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An Audit Report on

The Department of Insurance's Enforcement of Solvency Standards for Insurance Companies

October 2009

Report No. 10-009

State Auditor's Office

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Overall Conclusion

The Department of Insurance (Department) monitored insurance companies for compliance with solvency standards to identify companies with deteriorating financial conditions in accordance with state laws, rules, and internal agency policies and procedures. The Department monitored insurance companies through its licensing, analysis, and financial examination processes.

In addition, the Department has implemented measures to manage the conservation and receivership processes to ensure that consumers are protected from companies at risk of becoming insolvent. However, the Department should strengthen its processes by more closely adhering to its internal policies and procedures and maintaining required documentation.

Background Information

The Department of Insurance (Department) is responsible for regulating the insurance industry in the state of Texas. As part of this responsibility, the Department:

- Licenses insurance companies.
- Performs financial analyses on licensed companies.
- Conducts financial examinations of licensed insurance companies.
- Manages financially troubled companies that are at risk of becoming insolvent through its conservation, supervision, and receivership process.

As of March 2009, approximately 2,226 insurance companies were licensed and authorized to do business in the state of Texas. In addition, the Department has licensed more than 386,000 agents, agencies, and adjusters in the state of Texas.

The Department also ensured that new companies met minimum capital and surplus requirements before licensing them. However, it did not always obtain all required documentation prior to issuing a license. In addition, the Department conducted criminal history checks on certain categories of applicants for a license to do business in the state of Texas.

The Department monitored the financial condition of insurance companies by conducting periodic on-site financial examinations and periodic financial analyses of licensed companies. However, the Department should strengthen its examination and analysis processes by consistently adhering to its internal policies and procedures, meeting the required timeframes, and maintaining all required documentation. In addition, the Department should strengthen controls over its Division of Financial Analysis's applications to ensure the security of companies' financial data.

The Department also has conservation and receivership processes in place to help protect consumers from insurance companies that may be at risk of becoming

This audit was conducted in accordance with Texas Government Code, Sections 321.0132 and 321.0134.

For more information regarding this report, please contact Kelly Linder, Assistant State Auditor, or John Keel, State Auditor, at (512) 936-9500.

insolvent. However, the Department should strengthen those processes. Specifically, the Department:

- Did not consistently comply with statutory timeframes when managing the administrative actions taken against insurance companies at risk of becoming insolvent.
- Did not consistently document all takeover actions performed after an insurance company was placed into court-ordered receivership.
- Did not follow its policies and procedures to ensure that qualified special deputy receivers are managing the rehabilitation and liquidation of receivership estates.

Summary of Management's Response

The Department generally agreed with the recommendations in this report.

Summary of Information Technology Review

The Department's Financial Analysis Division uses a custom group of database applications to assist it in monitoring insurance companies for compliance with solvency standards. Data used by these applications includes financial information that companies report to the National Association of Insurance Commissioners.

The Department's controls over this custom group of applications do not ensure that the applications and data within them are properly protected. Auditors identified information technology-related weaknesses in the areas of access management, change control, and audit trails. Auditors also identified several weaknesses in the Department's controls over its central enterprise database and company licensing application.

Summary of Objectives, Scope, and Methodology

The objectives of this audit were to:

- Determine whether the Department monitors insurance companies for compliance with solvency standards to identify companies with a deteriorating financial condition in accordance with state laws and agency rules, policies, and procedures.
- Determine whether the Department manages conservation and receivership processes to ensure that consumers are protected from companies at risk of becoming insolvent.

The scope of this audit included licensee applications, financial examinations, financial analyses, administrative orders, and court-ordered receiverships that occurred from September 1, 2005, through February 28, 2009. The scope of this audit also included a review of the key information systems of the Department's Financial Analysis Division.

The audit methodology included collecting and reviewing documentation, conducting interviews with Department staff, reviewing and assessing policies and procedures, analyzing and evaluating the results of testing, and observing monitoring processes. Auditors evaluated controls and data relating to licensing, financial examination, financial analyses, administrative orders, and court-ordered receiverships to assess compliance with statutes and the Department's policies and procedures.

Auditors also identified less significant issues that were communicated separately to the Department in writing.

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Detailed Results

Chapter 1

The Department Should Strengthen Its Licensing Processes

The Department of Insurance's (Department) Division of Company Licensing ensured that new companies met minimum capital and surplus requirements before issuing a license. However, the Department did not obtain all required documentation prior to issuing a license. In addition, the Department conducted criminal history checks on certain categories of applicants seeking licenses to do business in the state of Texas.

Minimum Capital and Surplus Requirements

The Texas Insurance Code sets minimum capital and surplus requirements for all life, health, property, and casualty insurance companies. Specifically:

- Foreign and domestic life insurers are required to have at least $700,000 of capital stock and a surplus of at least $700,000.
- Foreign and domestic property and casualty insurers are required to have at least $1 million of capital stock and a surplus of at least $1 million.

The Department may also require an insurance company to have higher capital and surplus reserves depending on the size of the company or other circumstances.

Risk-based Capital Ratio

A risk-based capital ratio is the measurement of the amount of capital (assets minus liabilities) that an insurance company has to support for risk associated with its operations and investments. This ratio helps to identify companies that are inadequately capitalized by dividing the company's capital by the minimum amount of capital that the regulatory authorities believe is necessary to support the insurance-related operations.

Source: National Association of Insurance Commissioners.

The Department ensured that companies met statutory capital and surplus requirements.

The Department is responsible for licensing and regulating domestic[1], foreign[2], and alien[3] insurance companies. The Department conducted initial financial analyses to determine the financial strength of all 10 licensee applicants the auditors tested. All life and health insurance licensees and all property and casualty insurance licensees tested met minimum capital and surplus requirements as required by the Texas Insurance Code (see text box for requirements). However, auditors could not verify two applicants' risk-based capital ratios (RBC) due to missing documentation (see text box for definition of a risk-based capital ratio). In addition, one applicant had an initial projected RBC ratio of less than 200 percent. It should be noted that the Department required this applicant to meet special conditions before the Department issued a license.

[1] An insurance company that is domiciled in Texas and whose corporate headquarters legally resides in Texas.

[2] An insurance company that is domiciled outside Texas and whose corporate headquarters legally resides outside Texas.

[3] An insurance company that is domiciled outside the United States and whose corporate headquarters legally resides outside the United States.

The Department did not consistently obtain all required documents for licensure.

> **The Licensing Timeframe**
>
> The Department took an average of only 49 days to license the 10 applicants tested. Department procedures state that no licensing file should remain open beyond 90 days.
>
> Title 1, Texas Administrative Code, Section 1.807 (b), requires the Department to make a determination on a licensing application within 180 days after receipt of the application.

The Department did not consistently obtain all required documents from foreign and domestic applicants as outlined in the Department's policies and procedures, as well as in the National Association of Insurance Commissioners' (NAIC) filing guidelines (see text box for the average time it took the Department to process a license application). The Department's procedures are based on the Uniform Certificate of Authority Application checklist developed by NAIC (see Appendix 2 for a copy of the checklist). Two (20 percent) of 10 applicants tested had not submitted all required documents. Specifically:

- One applicant did not submit a capital and surplus statement as recommended by the NAIC detailing its compliance with requirements in the Texas Insurance Code. However, the Department confirmed that the applicant met minimum capital and surplus requirements before issuing a license.
- A complete file for one applicant could not be found. Therefore, auditors could not verify that the applicant submitted a plan of operation, holding company information, financial statement information, or a complete public records package.

Also, 5 (50 percent) of 10 foreign applicants tested did not submit biographical affidavits for all of the individuals listed in NAIC filing guidelines. NAIC filing guidelines state that an applicant must submit biographical affidavits for all officers, directors, key managerial personnel, and any individuals with a 10 percent or higher ownership interest in the applicant or the applicant's ultimate controlling parent. However, the Department does not obtain all required biographical affidavits for foreign applicants. Specifically, the Department did not request affidavits for some vice presidents, chief financial officers, or directors of foreign applicants. The Department's procedures, in contrast to the NAIC filing guidelines, do not specify that affidavits should be submitted by all foreign applicants' officers and directors.

