

CHECKING SLIP – IMPORTANT**TEXAS AUTOMOBILE INSURANCE PLAN ASSOCIATION
PLAN OF OPERATION****Revision Date February 9, 2006/Number 2.**

NEW PAGES ENCLOSED. I-1—I-3, i—iv, P-1—P-10, C-5—C-9, A-1—A-5, A-8—A-10,
(a)

REMOVE PAGES. I-1—I-3, i—iv, P-1—P-10, C-5—C-9, A-1—A-5, A-8—A-10, (a)

AMENDMENTS Stars (★) mark the amendment. The latest amendment dates of Sections are listed on page (a) located at the back of this Plan of Operation.

ELECTRONIC VERSION The Texas Automobile Insurance Plan Association, Plan of Operation is available in electronic format at www.taipa.org. You may view and search the current and archived electronic, interactive versions of the Plan of Operation or you may download the paper version in Adobe Acrobat PDF file format.

SUMMARY OF CHANGES

Sections 9, 25, 35 and 47 The amended sections provide guidelines for the addition of certain county mutuals as members of Texas Automobile Insurance Plan Association.

Section 36 Provides the requirements for the selection of the insurer members of the Governing Committee since two of the insurer trade associations combined.

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INTRODUCTION

The Texas Automobile Insurance Plan Association (“the Association” or “TAIPA”) was created to provide automobile insurance coverage to eligible risks who seek coverage and are unable to obtain such coverage through the voluntary market. The coverage is provided at limits as required by the Texas Motor Vehicle Safety-Responsibility Act (Chapter 601, Texas Transportation Code). For complete eligibility requirements, see Sections 2 and 18. Eligible risks are shared among insurance companies writing automobile insurance in the state of Texas.

The Plan of Operation is divided into three parts as follows:

Part I Personal Automobile Part

- Eligibility
- Coverages
- Take-Out Programs
- Other applicable provisions

Part II Commercial Automobile Part

- Eligibility
- Coverages
- Other applicable provisions

Part III Administrative Provisions

- Administrative Rules of the Plan
- Assignment Quotas
- Limited Assignment Distribution Procedure (LAD)
- Commercial Limited Assignment Distribution Procedure (CLAD)
- Producer Certification Program

Before submitting an application for coverage, it is strongly recommended that users of this Manual read “How to Submit an Application to the Association.” However, it is required that users of this Manual read the Personal and Commercial Plan Manual contained in Parts I and II and the Administrative Provisions in Part III, and review the General Rules. To the extent to which “How to Submit an Application to the Association” conflicts with the Personal or Commercial Automobile Parts or the Administrative Provisions of this Plan of Operation, the provisions of the respective Personal or Commercial Automobile Part or Administrative Provisions shall apply.

HOW TO SUBMIT AN APPLICATION TO THE ASSOCIATION

HOW, WHEN, AND WHERE

Producers who hold a general property and casualty agent license, a limited property and casualty license, or a county mutual agent license in Texas may apply for producer certification. A producer must be certified prior to submitting applications to the Association. For further information on Association producer certification requirements, see Administrative Provisions, Section 54 – Producer Certification Program.

A producer of record can assist the assigned insurer in providing better service to insureds by making every effort to facilitate the insurer’s handling of assignments made under the Association.

Incomplete applications, application supplements, or requests for changes in the policy that are not readily identifiable to the assigned insurer only delay the processing of Association assignments and endorsements. An original application form or the original application produced by the Electronic Application Submission interface (EASi) must be used for each submission. Copies and facsimiles are not

acceptable. Before an application is mailed to the Association, it should be reviewed to ensure it contains all the information necessary for issuance of the policy or completion of the transaction.

HOW TO APPLY TO THE ASSOCIATION

Producers should refer to the rules and rates in the Manual when making premium quotations. However, producers may contact the Association if further assistance is required.

The producer should advise the applicant that the policy is being issued as part of the Texas Automobile Insurance Plan Association.

In completing the application, the producer must be certain that

- the application is completed in the name of the individual or entity requesting coverage;
- the application is signed by the applicant and the producer of record;
- If the application requires an effective date in the future for coverage, the future date must be shown on the application;

