations support.
- Leading the agency through the business planning process for FY 98.
- Helping agency work groups plan the implementation of legislative and business projects.
- Compiling information for comparing insurance departments in Texas, Florida, California and New York on the numbers of full-time employees with similar duties, their salaries and the number of companies regulated.

- Working with Budget and Planning and Information Services to integrate the budgeting and planning processes for the agency.
- Assisting programs in doing cost-benefit analyses on projects requiring Administrative Operations support.
- Assisting programs in developing grant proposals to be submitted to the Foundation for Insurance Regulatory Studies in Texas.
- Working with Human Resources to split duties related to the State Employee Incentive Program, with administrative functions going to HR and evaluation of suggestions remaining with BPR.
- Working with Information Services to develop a proposed hardware/software technology purchasing process.

Employee Ombudsman and Ethics Advisor

- Responding to requests from throughout the agency to provide conflict resolution assistance, including facilitation, mediation and counseling.
- Working with Human Resources to develop an ethics training module.
- Conducting employee training courses on workplace ethics.
- Providing workshops and presentations to TDI employees and other state agencies regarding sexual harassment, ethics, conflict resolution and effective management skills.