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TEXAS INSURANCE CODE 1984
SUPPLEMENT



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Supplement
to
Texas
Insurance
Code

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Texas Insurance Code Pamphlet



*As Amended at the
1984 Second
Called Session of the
68th Legislature*

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THE INSURANCE CODE

CHAPTER THREE. LIFE, HEALTH AND ACCIDENT INSURANCE

SUBCHAPTER C. RESERVES AND INVESTMENTS

Art. 3.34. Texas Securities

Repeal

This article is repealed effective January 1, 1985, by Acts 1984, 68th Leg., 2nd C.S., p. 526, ch. 31, art. 4, § 3.

Art. 3.36. Report of Reserves and Investments Required

Repeal

This article is repealed effective January 1, 1985, by Acts 1984, 68th Leg., 2nd C.S., p. 526, ch. 31, art. 4, § 3.

SUBCHAPTER C. GROUP, INDUSTRIAL AND CREDIT INSURANCE

Art. 3.50-2. Texas Employees Uniform Group Insurance Benefits Act

[See Insurance Code Pamphlet for text of 1 to 4A]

Authority to Establish Group Coverages

[See Insurance Code Pamphlet for text of 5(a) and (b)]

(c) The trustee will be required to submit for competitive bidding the coverages provided by the group plan at least every six years.

[See Insurance Code Pamphlet for text of 5(d) to 23]

[Amended by Acts 1984, 68th Leg., 2nd C.S., p. 241, ch. 22, § 1, eff. Oct. 2, 1984.]

CHAPTER FOUR. TAXES AND FEES

Art.

- 4.11. Life, Health, and Accident Insurance Companies; Premium Tax.
- 4.13. Interest on Insurance Premium Tax Not Paid.
- 4.14. Penalty on Insurance Premium Tax Not Paid.
- 4.15. Suit by Attorney General to Recover Delinquent Insurance Premium Taxes.
- 4.16. Authority of State Board of Insurance to Verify Insurance Premium Taxes; Rules and Regulations.

Art. 4.09. Fees for the Privilege of Writing Credit Life Insurance or Credit Accident and Health Insurance or Both Credit Life Insurance and Credit Accident and Health Insurance

Repeal

This article is repealed effective January 1, 1985, by Acts 1984, 68th Leg., 2nd C.S., p. 526, ch. 31, art. 4, § 3.

Art. 4.11. Life, Health, and Accident Insurance Companies; Premium Tax

Text of article effective January 1, 1985

Insurance Carriers Required to Pay Premium Tax

Sec. 1. Every insurance carrier receiving premiums from the business of life insurance, accident insurance, health insurance, life and accident insurance, life and health insurance, health and accident insurance, or life, health, and accident insurance, including variable life insurance, credit life insurance, and credit accident and health insurance for profit or otherwise or for mutual benefit or protection, in this state, shall pay to the State Board of Insurance for transmittal to the state treasurer an annual tax upon its gross premiums as provided in this article.

Definitions

Sec. 2. The following definitions shall apply to this article:

(a) "Carrier" means any insurer or group hospital service plan transacting any such insurance business in this state including companies operating under the provisions of Chapters 3, 8, 11, 13, 15, 18, 19, 20, 20A, and 22 of the Insurance Code but excluding local mutual aid associations, fraternal benefit societies or associations, and societies that limit their membership to one occupation.

(b) "Comparison state" is defined as the state other than Texas in which a carrier owns the largest amount of similar investments to those qualified and enumerated in Section 4 of this article.

(c) "Gross premiums" are the total gross amount of all premiums, membership fees, assessments, dues, and any other considerations for such insurance received during the taxable year on each and every kind of such insurance policy or contract covering persons located in the State of Texas and arising from the types of insurance specified in Section 1 of this article, but deducting returned premiums, any dividends applied to purchase paid-up additions to insurance or to shorten the endowment or premium payment period, and

excluding those premiums received from insurance carriers for reinsurance and there shall be no deduction for premiums paid for reinsurance. Such gross premiums shall not include premiums received from the Treasury of the State of Texas or from the Treasury of the United States for insurance contracted for by the state or federal government for the purpose of providing welfare benefits to designated welfare recipients or for insurance contracted for by the state or federal government in accordance with or in furtherance of the provisions of Title 2, Human Resources Code, or the Federal Social Security Act. The gross premiums receipts so reported shall not include the amount of premiums paid on group health, accident, and life policies in which the group covered by the policy consists of a single nonprofit trust established to provide coverage primarily for municipal employees of this state.