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- If using the Electronic Application Submission Interface (EASi), the producer and applicant must certify the date and time of coverage
- all applicable questions are answered fully. Blank or incomplete answers will necessitate that the Association return the application before an assignment can be made.
- any and all attachments pertinent to the application are attached;
- the deposit accompanying the application must be correctly drafted and be correct for the method of payment chosen in accordance with the payment option selected from Sections 6 or 22 of this Plan. All deposits must be in the form of an applicant's check, producer's check, certified check, cashier's check, or money order payable to the Texas Automobile Insurance Plan Association;
- the applicant has read the application and concurs that all answers are correct and complete;
- the original Electronic Submission Procedure (ESP) application form and one copy or the original application produced by EASi are mailed to the Association no later than the first working day after the application is completed. If coverage has been bound by telephone using ESP, the original application and one copy must be accompanied by the binder form. The effective date of ESP and EASi applications will be determined in accordance with subsections 7.A.2 and 23.A.2.
- for application forms not subject to ESP or EASi, mail the original application and one copy of the application to the Association. The effective date of coverage will be the date following the date of receipt in the Association office, unless a later date is requested in accordance with subsections 7.A.3, 7.A.4, 23.A.3, or 23.A.4.
- the name, address, and tax identification number of the producer of record are included.
- an administrative or other service charge may not be charged to an applicant for completion of an application for insurance.

Specific questions on the Texas Automobile Insurance Plan Association Manual, or any portion thereof, should be directed to the Texas Automobile Insurance Plan Association, P.O. Box 149144, Austin, TX 78714, by telephone at (512) 444-4441, by fax at (512) 444-7639, or by e-mail at custsvc@taipa.org E-mail inquiries must include detailed information and the sender's telephone number to facilitate Association response.

WHAT TO SEND TO THE ASSOCIATION

Non EASi applications – The original application and one copy must be forwarded to the Association office. ESP applications must be accompanied by binder forms.

EASi applications – forward the original application with signatures

Private passenger applications should be accompanied by the following documents:

- Deposit check
- Driver Improvement Course Certificate, if a credit has been applied
- Check payable to the Texas Department of Public Safety, if TAIPA is to file an SR-22 requiring a fee, directly with TDPS. Refer to subsection 7.A.6.

Commercial applications should be accompanied by the following documents:

- Deposit check
- Supplemental operator schedule, if applicable

HOW TO APPLY FOR ADDITIONAL COVERAGES OR CHANGES IN THE POLICY

All requests for changes to a policy must be submitted in writing. If an insurer has been assigned, the policy change request should be forwarded directly to the assigned insurer no later than the first working day after completion, NOT to the Association office. Be certain that the insured's policy number and other identification numbers, if any, are included in your written request. If an elimination of coverage is requested, the policy change request must be signed by the insured.

Only those coverages shown in Sections 5 and 21 of the Plan are available.

AVAILABILITY OF FORMS, MANUALS, ETC.

HARD COPIES

Pre-printed application forms and binder forms to be used when applying to the Association must be purchased from the Association. To obtain an order form, contact the Association at (512) 444-4441 or access the Association website at <http://www.taipa.org>.

Association forms, such as policy change request forms, insurer performance complaint forms, producer performance complaint forms, computer generated applications, and rating disks are available at a charge from vendors approved by the Association. For complete information access the Association website at <http://www.taipa.org>

The Texas Automobile Insurance Plan Association Manual containing the Plan of Operation and Rules and Rates is available from the Association website at <http://www.taipa.org>

ELECTRONIC FORMAT

The following Plan materials are available in electronic format by accessing <http://www.taipa.org>

- The Texas Automobile Insurance Plan Association Manual containing the Plan of Operation and Rules and Rates
- Application Forms
- Private Passenger Application
- Commercial Application

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- Policy Change Request Form
 - Supplemental Application
 - Company Complaint Form
 - Producer Complaint Form
 - Electronic Submission Procedure User's Guide
 - Electronic Submission Procedures Retraction Form
 - Electronic Application Submission Interface (EASi) Brochure
 - Electronic Application Submission Interface Retraction Form
 - Producer Certification Program—Rules of Operation
 - TAIPA Order Form—Applications and Binder Forms
 - Vendor information for the purchase of Association forms other than applications and binder forms
- Note:** EASi offers electronic private passenger and Commercial application forms that are transmitted to the Association office.

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PERSONAL AUTOMOBILE PART

Sec. 1. PURPOSES OF THE ASSOCIATION

The purposes of the Association are to:

- A. provide a means by which automobile bodily injury and property damage liability, personal injury protection and uninsured/underinsured motorist coverage insurance may be assigned to an authorized insurer for persons required by the Texas Motor Vehicle Safety-Responsibility Act (Chapter 601, Texas Transportation Code) to show proof of financial responsibility for the future, following the procedures contained in this Plan of Operation;
- B. establish an efficient, economical procedure for the equitable, nondiscriminatory assignment of risks to authorized insurers; and,
- C. provide for the efficient, economical, fair and non-discriminatory administration of the Association.

The Association has the powers granted to non-profit corporations under the Texas Non-Profit Corporation Act.

Sec. 2. ELIGIBILITY

A. Applicant Eligible for the Association

Eligibility of applicants to the Association will be determined as provided in this Section.