> **Criminal History Check Requirements**
>
> The Department must obtain individual fingerprints from:
>
> - Individual applicants or all officers of an applicant company.
> - All directors of an applicant company.
> - All controlling shareholders of an applicant company.
>
> The Commissioner of Insurance may waive the requirement to obtain an applicant's fingerprints if the individual, or the entity with which the individual is associated, is not domiciled in Texas.
>
> In addition, these individuals must also demonstrate that they have not been convicted of certain types of offenses, subject to additional review by the Department.
>
> Source: Title 28, Texas Administrative Code, Sections 1.503, 1.504, and 1.507.

The Department conducted criminal history checks on certain applicants' officers and directors in accordance with Department policies and procedures.

The Department did not conduct criminal history checks on all applicants for a license to do business in Texas. While Title 28 of the Texas Administrative Code states that each applicant must submit a complete set of fingerprints, it also permits the Insurance Commissioner to waive this requirement if the applicant is not domiciled in Texas (see text box).

The Insurance Commissioner has delegated approval authority to Department staff through delegation of authority orders. In addition, the Department conducted criminal history checks on all domestic individual applicants in accordance with the Department's internal policies and procedures.

Recommendation

The Department should ensure that all applicants for a license submit the required documents as required by the Department's internal policies and procedures and NAIC guidelines.

Management's Response

Management agrees with the report's recommendation. Management has carefully considered the report's findings and has determined that its current policies and procedures are appropriate and in compliance with Texas law and that adequate internal controls already exist. Management is confident that staff ensures that each applicant meets statutory and regulatory requirements before the license is issued Management will continue to communicate to staff the importance of adhering to established policies and procedures to ensure full compliance.

Management notes the NAIC guidelines concerning the minimum capital and surplus statement referenced in the report. The Department uses alternative methods of determining minimum capital and surplus, as confirmed by the audit report, and requires enhanced capital and surplus levels based upon the risks associated with the business projections submitted by the license applicant.

(Note: While the report did not include a related recommendation, it noted the Department's practices regarding waiving background checks on applicants' officers and directors associated with non-Texas insurers, which the report found to be in accordance with the Department's policies and procedures and Texas law. The Department further notes these practices are consistent with state-based insurance regulation and the NAIC's Accreditation program, under which each state is primarily responsible for the regulation of their respective domestic insurers, and reliant on other state's background checks, a measure designed to enhance efficiencies by reducing potentially duplicative requirements.)

Chapter 2

The Department Conducted Financial Examinations According to Its Policies and Procedures and Statutory Requirements

The Department's Division of Financial Examinations conducted periodic on-site examinations to determine whether licensed companies were financially solvent. However, the Department should strengthen its examination process by consistently adhering to its internal policies and procedures when performing examinations and issuing examination reports.

Chapter 2-A

Examinations Ensured That Companies Met Minimum Capital and Surplus Requirements

The Department conducts approximately 150 examinations a year, according to reports that the Department submitted to the Legislative Budget Board. The Department's examinations review insurance companies' records in the following areas:

- Solvency.
- Premiums.
- Losses and benefits.
- Reinsurance.
- Investment.
- Affiliated companies.
- Administrative and financial reporting.
- Market conduct.
- Internal controls.

For all 30 examinations that auditors tested, the Department's financial examiners verified that the insurance companies met minimum capital and surplus requirements as required by the Texas Insurance Code (see Chapter 1). In addition, nine of those examinations reported capital and surplus amounts that were consistent with each company's certified public accountant's audited financial statements. The majority of the differences between the amounts reported in the Department's examinations and amounts in certified public accountants' audited financial statements for the other 21 examinations tested resulted from (1) rounding differences, (2) adjustments made by the certified public accountants that were not reflected in the Department's examination report, or (3) adjustments made by the Department that were not reflected in the certified public accountants' audited financial statements.

The Department has developed examination procedures to determine whether an insurance company is experiencing any solvency issues. In addition, the Department's examiners completed all procedure steps for 29 (97 percent) of 30 examinations tested.

The Department also performed audit work on the companies' investments for all examinations tested. The Department identified exceptions related to investments in 5 (17 percent) of the 30 examinations, and it adequately documented these exceptions.

Chapter 2-B

The Department Did Not Consistently Adhere to Its Internal Policies and Procedures

In some instances, supervisory approvals existed for files when internal procedures regarding examination planning and examination reporting were not completely followed. Eight (27 percent) of the 30 examinations tested contained planning memorandums that did not include all required sections; however, all 30 planning memorandums received a supervisory review. Furthermore, 2 (7 percent) of the 30 examinations tested contained examination reports that did not include all the required sections as listed in the Department's procedures, even though all 30 examination reports received a supervisory review (see text box for more information on examination planning and examination reporting). The missing planning memorandum sections included examination goals and examination issues; the missing examination report sections included affiliated companies and corporate records.

Memorandum and Examination Report Sections

The Department uses a planning memorandum prior to initiating a financial examination.

The memorandum should include, but is not limited to, the following sections: examination goals; background and scope; current business and industry conditions; zone activities; conference with financial analysis representatives; meeting with company representatives; preliminary assessment of the control environment; summary of examination approach; important examination issues; planning materiality and tolerable error; and overall time estimate and general staffing.

Examination reports should include the following standard sections: forepart items; financial statements; notes to the financial statements (if applicable); summary of significant findings (if applicable); subsequent events and other disclosures (if applicable); and conclusion.

The planning memorandum helps a Department examiner to sufficiently plan for the examination, including the approach, materiality levels, and budget estimates. The examination report allows the examiner to communicate detailed results to the companies being examined. Excluding sections of these documents could result in the examiner missing relevant information that should be disclosed.

Department examiners did not consistently document their reviews of third-party work papers using the Department's internal checklist for 7 (28 percent) of 25 examinations tested for which a certified public accountant had conducted an audit. According to Department procedures, examiners should complete the checklist during their review of the certified public accountant's work papers, and they should consider using the certified public accountant's and/or internal auditor's work papers to reduce the number of control and/or substantive tests, when appropriate. The Department relied on the certified public accountant's work papers for 21 (84 percent) of the 25 examinations tested. However, one of the files of examination that relied on the certified public accountant's audit work papers did not contain copies of those work papers.

Chapter 2-C

The Department's Recommendation Committee Appropriately Followed All Procedures to Assist the Department in Identifying Troubled Companies

The Department's Recommendation Committee, which comprises Department Financial Division managers, monitors insurance companies that are identified as being at risk of insolvency and drafts abatement plans that are included in formal orders to the insurance companies.

This committee conducted all necessary procedures before reaching a final decision in all 11 committee actions reviewed. The Department also ensured that it forwarded all committee decisions to the appropriate divisions for action.

Recommendations

The Department should:

- Ensure that examiners include all work papers in the examination files when they are relying on the work of a third party.
- Ensure that all examinations procedures are completed and appropriately documented. The Department should consider implementing procedures advising supervisors not to approve the completion of a file if all steps are not completed or listing the conditions under which such approvals should be authorized.

Management's Response

Management agrees with the recommendations and has already initiated corrective action.

The Examinations Division has designated staff teams that focus on process enhancements and ensuring the Department maintains its Accreditation from the National Association of Insurance Commissioners (NAIC).

The report's recommendations will be implemented by the designated staff teams. Consistent with the recommendations, these teams are focused on process improvements, updating policies and procedures, ensuring consistency in work papers, and adherence to procedures.

Chapter 3

The Department Monitored Companies for Compliance with Solvency Standards; However, It Should Strengthen Its Financial Analysis Process

The Department's Division of Financial Analysis monitored insurance companies for compliance with solvency standards by conducting periodic financial analyses on licensed companies. However, the Division of Financial Analysis should improve its analysis process by meeting its established timeframes and maintaining all required documentation. In addition, the Department should strengthen its controls over the Division's applications to ensure the security of the Division's data.