(d) "Similar investments" means the same character of property and investments described in Section 4 of this article, located in a state other than Texas and originating and existing with the same relationship to such state as the location and relationship of such property is to the State of Texas.

(e) "Tax rate" means that rate specified in Section 5 of this article as determined by the carrier's Texas investment comparison state similar investments asset ratio.

(f) "Tax year" is the calendar year, January 1 to December 31.

(g) "Texas investments" are those investments described and enumerated in Section 4 of this article.

Date for Filing Return and Paying Tax

Sec. 3. A premium tax return for each tax year ending the 31st day of December preceding shall be filed and the total amount of the tax due under this article shall be paid on or before either March 1 of each year or the date the annual statement for such carrier is required to be filed with the State Board of Insurance.

Allocation of Investments

Sec. 4. For the purposes of this article, Texas investments and similar investments of comparison states are to be attributed as follows:

(1) bonds and other obligations of the United States are to be allocated proportionately to each state in the same ratio as its gross direct premium income is received from each state;

(2) mortgage loans are to be allocated to the state in which the real property securing the loan is located;

(3) bonds and other obligations of governmental units are to be allocated to the state in which such units are located;

(4) corporate stocks, bonds, or other obligations are to be allocated to the state of domicile of such corporation;

(5) deposits, loans to, or investments in any bank, savings and loan, or other financial institution shall be allocated to the state in which such institution is located; the amount of "demand deposits" in such institution for the purposes of this article shall be the average of each of the 12 months' ending balances as determined from the carrier's books and records;

(6) policy loans shall be allocated to the policy address of the policyholder;

(7) collateral loans shall be allocated to the state of address of the borrower; and

(8) real property, or any interest therein, shall be allocated to the state in which it is located.

Tax Rate

Sec. 5. There is imposed on each insurance carrier an annual tax equal to 2.5 percent of its gross premiums. Any insurance carrier may qualify for a tax rate lower than the 2.5 percent imposed by this article. Such qualification for a lower rate can be accomplished in the following manner:

(1) if such insurance carrier as of December 31 preceding owned Texas investments with admitted asset value of less than or equal to 100 percent but more than or equal to 90 percent of similar investments such insurance carrier owned in the comparison state as herein defined, the tax imposed shall be equal to 1.8 percent of its gross premiums;

(2) if such insurance carrier as of December 31 preceding owned Texas investments with admitted asset value of more than 100 percent of the amount such insurance carrier owned in the comparison state in similar investments as herein defined, the tax imposed shall be equal to 1.10 percent of its gross premiums; and

(3) any such insurance carriers whose total gross premium receipts, without any deductions whatsoever, are less than \$450,000 for the preceding year ending December 31, wherever and irrespective of from whom collected, according to its annual statement which shall disclose such information, shall pay a tax equal to one-half of the tax rate indicated above as determined by its Texas investments compared to such similar investments in its comparison state.

Annual Sworn Returns; Forms; Additional Information

Sec. 6. Each insurance carrier which is liable under this article for tax on premiums shall file a tax return annually, under oath by two officers of such carrier, on forms prescribed by the State Board of Insurance. The commissioner of insurance may require such carrier to file any relevant additional information reasonably necessary to verify the amount of tax due.

Certification of Taxes Paid

Sec. 7. After receipt by the commissioner of insurance of each insurance carrier's tax return and tax payments, the commissioner shall certify to the

state treasurer the amount of taxes paid by each insurance carrier. The commissioner's certification shall be authorization for the state treasurer to transfer such certified amounts from the insurance suspense account to the general revenue fund unless there is a lawful reason for maintaining the payment in the insurance suspense account.

Examination and Valuation Fees Allowed as Credits

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

Limitation of Taxes Collectible

Sec. 9. The taxes aforesaid shall constitute all taxes and license fees collectible under the laws of this state from any such insurance organization organized under the laws of this state, except, and only except, unemployment compensation taxes levied under Chapter 482, Acts of the 44th Legislature, 3rd Called Session, 1936 (Article 5221b-1 et seq., Vernon's Texas Civil Statutes); and the fees provided for under Article 4.07, Insurance Code, the deposit fees prescribed by that article and amendments to it; and in case of companies writing workers' compensation insurance, the taxes otherwise provided by law on account of such business; and no other taxes shall be levied or collected by the state or any county, city, or town except state, county, and municipal ad valorem taxes upon real or personal properties of such insurance organization.

