



Draft Administrative Rules (Chapter 254)

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CHAPTER 254: INSURANCE PROGRAM⁴

Subchapter A: General Provisions

§254.101. Definitions

- (a) The following words and terms, when used in this Chapter, shall have the following meanings, unless the context clearly indicates otherwise:
 - (1) Business day – any day during which an agency operates under a normal business schedule, including days during which an agency is staffed with the minimum number of employees needed to conduct its public business as defined in §662.004, Texas Government Code and optional holidays as defined in §662.003(c), Texas Government Code.
 - (2) Exposure or risk exposure – a situation, practice, or condition that might lead to a loss or have an effect on objectives.
 - (3) Insurance policy – any line of insurance, other than health or life insurance, including but not limited to property insurance, casualty insurance, and liability insurance authorized under Chapter 612, Texas Government Code.
 - (4) Sponsored policy – an insurance policy obtained by the Office on behalf of state agencies for statewide use.
 - (5) Liability – legal responsibility to compensate for damage or injury.
 - (6) Loss – the basis for a claim under the terms of an insurance policy or the loss of assets resulting from an insurable risk.
 - (7) Claim – A formal request for payment or compensation against an agency or individuals representing the agency.
 - (8) Property – anything owned, leased, occupied, or borrowed by a state agency, tangible or intangible, real or personal. The term includes, but is not limited to:
 - (A) land and mineral rights,
 - (B) buildings and other improvements,
 - (C) vehicles and boats,
 - (D) published materials,
 - (E) works of art and antiques,
 - (F) chemicals,
 - (G) food and agricultural products,

- (H) raw materials,
 - (I) rights and royalties,
 - (J) intellectual property,
 - (K) financial assets including money, and
 - (L) electronic data processing hardware and software.
- (9) Surety bond – a surety bond as defined by §653.003(1), Texas Government Code, including public official bonds and fidelity bonds.

§254.102. Applicability

- (a) Unless otherwise indicated, this Chapter applies to all state agencies subject to Chapter 501, Texas Labor Code, except for state agencies subject to §501.022 and §501.024 of that Chapter and/or §412.011(c)(2), Texas Labor Code.

Subchapter B: Review and Purchase of Lines of Insurance

§254.201. Insurance Purchasing

- (a) Pursuant to §412.011, Texas Labor Code, a state agency shall purchase any line of insurance other than life or health only through the Office.
- (b) Pursuant to §1803.002, Texas Insurance Code, an insurer is required to report to the office any intended sale of insurance coverage to a covered state agency no later than the 30th day before the date the sale is scheduled to occur.
- (c) All processes and procedures for submission and reporting shall be posted on the Office's website and updated as required.

§254.202. Review of Lines of Insurance

- (a) The Office shall select lines of insurance for statewide use based on the following factors:
- (1) reported purchases by agencies,
 - (2) exposures and liabilities identified by state agencies or the Office,
 - (3) the number of state agencies requesting a particular type of insurance coverage,
 - (4) whether the insurance is necessary to protect the interests of the State,
 - (5) whether the insurance is economically advantageous to the State,
 - (6) whether the insurance coverage is available in the marketplace , and/or

- (7) other relevant factors as determined by the Office.
- (b) The Office shall negotiate insurance policies to be generally available to all eligible state agencies.
- (c) After the Office selects a line of insurance for state-wide use, it shall post information regarding the insurance on its website.

§254.203. Purchase of Insurance through State-Sponsored Policies

- (a) Unless excepted under §254.204 or §254.205 of this Chapter, state agencies shall purchase insurance that is available in a state-sponsored policy through the Office.
- (b) To purchase a state-sponsored policy, a state agency shall complete and submit an Insurance Program Form along with all required supporting documentation at least 30 days before the effective date of the anticipated insurance purchase.

§254.204. General Purchases of Insurance

- (a) A state agency must seek the Office's approval to purchase insurance that is not available through a state-sponsored policy. To obtain approval, a state agency must submit an Insurance Program Form and all required supporting documentation at least 30 days before the anticipated insurance purchase.
- (b) The Office shall review all requests for approval to obtain coverage outside of state-sponsored policies. If the Office finds that the applying agency has unique exposures, a substantial or unusual risk of loss, or that the purchase is necessary to protect the interests of the State, the Office shall authorize the purchase.
- (c) An agency's failure to obtain approval for the purchase of insurance may result in a report to the legislature.

Subchapter C: Responsibilities of Participating Agencies

§254.301. Agency Duties to Insurers

- (a) Agencies that purchase a state-sponsored insurance policy under this Subchapter shall:
 - (1) provide accurate information in an insurance application,
 - (2) comply with requests for information from underwriters in a timely manner,
 - (3) timely pay insurance premiums to the insurer,
 - (4) consider insurer loss control recommendations, and
 - (5) cooperate with the insurer during the investigation, litigation, and/or settlement of claims.