Chapter 3-A

The Department s Conducted Financial Analyses in Accordance with Its Policies and Procedures

The Department monitored licensed insurance companies for compliance with solvency standards by conducting periodic reviews and analyses of licensees' financial information and business generated (see text box). For all 355 analyses tested from fiscal years 2006 through 2008, the Department had:

- Performed the level of analysis prescribed by its policies and procedures.
- Conducted all periodic analyses prescribed by its policies and procedures.
- Documented and justified all changes to the licensees' NAIC Financial Analysis Solvency Tools (FAST) scores when a change was deemed necessary.

Financial Analysis

The Department conducts approximately 1,900 financial analyses per fiscal year.

A full review financial analysis includes the following sections:

- Company Profile.
- Conclusions/Findings.
- Action Plan/Recommendations.
- Statement of Income.
- Policyholder Surplus.
- Risk-based Capital.
- Lines of Business.
- Trend Analysis.
- Balance Sheet.
- Bond Analysis.
- Investments.
- NAIC Insurance Regulatory Information System Ratios.

Chapter 3-B

The Department Did Not Consistently Adhere to Its Policies and Procedures When Conducting Financial Analyses

The Department did not consistently conduct analyses within its established timeframes as stated in its internal policies and procedures. The Department conducted 18 of 355 analyses auditors tested after the established timeframes; four of those analyses were prepared more than 30 days late.

The Department's policies and procedures do not state how exemptions should be documented and approved.

Chapter 3-C

The Department Should Enhance Reinsurance Agreement Procedures

The Department lacked sufficient procedures to ensure that insurance companies file complete reinsurance agreements (see text box). Specifically:

Reinsurance

This is insurance that an insurance company buys for its own protection. Reinsurance spreads the risk of loss so that a disproportionately large loss under a single policy does not fall on one company. Reinsurance also enables an insurance company to expand its capacity; stabilize its underwriting results; finance its expanding volume; secure catastrophe protection against shock losses; and withdraw from a line of business or a geographical area within a specified time period.

Source: A.M. Best Company, Inc.

- Four (15 percent) of 27 reinsurance agreement files tested that required a reinsurance checklist did not contain a reinsurance checklist.
- Eleven (41 percent) of 27 reinsurance agreements tested were health maintenance organization (HMO) reinsurance agreements. Those 11 HMO reinsurance agreements had not been submitted to the Department within 30 days of the effective date of the agreement, as required by the Texas Administrative Code. One HMO submitted the agreement after the agreement had already expired.
- Twenty-three reinsurance agreement files tested had documented issues or concerns about the reinsurance agreement. Of these 23 files, 1 (4 percent) did not contain documentation of any communication between the Department and the company to resolve the identified issues.

The Department did not have any documentation showing that it took action against companies that did not file complete agreements within the required timeframe.

The Department does not have written policies and procedures establishing guidelines for documenting correspondence with the companies. As a result, the Department's financial analysts were not consistent in documenting details of any correspondence between the Department and the insurance companies. For example, some analysts included in the files a copy of an e-mail or letter that had been sent to the companies, some wrote notes in the file log sheet, and some did not include any comments or information about correspondence.

Chapter 3-D

The Department Did Not Consistently Retain Holding Company Documentation

> **Insurance Holding Company**
>
> An insurance holding company is a person or company that directly or indirectly controls an insurer. Holding companies have the ability to control operations with companies with fractional ownership and can isolate and diversify risk through subsidiaries.
>
> Source: www.allbusiness.com.

Because insurance holding company transactions could adversely affect the public interest and interests of policyholders, the Department reviews transactions between an insurance company and its holding companies. However, the Department did not consistently retain holding companies' documentation in the holding companies' transaction files (see text box for definition of an insurance holding company). Specifically:

- For 2 (3 percent) of 70 holding company transactions tested, the Department was unable to provide auditors with any transaction files.
- One (17 percent) of 6 holding company transactions regarding changes in acquisition of control tested lacked documentation showing that criminal history checks had been conducted on officers, directors, and other controlling shareholders of the insurance companies. Auditors were unable to determine whether criminal history checks had been conducted.
- Three (6 percent) of 54 holding company transactions tested lacked documentation showing that the Department had received the holding company fees.

In addition, the Department did not approve 8 (14 percent) of 58 holding company transactions tested within the required timeframes listed in the Texas Insurance Code.

Chapter 3-E

The Department Lacked Adequate Controls Over Its Financial Analysis Division's Applications and Data

The Department's Financial Analysis Division uses a custom group of database applications to assist it in monitoring insurance companies for compliance with solvency standards. Data used by these applications includes financial information that companies report to the NAIC.

The Department's controls over its Financial Analysis Division's applications did not ensure that the applications and data within the applications were properly protected from unauthorized access or modification. Auditors identified weaknesses in access management, change control, and audit trails.

The Financial Analysis Division did not properly restrict access to key data elements and data used to determine the insurance companies for which the Financial Analysis Division would conduct a detailed financial review. Specifically, for the two applications tested:

- One application had 33 user accounts that could <u>modify</u> both the application code and data.

- The other application had 79 user accounts that could <u>modify</u> both the application code and data.

A user with access to modify an application's code can alter the underlying data, as well as manipulate how the data is prioritized and presented. Therefore, this type of access should be carefully controlled and limited to a small number of users. Currently, the three members of the information technology staff within the Department's Financial Analysis Division can modify any or all elements of both the code and data, including adjusting the priority rating without any type of review. To reduce the risk of a user making unauthorized changes to the application code or data that go undetected, the Department should segregate user access so that, if needed to complete the employee's job duties, a user can modify only the application code or the data, but not both.

The Department also lacked documentation showing that it had conducted any reviews of user access to the various applications.

Recommendations

The Department should:

- Ensure that it conducts all analyses within its established timeframes as stated in the Department's internal policies and procedures.

- Develop formal policies and procedures regarding the review and filing of reinsurance agreements.

- Ensure that holding company documentation is properly reviewed and approved.

- Strengthen controls over its Financial Analysis Division's applications to ensure that access to key data is limited to only the users who need it. This should include:

  - Evaluating the number of staff who have the ability to modify data.

  - Segregating user access to the application code and data.

Management's Response

Management agrees and has already initiated action to implement the report's recommendations.

The Financial Analysis Division has designated staff teams that focus on process enhancements, ensuring the Department maintains its NAIC Accreditation, and implementing the report's recommendations. Consistent with the recommendations, these teams focus on process improvements, policies and procedures, and the implementation of solutions to ensure consistent adherence to policies and procedures, including file documentation.

Action has also been initiated to strengthen controls over Financial Analysis' applications to ensure access to data and code is segregated and appropriate for the users.

Additional actions taken by Management either before or during the audit that address the report's findings include the following:

- *Developed policies and procedures for the review, approval and documentation of holding company transactions.*
- *Consolidated multiple file rooms and a team leader position was created to enhance processes related to file documentation and maintenance.*
- *Purchased an audit management program, CCH TeamMate, to promote the consistent application of policies and procedures. As the Division's policies and procedures are updated, these updates will be integrated into TeamMate. TeamMate also provides a document management solution to resolve file documentation and maintenance issues.*

Chapter 4

The Department Did Not Consistently Adhere to Statutory Timeframes Requirements and Internal Policies for Managing Receiverships and Administrative Orders

The Department has supervision, conservation, and receivership processes in place to help protect consumers from insurance companies that may be at risk of becoming insolvent. However, the Department should strengthen its processes by adhering to statutory timeframes and its internal policies and procedures and maintaining required documentation. Specifically:

- The Department did not consistently comply with statutory timeframes when managing the administrative actions it had taken against insurance companies at risk of becoming insolvent.
- Department analysts did not consistently document all takeover actions performed after an insurance company was placed into court-ordered receivership.
- The Department did not follow its policies and procedures to ensure that qualified special deputy receivers are managing the rehabilitation and liquidation of receivership estates (see text box for information on receivership estates).

Receivership Estates

After an insurance company has been placed into receivership, all of the company's assets, liabilities, debt, and other business affairs are placed into a receivership estate (estate). This estate is managed by the Department or a special deputy receiver until the company is rehabilitated or liquidated.