No other tax shall be levied or collected from any insurance carrier by the state, county, or city or any town, but this law shall not be construed to prohibit the levy and collection of state, county, and municipal taxes upon the real and personal property of such carrier.

Failure to Pay Taxes

Sec. 10. Any insurance carrier failing to pay all taxes imposed by this article shall be subject to the provisions of Article 4.05, Insurance Code.

Supplemental Certification of Taxes Due; Suspension of Time Period; Suit by Commissioner

Sec. 11. (a) Except as otherwise provided in this article, the amount of any tax imposed by this article upon examination of any carrier or in any other manner shall be filed by the commissioner of insurance with the state treasurer by supplemental certificate showing the amount of any taxes due by such carrier within four years after the return was filed (whether or not such return was filed on or after the date due).

(b) When an administrative review or a judicial proceeding is pending in a court of competent jurisdiction prior to the expiration of the time presented in Subsection (a) of this section, the time period

prescribed in Subsection (a) shall be suspended with respect to the amount of tax in issue in such proceeding until such matters are finally determined, whereupon the running of such period of time shall resume until finally expired.

(c) In the case of failure to file a return, the commissioner of insurance may notify the state treasurer of the taxes due and the commissioner of insurance may proceed in a court of competent jurisdiction for collection of such tax at any time.

Payment Under Protest; Time For Suit For Refund

Sec. 12. (a) The premium tax imposed by this article may be paid under protest as provided by Subchapter B, Chapter 112, Tax Code.¹

(b) If no payment under protest is made, a suit for refund must be filed within four years from the date the tax is due and payable. This article may not be construed as a waiver of any defense, immunity, or jurisdictional bar available to the state or its officers or employees, including obtaining legislative authorization to sue.

¹ Tax Code, § 112.051 et seq.

Prepayment of Tax; Rules, Regulation Standards, Limitations

Sec. 13. (a) A quarterly prepayment of premium tax must be made on March 1, May 15, August 15, and November 15 by all insurers with net tax liability for the previous calendar year in excess of \$1,000. The tax paid on each date must equal one-fourth of the total premium tax paid for the previous calendar year. Should no premium tax have been paid during the previous calendar year, the quarterly payment shall equal the tax which would be owed on the gross premium receipts during the previous calendar quarter ending March 31, June 30, September 30, or December 31 at the minimum tax rate specified by law. The State Board of Insurance is authorized to certify for refund to the state treasurer any overpayment of premium taxes that results from the quarterly prepayment system herein established.

(b) The State Board of Insurance may establish such rules, regulations, minimum standards, or limitations which are fair and reasonable as may be appropriate for the augmentation and implementation of this article.

[Amended by Acts 1984, 68th Leg., p. 516, ch. 31, art. 4, § 1, eff. Jan. 1, 1985.]

For text of article effective until January 1, 1985, see art. 4.11, Insurance Code Pamphlet

Sections 2 and 7 of art. 4 of the 1984 amendatory act provide:

"Sec. 2. (a) An insurance organization subject to the payment of a gross premiums tax under Article 4.11, Insurance Code, and that is required to make a prepayment of its tax liability shall, in addition to the prepayment required, make a quarterly prepayment on or before March 1, May 15, August 15, and November 15 of 1985 of the taxes imposed on first-year premiums collected in 1985. The amount of each prepayment shall be one-fourth of two percent of the first-year premiums collected by the insurance organization

in 1984. The State Board of Insurance may provide for a different amount of quarterly prepayment if an insurance organization shows that the amount of the quarterly prepayments otherwise due under this section does not fairly represent the amount of the taxes imposed on first-year premiums collected during 1985.

"(b) The State Board of Insurance may establish such rules, regulations, minimum standards, or limitations that are fair and reasonable as may be appropriate for the augmentation and implementation of this section.

"(c) This section expires January 1, 1986, except that the expiration of this section does not affect any tax liability or enforcement procedure that may be available for the collection of the payments required by this section."

"Sec. 7. Nothing in this article shall apply to any suit for refund of taxes paid in prior years that is pending on the effective date of this article."