§254.302. Reporting Losses and Claims

- (a) Agencies shall report all losses and claims that may be covered by a state-sponsored insurance policy in the form and manner prescribed by the Office not later than the tenth calendar day after the occurrence. If the applicable insurance policy contains a shorter reporting time period, that time period shall govern both reports to the Office and to the insurance carrier.

Subchapter D: Responsibilities of Insurers

§254.401. Reporting Requirements

- (a) Each insurer that enters into an insurance contract or other agreement with a state agency for the purchase of property, casualty, or liability insurance coverage shall report to the Office the intended sale of the insurance coverage.
- (b) Insurers shall report the intended sale in the form and manner required by the Office not later than the 30th day before the date the sale is scheduled to occur.
- (c) Insurers must provide the Office with copies of insurance forms, policies, and other relevant information upon request.
- (d) Insurers must notify the Office at least 10 days before settlement of a claim covered by a state-sponsored insurance policy.
- (e) During the term of a state-sponsored insurance policy, insurers shall notify the Office within 30 days of:
 - (1) policy changes; and
 - (2) cancellation, reinstatement, or non-renewal notices.

Subchapter E: Surety Bonds

§254.501. Applicability

- (a) Notwithstanding §254.102 of this Chapter, this Subchapter is applicable to all state agencies as defined by §653.003, Texas Government Code.
- (b) This Subchapter does not affect the purchase by a state agency of any form of insurance other than a surety bond.

§254.502. Surety Bond Purchases

- (a) State agencies shall not purchase surety bonds without the approval of the Office. An agency's failure to obtain approval for the purchase of a surety bond may result in non-authorization of the expenditure and/or report to the legislature.

- (b) State agencies shall initiate the process of purchasing surety bonds by submitting an Insurance Program Form not later than 30 days before the effective date of the bond.
- (c) The following factors shall be considered by the Office in determining the necessity of surety bonds:
 - (1) whether the bond is required under the Texas Constitution, federal law, federal regulation, or court order;
 - (2) whether the bond is warranted by a substantial or unusual risk of loss;
 - (3) whether the bond is necessary to protect the interests of the State; and/or
 - (4) other relevant factors.
- (d) If the Office approves an application for a surety bond, the Office shall determine the scope and amount of the bond coverage and authorize its purchase.

§254.503. Reporting Claims Against Surety Bonds

- (a) Entities covered by this Subchapter shall report claims against surety bonds using the procedure described in §254.302 of this Chapter.
- (b) Surety bond insurers shall report claims against surety bonds using the procedure described in §254.401 of this Chapter.

Subchapter F: Notaries Without Bond

§254.601. General Provisions

- (a) Notwithstanding §254.102 of this Chapter, this Subchapter is applicable to all state agencies as defined by §653.003, Texas Government Code.
- (b) Persons whose services as notaries are performed primarily as a state officer or employee (hereinafter “notaries without bond”) are not required to submit a notary bond or notary bond filing fee with their notary applications. Notaries without bond shall otherwise meet the requirements of Texas Government Code Chapter 406, including, but not limited to, maintaining a notary record book and taking the official oath.

§254.602. Application Process

- (a) Upon applying to the Secretary of State, an applicant seeking notary without bond status must obtain verification of eligibility from the Office using the forms and instructions located on the Office’s website.

- (b) The applicant's employing agency shall pay the applicant's filing fee to the Secretary of State and shall provide the applicant with acceptable proof of payment, as defined by the Office.
- (c) The employing agency's payment method shall constitute acceptable proof of the applicant's state employment status.
- (d) The Office shall review, approve, and submit applications to the Secretary of State for final processing.

§254.603. Duties

- (a) A notary without bond must obtain an official seal compliant with the requirements of §406.013, Texas Government Code, and Secretary of State rules. As required by the Secretary of State rule at 4 Texas Administrative Code §87.22, the seal must include the words "Notary without Bond."
- (b) Employing agencies shall require notaries without bond to attend a notary training class, either provided internally or externally. Information concerning notary training is available on the Office's website or by contacting the Office.
- (c) Notaries without bond shall comply with these rules and those of the Secretary of State located at Title 1, Chapter 87, Texas Administrative Code.

§254.604. Transfer or Termination of Notary Without Bond

- (a) When a notary without bond is transferred or terminated, the notary's new or former employing agency shall immediately complete and submit a Notary Without Bond, Change in State Employment Form.
- (b) Terminated notaries without bond who will no longer be employed by the State should voluntarily resign their notary commissions immediately before termination or as soon thereafter as practicable. Terminating agencies shall inform notaries without bond of this recommendation immediately before termination.
- (c) When a notary without bond is terminated and will no longer be employed by the State, that notary's seal shall remain with the terminating agency as State property.
- (d) When a notary without bond is terminated and will no longer be employed by the State, that notary shall keep all record books and public papers until resigning. A former state employee who resigns a notary commission shall yield notary

record books and public papers in accordance with §406.022,
Texas Government Code.

§254.605. Reporting Claims Against Notaries Without Bond

- (a) State agencies subject to this Subchapter shall report claims against notaries without bond in the manner provided in §254.302 of this Chapter.