Chapter 4-A

The Department Did Not Consistently Comply With Statutory Timeframes for Managing Administrative Orders

The Department did not consistently comply with statutory timeframes for managing administrative orders issued against insurance companies at risk of becoming insolvent (see text box for information on administrative orders). Specifically, the Department did not ensure that (1) it resolved supervision and conservatorship orders within the timeframes specified in the Texas Insurance Code or (2) that the provisions listed in an administrative order were met

Administrative Orders

The Commissioner of Insurance issues administrative orders when the Department has identified potential problems related to an insurer's financial condition or when an insurer's continued operation may be harmful to the insurer's policyholders or creditors or to the public.

There are two types of administrative orders: supervision and conservation. The Texas Insurance Code generally requires the Department to release companies from supervision orders within 180 and conservation orders within 270 days. However, the Department did not resolve 2 (33 percent) of 6 administrative orders tested within the statutory timeframes allowed. Specifically:

- One company was released from a supervision order 79 days late.
- One company was released from a conservation order 6 days late.

In addition, the Department did not complete all provisions specified in 1 (14 percent) of 7 administrative orders tested because the Department did not secure an insurance company's bank accounts until approximately 8 months after the Commissioner of Insurance had issued the administrative order.

The Department also lacked updated policies and procedures that included standard procedures for documenting the work that Department employees perform during administrative actions against at-risk insurance companies. The lack of documentation limits the Department's ability to ensure that all the necessary actions were taken.

Chapter 4-B

The Department Did Not Consistently Document Receivership Takeover Activities

Auditors could not determine whether the Department had completed all required takeover activities for two receiverships tested. One receivership exceeded the Department's record retention policy; therefore, documentation of takeover activities was not available. The Department could not provide adequate documentation to support the takeover activities it had conducted for the second receivership.

All Department analysts assigned to monitor a receivership estate (estate) are required to sign independence disclaimers attesting to their independence from the estates assigned to them. While the Department analysts signed independence disclaimers for all 10 receivership files tested, all analysts signed the disclaimers after they had already started work on the estates. The Department's policies and procedures do not specify when the analysts must sign the independence disclaimer. However, if analysts do not sign the statements until after they have already completed work on the estate, this increases the risk that potential conflicts of interest may not be identified in a timely manner.

The Department contracts with external special deputy receivers to administer court-ordered receiverships of an insurance company's estate. However, the Department did not ensure that special deputy receivers perform takeover activities within the required timeframes. Specifically, in 2 (29 percent) of 7 receiverships tested, an internal memo stated that the special deputy receivers did not meet certain timeframes as specified in the contract.

Also, the Department did not ensure that (1) special deputy receivers sufficiently documented their takeover activities or (2) special deputy receivers reimbursed costs for only preapproved staff members and subcontractors. Specifically:

- Five (71 percent) of 7 receiverships tested lacked documentation showing that the special deputy receiver had completed all required takeover activities.

- Eight (89 percent) of 9 receiverships tested lacked documentation listing all vendors and contractors of the company under receivership. Under the terms of the contract, the special deputy receiver is required to submit this list to the Department. This lack of documentation limits the Department's ability to ensure that payments to contractors and vendors during the liquidation are reasonable and appropriate.

- Three (33 percent) of 9 receiverships tested listed payments to staff and subcontractors that did not correspond to the list of staff and subcontractors that the Department had previously approved.

- Four (44 percent) of 9 receiverships tested lacked a completed statement of monthly expenses, on which the names of staff and subcontractors receiving cost reimbursements should be listed.

In addition, the Department's policies and procedures do not specify how it will verify that a special deputy receiver is meeting all standards of performance stated in the contract.

Chapter 4-C

The Department Lacked Documentation Showing That Special Deputy Receivers Met All Contract Terms

The Department lacked documentation showing that two special deputy receivers it appointed met all minimum qualifications listed in the request for proposals. Specifically, the Department could not provide a copy of two special deputy receivers' original applications required as part of a pre-qualification process.

In addition, the Department did not ensure that special deputy receivers met other requirements stated in the Department's policies and procedures. Specifically:

- Nine (90 percent) of 10 special deputy receiver files tested lacked documentation showing that the Department had conducted a criminal history check on the special deputy receiver.

- Two (20 percent) of 10 special deputy receiver files tested lacked documentation showing that the special deputy receiver obtained professional insurance within 48 hours of being awarded the contract, as required by the Department's contract. In addition, 5 (50 percent) of 10 special deputy receivers tested did not obtain professional insurance within the required timeframe.

The Department did not ensure that special deputy receivers obtained fiduciary bonds within 24 hours of the contract date as required by their contracts. Seven (70 percent) of 10 special deputy receivers tested did not obtain fiduciary bonds within this required timeframe. In addition, auditors could not determine whether one special deputy receiver obtained fiduciary bonds within the required timeframe because the Department could not provide a copy of the original application.

It is important that special deputy receivers obtain bonds and insurance to ensure that they fulfill their obligations as stated in the contract and to protect the Department and consumers from the risk of malpractice.

Chapter 4-D

The Department Did Not Evaluate Special Deputy Receivers as Required by Its Internal Policies and Procedures

Special Deputy Receiver Disciplinary Procedures

The Department's policies and procedures require special deputy receivers to meet minimum expectations on annual evaluations. If a special deputy receiver does not meet minimum expectations, the Department's policy states that the analyst should communicate this in correspondence to the special deputy receiver. If the special deputy receiver's performance does not improve, the special deputy receiver can be asked to attend counseling sessions with the Department. Ultimately, the Department may ask the Commissioner of Insurance to terminate the contract with the special deputy receiver.

Source: Department policies and procedures.

The Department's policies and procedures state that the Department should conduct annual evaluations of all special deputy receivers. While it conducted annual evaluations in fiscal years 2006 and 2007 for all special deputy receivers tested, the Department did not conduct an annual evaluation for any of those seven special deputy receivers in fiscal year 2008. The Department also did not conduct supervisory reviews of any of the evaluations in fiscal years 2006 and 2007. While Department policy does not require that evaluations be reviewed, the evaluation form contains a field for a supervisor's signature.

In addition, 2 (29 percent) of 7 special deputy receivers did not meet the minimum expectations in their fiscal year 2007 evaluations. Department staff stated that these receivers were sent e-mails about the analysts' performance concerns, as required by Department policy (see text box). The Department took no further disciplinary actions. Auditors could not verify whether the receivers made any improvements in their performance because the Department did not conduct any fiscal year 2008 evaluations. As of April 2009, the two special deputy receivers were still responsible for their assigned estates.

The Department also did not ensure that special deputy receivers consistently conducted evaluations of subcontractors every six months, as required by Department policy. While 6 (86 percent) of 7 special deputy receivers tested conducted semi-annual evaluations on their subcontractors, one special deputy receiver did not perform subcontractor evaluations for the six-month period from July 2008 through December 2008.

The Department did not formally approve subcontractor evaluations, and its procedures do not require it to do so. A special deputy receiver may have a disincentive to give a negative evaluation to one of its subcontractors.

Therefore, the Department may want to consider implementing a supervisory review of these evaluations to ensure they are complete, accurate, and fair.

Chapter 4-E

While the Department Expends Abandoned Property Funds According to Statute, It Should Strengthen Its Procedures for Accounting for Receivership Funds

All unclaimed receivership funds are placed into an abandoned property fund, which is used to pay the Department's general administrative expenses related to receiverships and to advance funds to receiverships that do not have sufficient funds to pay operating expenses. The Department followed the requirements in Texas Insurance Code, Section 443.304, as well as its internal policies and procedures, for all 30 transactions tested. All transactions tested were used for expenses related to receivership activities and were appropriate.

However, the Department did not ensure that monthly receivership financial statements that special deputy receivers submitted to the Department reconciled with quarterly financial reports that special deputy receivers filed with the courts for 3 (33 percent) of 9 receiverships tested.

In addition, the Department allowed receiverships' operating account balances to exceed bonded amounts for 3 (33 percent) of 9 receiverships tested. In one instance, the operating account balance exceeded the bonded amount by more than $106,000. According to Department procedures, operating account balances should be limited to the amount for which the special deputy receiver is bonded, except for estates that have extra funds on deposit to cover the amount that exceeds the amount the special deputy receiver is bonded.