Art. 4.12. Disposition of Certain Revenue

Receipts from the taxes imposed by Articles 4.10 and 4.11 and Sections 11 and 12 of Article 1.14-1 of this code and by Article 4769, Revised Civil Statutes of Texas, 1925, as amended, shall be deposited in the general revenue fund. An amount equal to one-fourth ($\frac{1}{4}$) of this revenue shall be transferred to the foundation school fund, and an amount equal to three-fourths ($\frac{3}{4}$) of this revenue shall be credited to the general revenue fund.

[Amended by Acts 1984, 68th Leg., 2nd C.S., p. 350, ch. 28, art. II, part B, § 11, eff. Sept. 1, 1984.]

Art. 4.13. Interest on Insurance Premium Tax Not Paid

Text of article effective January 1, 1985

Any insurance carrier and any person, corporation, association, or entity or any receiver thereof to which Articles 1.14-1, 1.14-2, 4.10, and 4.11 of this code apply, which fails to pay the tax on or before the due date as provided therein, shall pay interest to the State Board of Insurance to be deposited in the general revenue fund at an annual rate of nine percent for the period from the due date of the taxable year until the date such taxes are paid in addition to the taxes due.

[Acts 1981, 67th Leg., p. 3215, ch. 844, § 2, eff. Jan. 1, 1982. Renumbered from Civil Statutes, art. 7064b, and amended by Acts 1984, 68th Leg., 2nd C.S., p. 527, ch. 31, art. 4, § 4, eff. Jan. 1, 1985.]

Repeal

Former art. 4.13 (see Insurance Code Pamphlet) is repealed effective January 1, 1985, by Acts 1984, 68th Leg., 2nd C.S., p. 526, ch. 31, art. 4, § 3.

Art. 4.14. Penalty on Insurance Premium Tax Not Paid

Text of article effective January 1, 1985

In addition to the interest penalties stipulated in Article 4.13, any insurance carrier which either fails

to file any tax return as provided in Articles 1.14-1, 1.14-2, 4.10, and 4.11 of this code or fails to pay any taxes imposed by Articles 1.14-1, 1.14-2, 4.10, and 4.11 of this code on or before the due date shall pay to the State Board of Insurance, to be deposited in the general revenue fund, a penalty equal to five percent of the amount of taxes due for each month or portion of a month for which such return or payment is late. Any penalty assessed under this article shall not exceed 20 percent of the amount of taxes due. Payment of such penalty is in addition to payment of taxes due.

[Acts 1981, 67th Leg., p. 3215, ch. 844, § 3, eff. Jan. 1, 1982. Renumbered from Civil Statutes, art. 7064c, and amended by Acts 1984, 68th Leg., 2nd C.S., p. 527, ch. 31, art. 4, § 4, eff. Jan. 1, 1985.]

Repeal

Former art. 4.14 (see Insurance Code Pamphlet) is repealed effective January 1, 1985, by Acts 1984, 68th Leg., 2nd C.S., p. 526, ch. 31, art. 4, § 3.

Art. 4.15. Suit by Attorney General to Recover Delinquent Insurance Premium Taxes

Text of article effective January 1, 1985

All delinquent taxes under Articles 1.14-1, 1.14-2, 4.10, and 4.11 of this code, including penalties, which are due and owing to the State of Texas shall be recovered by the attorney general in a suit brought by him in the name of the State Board of Insurance on behalf of the State of Texas. The venue and jurisdiction of all suits arising hereunder are hereby conferred upon the courts of Travis County, Texas. For delinquent taxes, penalties, and interest herein provided for, the state shall have a prior and preferred lien on every Texas investment and other thing of value owned by the delinquent taxpayer which shall extend to and be enforceable against any property, either real or personal, or both, owned by the delinquent insurance carrier which property is not exempt from forced sale by reason of existing laws or the constitution of this state or the United States. In addition to the authority to file suit against an insurance organization for delinquent taxes, penalties, and interest, the attorney general, by a suit in the name of the State Board of Insurance, shall have the right to enjoin such delinquent insurance carrier from engaging in the business of insurance in the State of Texas until such delinquent taxes, penalties, and interest are paid in full. Venue for a suit of this nature is also fixed in Travis County, Texas.

[Acts 1981, 67th Leg., p. 3215, ch. 844, § 4, eff. Jan. 1, 1982. Renumbered from Civil Statutes, art. 7064d, and amended by Acts 1984, 68th Leg., 2nd C.S., p. 527, ch. 31, art. 4, § 4, eff. Jan. 1, 1985.]

