



## Texas Department of Insurance

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April 15, 2014

The Honorable Members of the Senate Business and Commerce Committee  
Texas Senate  
P.O. Box 12068-Capitol Station  
Austin, TX 78711

Dear Chairman Carona & Members of the Senate Business and Commerce Committee:

Thank you for allowing the Texas Department of Insurance (TDI) to provide a quarterly update on the agency's activities. As reported in the January 13, 2014, letter to the committee, TDI has been working on several large rule projects to implement legislation from the 83<sup>rd</sup> Legislative Session.

Attached to this letter you will find a chart detailing the legislation requiring implementation by TDI for which this committee has jurisdiction. The attached chart details what steps have been, and will be taken by the agency regarding implementation. I will also highlight in this letter the implementation of a few key pieces of legislation, including Senate Bills 734, 1567, and 1795. In addition, I will provide a brief update of TDI's continued implementation of House Bill 3 (82) (1) related to the Texas Windstorm Insurance Association (TWIA).

### SB 734 – Carona/Smithee

Prior to the passage of SB 734, Texas-based companies wanting to self-insure through a captive insurance operation were forced to form their captive operations, or captives, outside of Texas. SB 734 changed that by authorizing TDI to license captives in Texas to insure the risks of parent companies and affiliates, as well as controlled unaffiliated business.

On April 7, 2014, TDI adopted the final rules needed to fully implement SB 734. Per standard Administrative Procedures Act (APA) process, the rules will become effective twenty days later on April 27, 2014. To date, TDI has licensed two captives, which were located in other states and then moved to Texas upon the passage of the bill. TDI has also licensed the first new captive in the state. TDI staff continues to have meetings with parties that are interested in licensing their captives in Texas and anticipates continuing to receive applications as the year progresses. At this time, TDI has registered twelve companies to provide captive management services to Texas-licensed captives.

### SB 1567 – Davis/Eiland

SB 1567 created disclosure requirements for named driver auto insurance policies. Named driver policies are policies that exclude all drivers living in the household unless they are specifically listed on the policy. The bill required agents and insurers to provide a disclosure warning that the policy is a named driver policy and does not provide coverage for individuals

residing in the insured's household, who are not named on the policy. Before accepting a premium, and at each renewal, the agent and insurer must:

- Include the disclosure on the policy,
- Include the disclosure on the standard proof of motor vehicle liability insurance form (auto ID card),
- Receive a signed copy of the disclosure from the applicant or insured,
- Provide the disclosure orally to the applicant or insured, and
- Require the applicant or insured to confirm contemporaneously, in writing, the provision of the oral disclosure.

In the February 21, 2014, edition of the *Texas Register*, TDI proposed a rule to add the named driver disclosure to the prescribed auto ID card. The comment period ended on March 24, 2014. TDI received only three comments on the proposed rule and all were in favor of the rule, with slight changes. Accordingly, TDI staff is finalizing an adoption order.

On April 4, 2014, TDI posted on our website a draft rule to implement the additional named driver disclosure requirements set forth in SB 1567. The deadline for informal comments was April 14, 2014. After reviewing the comments, TDI staff will draft a formal rule proposal to implement the remaining SB 1567 requirements.

#### SB 1795 – Watson/Guillen

TDI adopted the final rules regarding Texas navigators on January 21, 2014, which means the rules were effective on February 10, 2014. Pursuant to the requirements of the rules, individual navigators providing enrollment assistance in the health benefit exchange and the navigator entities that those individuals represent were required to register with TDI no later than March 1, 2014. To date, TDI has approved all 25 registration applications that were received from navigator entities and 382 of the 410 registration applications that were received from individual navigators. The remaining pending applications require further review by TDI staff to determine whether the individuals meet the rule requirements to be registered.

In order to maintain their registration, all approved individual navigators must complete a 20-hour education course before May 1, 2014. TDI has approved two education courses that are being provided by different vendors, which meet the requirements of the rule.

TDI staff has been in regular contact with representatives of the navigator entities since the rules were adopted so that information can be disseminated efficiently and effectively, and TDI staff is working with the vendors to receive lists of the individual navigators that complete the course and pass the examination in order to streamline the reporting for those who have met the requirement. TDI has also created a Navigator Registration webpage at <http://www.tdi.texas.gov/licensing/agent/navigator.html> to consolidate the information that navigator entities and individual navigators need to comply with the rules. TDI developed regularly updated reports, which allow navigators and the public to determine which navigators have been approved, and has worked with the bill author's office to help maximize the information available to navigators in Texas.

#### HB 3 – Smithee/Carona

As part of TDI's continued implementation of HB 3, the agency published formal rule proposals in the February 14, 2014, edition of the *Texas Register*. These rules implement the premium

surcharge and loss funding provisions set out in HB 3. The agency held three public hearings to receive comments on the proposed rules:

1. Beaumont -- February 26, 2014
2. Austin -- March 3, 2014
3. Corpus Christi -- March 5, 2014

The comment period ended on March 10, 2014, and TDI staff is currently in the process of reviewing the written and oral comments submitted on the proposed rules. In addition, my staff and I plan to meet with individuals and stakeholders in Brownsville on April 16, 2014, to hear their thoughts and comments on windstorm insurance.

Thank you for the opportunity to provide an update. Should you have any questions or need any additional information, please do not hesitate to contact me. I am at your service.

Sincerely,



Julia Rathgeber  
Commissioner of Insurance

Attachment