Recommendations

The Department should:

- Resolve administrative orders within the timeframes specified by the Texas Insurance Code.
- Ensure that all provisions specified in administrative orders are met.
- Ensure that staff document all work performed during administrative actions.
- Develop written internal and special deputy receiver procedures to track and review all the takeover activities completed for an estate.
- Consider having analysts sign an independence disclaimer prior to commencing work on a receivership.

- Develop written procedures for verifying that special deputy receivers meet contracted standards of performance.
- Ensure that criminal history checks are conducted on special deputy receivers and that the results of these checks are maintained.
- Ensure that special deputy receivers obtain fiduciary bonds and professional liability insurance within the required timeframes.
- Conduct annual evaluations of special deputy receivers as required by Department policy.
- Ensure that special deputy receivers conduct semi-annual evaluations of all subcontractors as required by Department policy.
- Consider developing and implementing procedures for supervisory reviews of special deputy receiver and subcontractor performance evaluations.
- Consistently reconcile monthly receivership financial statements and quarterly financial reports filed by special deputy receivers.
- Ensure that a receivership's operational account balance does not exceed bonded amounts.

Management's Response

Management generally agrees with recommendations. Effective August 1, 2007, the Department implemented a re-organization and installed new management. Specifically, the former Conservation and Liquidation Oversight were merged to create the new Rehabilitation and Liquidation Oversight Division, which was placed under new management.

The report included a number of findings relating to events or processes that pre-dated the above referenced re-organization. Management had already identified certain issues and corrective action had already been implemented or was in process of being implemented in a number of cases. In certain cases, Management completed this corrective action before or during the audit, following the referenced change in management.

Report recommendations relating to issues that Management identified and were either corrected or in progress of being corrected are:

- *Actions to ensure that all documentation on criminal history checks for special deputy receivers.*
- *Action to ensure that special deputy receivers obtain fiduciary bonds and professional liability insurance within the required timeframes.*

- *Actions to address the recommendation to resolve administrative orders within the timeframe specified by statute.*

- *Actions to ensure that all provisions specified in administrative orders are met.*

- *Actions to ensure that staff document all work performed in administrative orders.*

- *Actions to conduct annual evaluations of special deputy receivers as required by Department policy.*

- *Actions to ensure that a receivership's operational account balance does not exceed bonded amounts.*

Report recommendations relating to issues that Management corrected since the audit include:

- *Actions to document work during administrative proceedings, standardized reporting measures started in 2008 were implemented in June 2009, followed by reporting requirements to document multi-divisional meetings and related follow up in July of 2009. In August 2009, the electronic and hard copy filing system format was revised.*

- *Effective August 31, 2009, the Analyst Manual was adopted which addresses recommendations for 1) tracking and review of takeover activities of special deputy receivers and 2) independent disclaimers signed by analysts.*

- *To address reconciliations between monthly and quarterly financial statement, the FY 2010 workbook for the SDRs was distributed on October 5, 2009 and included a revised template to address this issue.*

Management initiated corrective action on the following report recommendation during the course of the audit:

- *Ensure that special deputy receivers conduct semi-annual evaluations of all subcontractors as required by Department policy.*

Management is committed to addressing recommendations by monitoring of policies and procedures through continued review by the policies and procedures committee, and ensuring that such policies and procedures are adhered to through file documentation and supervisory review where applicable. Developing procedures for verifying that special deputy receivers meet contracted standards of performance will be part of this process.

The Department Should Strengthen Controls Over Its Database Administrative Accounts

Auditors identified several weaknesses in the Department's controls over its central enterprise database and Company Licensing application (see text box for the types of data stored on the central enterprise database). Specifically:

> **Central Enterprise Database**
>
> The Department's central enterprise database contains confidential information about insurance companies, insurance company employees, and Department employees. This information includes, but is not limited to:
>
> - Company licensing information.
> - Company financial analyses.
> - Consumer complaints.
> - Enforcement cases.
> - Insurance agent information.
> - Cash receipts.
> - Financial examiner billing data.

- Two employees shared a database administrative account that could access the entire database. Allowing employees to share accounts may prevent the Department from determining who performed specific actions in the event that a problem occurs, and it may reduce the Department's ability to supervise staff members' performance.
- Seven employees shared a security administrative account for the Department's Company Licensing application.
- A database administrative account that was no longer needed as of fiscal year 2005 was still active as of June 2009. Allowing administrative accounts to remain active after they no longer are needed increases the risk of former employees using those accounts to make unauthorized changes to system data.

According to the Department, it addressed the issues listed above after auditors completed audit fieldwork; however, auditors did not verify this.

Recommendations

The Department should:

- Ensure that each employee uses a unique, unshared account when accessing Department systems. If accounts must be shared, the Department should ensure it still has the ability to identify which employee is using the account each time the system is accessed.
- Immediately disable accounts that are no longer needed.

Management's Response

Management agrees and has already initiated corrective action.

The security administration access to the Company Licensing Application for the seven staff has been revoked. TDI will reset the passwords for this shared account quarterly and will limit the number of employees with the passwords.

Over the longer term, TDI will work to replace administrative accounts with a more sophisticated method.

The Information Technology Services (ITS) division has implemented a monthly reporting process in which Local Area Network (LAN) accounts that have not been logged into for 90 days are identified. The procedures will be used to identify those accounts and revoke access. The procedures also include a process for handling accounts for temporary workers, contract workers and interns.

ITS is re-instituting the Computer Security Liaisons (CSL) group. Each program area will designate a Computer Security Liaison. The Information Security Officer will provide training for the CSL to ensure these designees understand their role. Additionally, the Information Security Officer will coordinate and conduct quarterly meetings with the CSL group to address current security-related topics.

ITS is providing two reports to each Program Area's Computer Security Liaison (CSL) to assist the programs ability to follow agency policy that requires periodic review of access accounts to disable inactive users:

1. *Monthly reports listing users and privileges to network drives, folders and files.*

2. *Monthly reports listing users and privileges to Oracle applications.*

These reports are available to the Program Areas' CSL each month. The CSL is notified via email when the report is available for review each month.

Appendices

Appendix 1

Objectives, Scope, and Methodology

Objectives

The objectives of this audit were to determine whether the Department of Insurance (Department):

- Monitors insurance companies for compliance with solvency standards to identify companies with a deteriorating financial condition in accordance with state laws and agency rules, policies, and procedures.
- Manages conservation and receivership processes to ensure that consumers are protected from companies at risk of becoming insolvent.

Scope

The scope of this audit covered licensee applications, financial examinations, financial analyses, administrative orders, and court-ordered receiverships that occurred from September 1, 2005, through February 28, 2009. The scope of this audit also included a review of the key information systems of the Department's Financial Analysis Division.

Methodology

The audit methodology included collecting and reviewing documentation, conducting interviews with Department staff, reviewing and assessing policies and procedures, analyzing and evaluating the results of testing, and observing processes. Auditors evaluated controls and data relating to licensing, financial examination, financial analyses, administrative orders, and court-ordered receiverships to assess compliance with statutes and the Department's policies and procedures.

<u>Information collected and reviewed</u> included the following:

- Policies and procedures for financial examinations, financial analysis, company licensing, administrative orders, and receiverships.
- Data on completed financial examinations, completed financial analyses, licensed companies, completed administrative orders, and existing receiverships.
- Financial examination, financial analyses, company licensing, administrative orders, and receivership files.

Procedures and tests conducted included the following:

- Analyzed financial examination data.
- Analyzed company licensing data.
- Analyzed financial analysis data and compared across licensee type, type of analysis, and analysis timeframes.
- Analyzed administrative order and receivership data to determine compliance with state law and Department procedures.
- Tested financial examinations using judgmental sampling to determine whether the examinations were properly completed and processed.
- Tested company licensing files using judgmental sampling to determine whether the Department licensed only solvent companies.
- Tested financial analyses files using judgmental sampling to determine whether the analyses were conducted and rated appropriately.
- Tested administrative orders and receiverships to determine whether consumers were protected from financially troubled companies by reviewing:
- Signed orders and their execution.
- Duration of orders.
- Qualifications of special deputy receivers.
- Accounting records.
- Reviewed general and application controls over the Financial Analysis Division's internal databases.