Repeal

Former art. 4.15 (see Insurance Code Pamphlet) is repealed effective January 1, 1985, by Acts 1984, 68th Leg., 2nd C.S., p. 526, ch. 31, art. 4, § 3.

Art. 4.16. Authority of State Board of Insurance to Verify Insurance Premium Taxes; Rules and Regulations

Text of article effective January 1, 1985

The State Board of Insurance shall have authority for the purpose of verifying reports and investigating the affairs of insurance carriers in order to determine whether the tax due under Articles 1.14-1, 1.14-2, 4.10, and 4.11 of this code is being properly reported and paid. Such authority shall include the power to enter upon the premises of any taxpayer liable for such tax, and any other premises necessary, in determining the correct tax liability and to examine, or cause to be examined, any books or records of any person employed by the insurance carrier subject to such tax, and to secure any of Articles 1.14-1, 1.14-2, 4.10, and 4.11 of this code. The State Board of Insurance shall further have the authority to promulgate and enforce, according to law, rules and regulations pertinent to Articles 1.14-1, 1.14-2, 4.10, and 4.11 of this code and such rules and regulations shall have the full force and effect of law.

[Acts 1981, 67th Leg., p. 3216, ch. 844, § 5, eff. Jan. 1, 1982. Renumbered from Civil Statutes, art. 7064e, and amended by Acts 1984, 68th Leg., 2nd C.S., p. 527, ch. 31, art. 4, § 4, eff. Jan. 1, 1985.]

CHAPTER TWENTY-ONE. GENERAL PROVISIONS

SUBCHAPTER E. MISCELLANEOUS PROVISIONS

Art. 21.46. Retaliatory Provisions; Payment of Taxes, Fines, Penalties, etc.; Condition Precedent to Doing Business in State; Exemptions

Text of article effective January 1, 1985

Whenever by the laws of any other state or territory of the United States any taxes, licenses, fees, fines, penalties, deposit requirements or other obligations, prohibitions or restrictions are imposed upon any insurance company organized in this State and licensed and actually doing business in such other state or territory which, in the aggregate are in excess of the aggregate of taxes, licenses, fees,

finances, penalties, deposit requirements or other obligations, prohibitions or restrictions, directly imposed upon a similar insurance company of such other state or territory doing business in this State, the State Board of Insurance shall impose upon any similar company of such state or territory in the same manner and for the same purpose, the same taxes, licenses, fees, fines, penalties, deposit requirements or other obligations, prohibitions or restrictions; provided, however, the aggregate of taxes, licenses, fees, fines, penalties or other obligations imposed by this State pursuant to this Article on an insurance company of another state or territory shall not exceed the aggregate of such charges imposed by such other state or territory on a similar insurance company of this State actually licensed and doing business therein; provided, further, that for the purpose of this Section, an alien insurer shall be deemed a company of the State designated by it wherein it has

(a) established its principal office or agency in the United States, or

(b) maintains the largest amount of its assets held in trust or on deposit for the security of its policyholders or policyholders and creditors in the United States, or

(c) in which it was admitted to do business in the United States.

Licenses and fees collected by the State Board of Insurance under this Article shall be deposited in the State Treasury to the credit of the State Board of Insurance operating fund.

The provisions of this Section shall not apply to ad valorem taxes on real or personal property or to personal income taxes.

The provisions of this Act shall not apply to a company of any other state doing business in this State if fifteen percent (15%) or more of the voting stock of said company is owned by a corporation organized under the laws of this State, and domiciled in this State; however, the prior provisions of this Act shall apply without exception to any and all person or persons, company or companies, firm or firms, association or associations, group or groups, corporation or corporations, or any insurance organization or organizations of any kind, which did not qualify as a matter of fact, under the exception of this paragraph, on or before January 29, 1957.

[Amended by Acts 1984, 68th Leg., 2nd C.S., p. 531, ch. 31, art. 4, § 5, eff. Jan. 1, 1985.]

For text of article effective until January 1, 1985, see art. 21.46, Insurance Code Pamphlet

TITLE 78 INSURANCE

Arts. 4769 to 4769a.

Repeal

*These articles are repealed effective
January 1, 1985, by Acts 1984, 68th Leg.,
2nd C.S., p. 526, ch. 31, art. 4, § 3.*

†