Criteria used included the following:

- Texas Insurance Code.
- Texas Government Code.
- Texas Occupations Code
- Title 28, Texas Administrative Code, Part 1.
- The National Association of Insurance Commissioners' guidelines.
- The Department's policies and procedures.

Project Information

Audit fieldwork was conducted from May 2009 through July 2009. We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. The following members of the State Auditor's staff performed the audit:

- Michael A Simon, MBA, CGAP (Project Manager)
- Tamara Shepherd, CGAP (Assistant Project Manager)
- Ishani Baxi
- Nick Frey
- Olivia Gutierrez
- Namita Pai, CPA
- Ellie Thedford
- Michael Yokie, CISA
- Dennis Ray Bushnell, CPA (Quality Control Reviewer)
- Kelly Furgeson Linder, CIA, CGAP (Assistant State Auditor)

National Association of Insurance Commissioners' Uniform Certificate of Authority Application Checklist

Uniform Certificate of Authority Application (UCAA)
Primary Application Checklist
For Primary Application Only

The application checklist is intended to help guide you with assembling your complete Primary Uniform Certificate of Authority Application (UCAA). Please be sure to complete the checklist by appropriately marking the boxes on the left side of the page prior to submitting your application for review. The completed checklist should be attached to the top of the application.

Regulator Use Only

1. **Application Form**, containing: ☐
   - ☐ Completed Primary Application Checklist (Form 1P)
   - ☐ Original UCAA Primary Application executed and signed (Form 2P)
   - ☐ Include all lines of insurance applicant is licensed to transact, currently transacting and requesting authority to transact in all jurisdictions. (Form 3).
2. **Filing Fee** (pursuant to Section II Filing Requirements Item 2) containing: ☐
   - ☐ Payment of required filing fee
   - ☐ Copy of check
3. **Minimum Capital and Surplus Requirements** (pursuant to Section II Filing Requirements Item 3) ☐
   - ☐ Provide explanation of compliance with minimum capital & surplus requirements for state for which application is prepared
4. **Statutory Deposit Requirements** (pursuant to Section II Filing Requirements Item 4) ☐
   - ☐ An original Certificate of Deposit prepared by state of domicile (Form 7)
5. **Name Approval** (pursuant to Section II Filing Requirements Item 5) ☐
   - ☐ Evidence of name approval request
6. **Plan of Operation** (pursuant to Section II Filing Requirements Item 6) ☐
   - ☐ Completed Questionnaire (Form 8)
   - ☐ Pro Forma
   - ☐ Narrative
7. **Holding Company Form "B" Registration Statement** (pursuant to Section II Filing Requirements Item 7) ☐
   - ☐ Included statement
8. **Statutory Membership(s)** ☐
   - ☐ Submit documentation as listed in Section II Filing Requirements Item 8
9. **SEC Filings or Consolidated GAAP Financial Statement** ☐
   - ☐ Submit documentation as listed in Section II Filing Requirements Item 9
10. **Debt-to-Equity Ratio Statement** ☐
    - ☐ Submit documentation as listed in Section II Filing Requirements Item 10
11. **Custody Agreements** ☐
    - ☐ Submit documentation as listed in Section II Filing Requirements Item 11
12. **Public Records Package** ☐

Submit ALL items in chart in Section II Item 12 including:

a. Articles of Incorporation, including:
- Original certification by domiciliary state

b. Bylaws, including:
- Original certification by applicant's corporate assistant

c. Statement with Attachments, including:
- Current Year Annual Statement*
  Verified and signed,
  including actuarial opinion; and
- Current Year Quarterly Statements-one copy for each quarter, verified and signed.

* 1. Updated Statements should be submitted on a timely basis while application is pending.

2. If Annual Statement for two preceding years have not been filed with NAIC, one copy of each year must be submitted with the application.

d. Independent CPA-Audit Report

13. **NAIC Biographical Affidavits for the following:**
- Officers (As listed on Jurat Page of most recent financial statement.)
- Directors (As listed on Jurat Page of most recent financial statement.)
- Key managerial personnel (Including any Vice Presidents or other individuals who will control the operations of the applicant.)
- Individuals with a 10% or more beneficial ownership in the applicant who will exercise control over the applicant or, Officers and Directors of an entity with a 10% or more beneficial ownership in the applicant who exercise control over the applicant; and
- Individuals with a 10% or more beneficial ownership in the applicant's ultimate controlling person who will exercise control over the applicant and Officers and Directors of the ultimate controlling person who will control the operations of the applicant.
- Originally signed and notarized within one year of application date.
- Certified by Independent Third Party

14. **State-Specific Information**
- Some jurisdictions may have additional requirements that must be met before a Certificate of Authority can be issued. Before completing a UCAA Primary Application the applicant should review a listing of requirements for the state to which you are applying

Appendix 3

Top 100 Insurance Companies Based on Premiums Written in Texas

Table 1 lists the largest insurers doing business in the state of Texas based on the dollar amount of premiums written in Texas. This list includes life and health and property and casualty insurers based on Department of Insurance data as of December 31, 2008.

Table 1

Top 100 Insurance Companies in Texas
Based on Amount of Premiums Written in Texas as of December 31, 2008 [a]

Number	Company Name	Amount of Premiums Written in Texas	Percent of Premiums Written in Texas	Total Amount of Premiums Written
1	Blue Cross and Blue Shield of Texas, A Division of Health Care Service Corporation	$5,873,378,516	36.2%	$ 16,220,350,560
2	United Healthcare Insurance Company	$3,186,342,332	11.4%	$ 27,929,148,671
3	State Farm Mutual Automobile Insurance Company	$2,475,306,221	8.5%	$ 28,952,521,998
4	PacifiCare of Texas, Inc.	$1,726,178,586	100.0%	$ 1,726,178,586
5	Aetna Life Insurance Company	$1,683,502,119	10.6%	$15,840,897,051
6	State Farm Lloyds	$1,644,011,955	100.0%	$ 1,644,011,955
7	Humana Insurance Company	$1,602,794,910	12.2%	$13,170,844,378
8	American General Life Insurance Company	$1,477,128,627	30.1%	$ 4,906,598,685
9	John Hancock Life Insurance Company (U.S.A.)	$1,461,693,880	6.1%	$23,930,274,517
10	Metropolitan Life Insurance Company	$1,356,615,233	2.0%	$68,772,617,396
11	Farmers Texas County Mutual Insurance Company	$1,345,531,363	100.0%	$ 1,345,531,363
12	Lincoln National Life Insurance Company	$1,269,648,160	6.3%	$20,083,625,907
13	Principal Life Insurance Company	$1,242,885,051	4.8%	$25,805,909,463
14	Amerigroup Texas, Inc.	$1,204,063,971	100.0%	$ 1,204,063,971
15	Transamerica Life Insurance Company	$1,201,327,748	6.2%	$19,528,505,868
16	Progressive County Mutual Insurance Company	$1,123,147,761	100.0%	$ 1,123,147,761
17	AXA Equitable Life Insurance Company	$ 987,219,635	5.6%	$17,783,092,343
18	Variable Annuity Life Insurance Company	$ 906,340,917	14.9%	$ 6,089,552,162
19	ING Life Insurance and Annuity Company	$ 853,165,860	7.9%	$ 10,755,899,205
20	Aetna Health, Inc.	$ 843,885,883	100.0%	$ 843,885,883
21	Superior Healthplan, Inc.	$ 802,543,953	100.0%	$ 802,543,953
22	Texas Mutual Insurance Company	$ 756,894,080	100.0%	$ 756,894,080
23	Humana Health Plan of Texas, Inc.	$ 730,430,331	100.0%	$ 730,430,331
24	ING USA Annuity and Life Insurance Company	$ 724,693,512	4.4%	$16,621,331,195
25	Hartford Life Insurance Company	$ 716,981,818	5.5%	$13,075,925,354
26	Unicare Life & Health Insurance Company	$ 669,788,858	23.3%	$ 2,873,606,401
27	Prudential Insurance Company of America	$ 667,806,905	3.1%	$21,655,737,103
28	Massachusetts Mutual Life Insurance Company	$ 663,769,947	4.6%	$14,347,960,364

Top 100 Insurance Companies in Texas Based on Amount of Premiums Written in Texas as of December 31, 2008 [a]				
Number	Company Name	Amount of Premiums Written in Texas	Percent of Premiums Written in Texas	Total Amount of Premiums Written
29	Allianz Life Insurance Company of North America	$ 642,305,551	7.5%	$ 8,537,266,562
30	Jackson National Life Insurance Company	$ 633,814,101	4.6%	$13,694,550,957
31	United Services Automobile Association	$ 606,975,212	11.5%	$ 5,268,486,738
32	Allstate Texas Lloyd's	$ 604,112,125	100.0%	$ 604,112,125
33	Evercare of Texas, LLC	$ 590,918,910	100.0%	$ 590,918,910
34	Riversource Life Insurance Company	$ 587,631,791	5.8%	$10,079,639,543
35	Allstate Fire and Casualty Insurance Company	$ 582,919,232	26.4%	$ 2,206,970,644
36	Allstate Indemnity Company	$ 580,968,462	12.2%	$ 4,742,878,411
37	Scott And White Health Plan	$ 580,299,178	100.0%	$ 580,299,178
38	Nationwide Life Insurance Company	$ 564,937,609	5.7%	$ 9,997,563,958
39	Hartford Life And Annuity Insurance Company	$ 556,970,744	7.1%	$ 7,860,524,630
40	Pacific Life Insurance Company	$ 550,825,614	4.5%	$12,342,069,382
41	Lexington Insurance Company	$ 535,721,809	8.9%	$ 6,016,590,750
42	New York Life Insurance and Annuity Corporation	$ 529,913,191	4.7%	$11,360,708,206
43	Metlife Investors USA Insurance Company	$ 520,791,375	6.1%	$ 8,499,548,928
44	Texas Healthspring, LLC	$ 510,855,585	100.0%	$ 510,855,585
45	Connecticut General Life Insurance Company	$ 509,415,519	7.2%	$ 7,033,317,084
46	Northwestern Mutual Life Insurance Company	$ 504,207,503	3.6%	$14,143,235,950
47	Government Employees Insurance Company	$ 504,036,463	13.5%	$ 3,734,599,891
48	SelectCare of Texas, LLC	$ 502,626,225	100.0%	$ 502,626,225
49	Illinois National Insurance Company	$ 488,521,515	24.4%	$ 2,003,664,505
50	Old American County Mutual Fire Insurance Company	$ 483,584,540	100.0%	$ 483,584,540
51	Allstate County Mutual Insurance Company	$ 460,435,978	100.0%	$ 460,435,978
52	USAA Life Insurance Company	$ 457,912,324	19.7%	$ 2,319,408,514
53	Teachers Insurance and Annuity Association of America	$ 432,934,510	3.2%	$13,486,054,592
54	Zurich American Insurance Company	$ 387,096,623	8.5%	$ 4,563,455,213
55	Community Health Choice, Inc.	$ 387,048,262	100.0%	$ 387,048,262
56	Parkland Community Health Plan, Inc.	$ 385,348,099	100.0%	$ 385,348,099
57	Unum Life Insurance Company of America	$ 382,756,294	10.0%	$ 3,838,761,620
58	USAA County Mutual Insurance Company	$ 377,872,023	100.0%	$ 377,872,023
59	Federal Insurance Company	$ 363,412,221	6.2%	$ 5,888,122,522
60	Ace American Insurance Company	$ 362,369,895	9.9%	$ 3,653,710,503
61	Prudential Annuities Life Assurance Corporation	$ 358,557,986	4.7%	$ 7,647,324,470
62	Standard Insurance Company	$ 358,115,096	8.8%	$ 4,060,226,147
63	New York Life Insurance Company	$ 357,239,513	1.9%	$18,665,647,502

Top 100 Insurance Companies in Texas Based on Amount of Premiums Written in Texas as of December 31, 2008 [a]				
Number	Company Name	Amount of Premiums Written in Texas	Percent of Premiums Written in Texas	Total Amount of Premiums Written
64	Texas Farmers Insurance Company	$ 356,676,556	100.0%	$ 356,676,556
65	Care Improvement Plus of TEXAS Insurance Company	$ 356,300,668	100.0%	$ 356,300,668
66	Western National Life Insurance Company	$ 355,335,263	6.2%	$ 5,703,065,225
67	Texas Children's Health Plan, Inc.	$ 354,306,503	100.0%	$ 354,306,503
68	State Farm Life Insurance Company	$ 346,204,215	7.5%	$ 4,638,371,325
69	Travelers Lloyds Insurance Company	$ 345,154,019	100.0%	$ 345,154,019
70	Consumers County Mutual Insurance Company	$ 343,531,818	100.0%	$ 343,531,818
71	Guardian Life Insurance Company of America	$ 340,270,960	5.4%	$ 6,325,852,280
72	SHA, LLC	$ 336,990,139	100.0%	$ 336,990,139
73	Southern County Mutual Insurance Company	$ 335,913,227	100.0%	$ 335,913,227
74	Home State County Mutual Insurance Company	$ 329,653,149	100.0%	$ 329,653,149
75	American Family Life Assurance Company of Columbus	$ 326,513,796	2.1%	$15,204,839,472
76	Southern Farm Bureau Casualty Insurance Company	$ 323,545,319	57.2%	$ 565,299,877
77	Superior Healthplan Network	$ 322,093,528	100.0%	$ 322,093,528
78	Great-West Life and Annuity Insurance Company	$ 316,387,995	6.3%	$ 5,018,709,468
79	Continental Casualty Company	$ 312,427,985	7.3%	$ 4,289,533,785
80	Protective Life Insurance Company	$ 308,155,325	5.1%	$ 6,070,550,586
81	Genworth Life Insurance Company	$ 282,478,757	6.1%	$ 4,661,770,571
82	State Farm County Mutual Insurance Company of Texas	$ 279,462,777	100.0%	$ 279,462,777
83	Farmers Insurance Exchange	$ 268,790,276	7.7%	$3,470,072,620
84	National Union Fire Insurance Company of Pittsburgh PA	$ 266,988,395	4.2%	$6,346,614,261
85	Travelers Lloyds of Texas Insurance Company	$ 266,849,052	100.0%	$ 266,849,052
86	American National Insurance Company	$ 260,771,883	11.1%	$2,352,674,665
87	Loya Insurance Company	$ 259,551,505	95.1%	$ 272,972,385
88	American Investors Life Insurance Company, Inc.	$ 251,358,247	5.5%	$4,566,753,332
89	Geico Indemnity Company	$ 250,948,327	7.5%	$3,334,950,300
90	Aviva Life and Annuity Company	$ 247,589,278	5.2%	$4,756,314,593
91	Liberty Mutual Insurance Company	$ 246,643,856	7.1%	$3,482,787,666
92	Life Insurance Company of North America	$ 244,373,225	11.7%	$2,095,063,414
93	Nationwide Mutual Insurance Company	$ 237,664,174	5.7%	$4,162,309,836
94	American United Life Insurance Company	$ 235,209,707	8.2%	$2,875,506,229
95	Liberty Mutual Fire Insurance Company	$ 230,155,800	3.6%	$6,388,071,286
96	OM Financial Life Insurance Company	$ 229,998,829	9.6%	$2,402,689,056
97	Hartford Life And Accident Insurance Company	$ 226,606,396	6.1%	$3,738,653,615

Top 100 Insurance Companies in Texas Based on Amount of Premiums Written in Texas as of December 31, 2008 [a]				
Number	Company Name	Amount of Premiums Written in Texas	Percent of Premiums Written in Texas	Total Amount of Premiums Written
98	Reliastar Life Insurance Company	$ 224,781,931	7.5%	$2,984,123,698
99	Community First Health Plans, Inc.	$ 220,925,101	100.0%	$ 220,925,101
100	American Equity Investment Life Insurance Company	$ 212,005,814	9.2%	$2,297,516,404

[a] Of the 100 companies in this table, 63 are domiciled in a state other than Texas.

Source: The Department's Financial Analysis Division.

Appendix 4

Insurance Companies That Were in Receivership Between September 1, 2005, and February 28, 2009

Table 2 lists the 42 insurance companies that were in receivership sometime between September 1, 2005, and February 28, 2009. A receivership is a judicial proceeding that may involve the rehabilitation or liquidation of an insurer. If the interest of policyholders cannot be adequately protected by administrative remedies, the Department of Insurance may take action to place the insurance company into receivership.

Table 2

Insurance Companies That Were in Receivership September 1, 2005, to February 28, 2009			
Company Name	**Receivership Classification**	**Date Placed into Receivership**	**Closing Date of Receivership**
AmCare Health Plans of Texas, Inc. and Amcare Management Inc.	Liquidation	December 16, 2002	Open
American Eagle Insurance Company and American Meridian Insurance Company	Liquidation	December 3, 1997	Open
American Founders Financial Corporation	Liquidation	October 2, 2007	Open
Amcorp Insurance Company	Liquidation	August 30, 2002	October 31, 2005
American Benefit Plans	Liquidation	March 6, 2002	December 10, 2007
Austin Indemnity, Lloyds Insurance Company and Austin Indemnity Management Company, LLC	Liquidation	December 29, 2008	Open
Benefit Life Insurance Company	Liquidation	September 28, 2000	August 30, 2006
Colonial Casualty Insurance Company	Liquidation	August 30, 2002	October 15, 2008
Comprehensive Health Services of Texas, Inc. (WellChoice)	Liquidation	February 3, 1999	Open
Commercial Indemnity Insurance Company	Liquidation	October 8, 2003	November 17, 2005
Empire Lloyds Insurance Company and Lloyds Insurance Holding Company, Inc.	Liquidation	December 30, 2002	January 28, 2008
Employers Casualty Company	Liquidation	January 6, 1994	Open
Employers National Insurance Company	Liquidation	February 11, 1994	October 31, 2005
Esquire Title, LLC	Liquidation	July 22, 2008	Open
Family Life Insurance Company of America	Liquidation	August 15, 2006	Open
Financial Insurance Company of America	Liquidation	April 18, 2005	Open
First Service Life Insurance Company	Liquidation	December 1, 1988	August 30, 2006

Insurance Companies That Were in Receivership September 1, 2005, to February 28, 2009			
Company Name	**Receivership Classification**	**Date Placed into Receivership**	**Closing Date of Receivership**
Good Samaritan Life Insurance Company	Liquidation	July 2, 2003	Open
Guaranty Insurance and Annuities Company	Liquidation	April 29, 2003	August 31, 2006
Guardian Fidelity Title Company	Liquidation	July 11, 2008	Open
Highlands Insurance Company	Rehabilitation	November 6, 2003	Open
Lincoln Memorial Life Insurance Company	Liquidation	May 14, 2008	Open
Lone Star Life Insurance Company	Liquidation	August 15, 2006	Open
Memorial Service Life Insurance Company	Liquidation	May 14, 2008	Open
Mi Tierra Title, LLC	Liquidation	February 25, 2009	Open
The Millers Insurance Company	Liquidation	March 13, 2003	Open
National Prearranged Services, Inc.	Liquidation	May 14, 2008	Open
Peters Burial Association	Liquidation	February 26, 2007	Open
Reliant American Insurance Company; Reliant American General Agency, Inc.	Rehabilitation	May 6, 2005	Open
Select Insurance Services, Inc.	Liquidation	June 28, 2006	Open
Shelby Casualty Insurance Company	Liquidation	June 28, 2006	Open
The Shelby Insurance Company	Liquidation	June 28, 2006	Open
SIR Lloyd's Insurance Company	Liquidation	September 10, 1991	August 30, 2006
Southern Star Title Company, LLC	Liquidation	January 8, 2009	Open
States General Life Insurance Company	Liquidation	March 9, 2005	Open
Texas Select Lloyds Insurance Company	Liquidation	June 28, 2006	Open
United Republic Insurance Company	Liquidation	July 8, 1997	Open
Universal Insurance Exchange and Universal Paratransit Insurance Services	Rehabilitation	January 26, 2006	Open
Vesta Fire Insurance Corporation	Liquidation	June 28, 2006	Open
Vesta Insurance Corporation	Rehabilitation	June 28, 2006	Open
Webb County Title and Abstract Company, Inc.	Liquidation	January 11, 2008	Open
Western Indemnity Insurance Company	Liquidation	June 6, 2003	Open

Source: *The Texas Department of Insurance 2008 Annual Report*, page 20.

Helpful Consumer Web Sites

Below is a list of some Web sites that are designed to help consumers understand the insurance companies with which they may be doing business.

Auto Insurance Price Comparisons
https://apps.tdi.state.tx.us/helpinspublic/Start.do?type=auto

Complaint Form
https://wwwapps.tdi.state.tx.us/inter/perlroot/consumer/complform/complform.html

Home Insurance Price Comparisons
https://apps.tdi.state.tx.us/helpinspublic/Start.do?type=res

Insurance Company A.M. Best Rating
http://www.ambest.com/

Insurance Company Search
https://apps.tdi.state.tx.us/pcci/pcci_search.jsp

The Financial Program

The Department of Insurance (Department) provided auditors the following information about its processes for monitoring the solvency of insurance companies. The figures presented in this appendix were not audited by the State Auditor's Office.

The Texas insurance market exceeded $105 billion in premiums in calendar year 2007. To regulate the solvency of this market, the Department focuses on four key processes. Specifically:

- **Admission to the Market** – The Department's Company Licensing and Registration Division functions as the gate-keeper for entry into the Texas insurance market. In fiscal year 2009, the Company Licensing and Registration Division processed more than 1,950 transactions, including license applications, mergers, charter amendments, and others. The Company Licensing and Registration Division also processed approximately 2,500 fingerprint cards and biographical affidavits.

- **Subsequent Surveillance** – After entry into the market, the Examinations Division and the Financial Analysis Division continuously monitor the financial condition of insurers by conducting on-site examinations, analyzing financial reports, reviewing transactions, approving the acquisitions of insurers by new owners, and other activities. In fiscal year 2009, those two divisions conducted 153 on-site examinations, 1,856 financial analysis reviews, and processed 884 holding company transactions.

- **Administrative Interventions** – If the Department detects weaknesses in an insurer, the Department may take a variety of actions. These actions range from informal conferences with the insurer's management and requests for business plans to more drastic regulatory interventions, such as issuing formal supervision and conservatorship orders. In addition to numerous informal actions taken by other divisions within the Department, the Rehabilitation and Liquidation Oversight Division initiated nine new formal interventions during fiscal year 2009.

- **Liquidations** – For those cases in which rehabilitation is not feasible, the Department minimizes the harm to policyholders and the public as much as possible and liquidates insolvent insurers through a privatized Special Deputy Receiver process. Concurrent with the downturn in the economy, the Rehabilitation and Liquidation Oversight Division initiated action to place 13 entities into court-ordered liquidation proceedings in fiscal year 2009.

Appendix 7

Recent State Auditor's Office Work

Recent SAO Work		
Number	**Product Name**	**Release Date**
07-033	An Audit Report on Performance Measures at the Department of Insurance	May 2007
06-045	An Audit Report on Contracts Related to the Texas Workers' Compensation System	June 2006

Copies of this report have been distributed to the following:

Legislative Audit Committee

The Honorable David Dewhurst, Lieutenant Governor, Joint Chair
The Honorable Joe Straus III, Speaker of the House, Joint Chair
The Honorable Steve Ogden, Senate Finance Committee
The Honorable Thomas “Tommy” Williams, Member, Texas Senate
The Honorable Jim Pitts, House Appropriations Committee
The Honorable Rene Oliveira, House Ways and Means Committee

Office of the Governor

The Honorable Rick Perry, Governor

Department of Insurance

Mr. Mike Geeslin, Commissioner of Insurance