- 1. An applicant is eligible for assignment if the following requirements are met:
 - a. The applicant is required by the Texas Motor Vehicle Safety-Responsibility Act (Chapter 601, Texas Transportation Code) to show proof of financial responsibility for the future.
 - b. The applicant and the producer must certify as part of the application that within 60 days prior to the date of application, the applicant has been rejected for automobile insurance by at least two insurers licensed to do business in this state and actually writing automobile liability insurance in this state.
 - c. Non-residents of Texas are not eligible unless their motor vehicles are registered or will be registered in the state within 15 days. Non-residents who are members of the United States military forces are eligible with respect to motor vehicles registered in other states provided such military non-residents are stationed in this state at the time the application is made and are otherwise eligible for insurance under the Plan of Operation.
- 2. An applicant who meets the eligibility requirements for assignment is eligible even though the applicant:
 - a. has been offered insurance by an insurer;
 - b. has obtained physical damage coverage through another insurer;

- c. has been denied coverage by only one company group if that company group has more than one company licensed to do business in this state and actually writing automobile insurance in this state; or
- d. has been offered coverage by a company in a company group if that company group has two additional companies licensed to do business in this state and actually writing automobile insurance in this state whose rates for the applicant would be less than the rates in the company offering coverage.

B. Risks Eligible for Assignment

The following eligible risks shall be assigned to an insurer:

- 1. Private passenger vehicles
- 2. Motor homes (self propelled)
- 3. Dune buggies
- 4. Miscellaneous personal vehicles, individually owned and not used in business, including the following types that are registered:
 - a. Campers and travel trailers
 - b. All-terrain vehicles
 - c. Antique autos
 - d. Golf carts
 - e. Motorcycles, mopeds, motorscooters, motorbikes, go-carts and other similar vehicles
- 5. Named nonowner applicants

C. Applicant Not Eligible for the Association

An applicant who is otherwise eligible is not entitled to assignment, nor is an insurer required to afford or continue coverage if any person who usually drives the motor vehicle does not hold or is not eligible to obtain a drivers license (other than for lack of insurance) or fails to obtain such license as required by law. An applicant or insured denied previously for a lack of a valid drivers license may reapply when a license has been obtained or a good faith attempt is being made to obtain a drivers license.

An application is not eligible for assignment if the coverage is sought for the purpose of showing proof of financial responsibility required by any statute or ordinance other than Chapter 601, Texas Transportation Code.

If an insured is required, by law, to obtain limits in excess of the financial responsibility limits, required by the Texas motor vehicle Safety-Responsibility Act, currently 20/40/15 BI and PD, that insured is not eligible for TAIPA.

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D. Renewals

An insured who fails to pay the renewal premium quoted by the assigned insurer in accordance with the provisions of Section 14.A.4. of this Plan of Operation, may re-apply for assignment if the applicant is otherwise eligible and the application is accompanied by the deposit prescribed in Section 6.

E. Re-Application to the Association

Any re-application to the Association shall be considered a new application and the applicant shall be assigned to an insurer in accordance with the provisions of Section 41.

Sec. 3. RESERVED FOR FUTURE USE

Sec. 4. RESERVED FOR FUTURE USE

Sec. 5. EXTENT OF COVERAGE

A. Coverages and Limits

Bodily Injury, Property Damage, Uninsured/Underinsured Motorists Coverage, and Personal Injury Protection

1. The assigned insurer is required to write a policy for the minimum limits required by the Texas Motor Vehicle Safety-Responsibility Act (currently \$20,000/ \$40,000 Bodily Injury and \$15,000 Property Damage).
2. In addition, the policy shall include the following coverage unless rejected in writing by the applicant:
 - a. Uninsured/Underinsured Motorists Coverage at minimum limits of liability;
 - b. Personal Injury Protection Coverage at a limit of \$2,500.
3. Personal Injury Protection and Uninsured/Underinsured Motorist coverages are available to an applicant only in conjunction with a policy written in accordance with this Plan of Operation affording Bodily Injury and Property Damage coverage.

B. Personal Auto Policy Coverage

1. Personal Auto Policy
 - a. A Personal Auto Policy shall be used to afford coverage, or personal auto coverage shall be afforded, to private passenger autos and motor vehicles considered a private passenger auto or trailers if:
 - (1) they are written on a specified auto basis, and
 - (2) they are owned or hired under a long-term contract by an individual or by husband and wife who are residents in the same household or jointly by relatives other than husband and wife or jointly by resident individuals.

- b. A Personal Auto Policy shall be used to afford coverage or personal auto coverage shall be afforded to vehicles referred to in Section 2.B except 2.B.1, 4.c and 5, if
 - (1) they are written on a specified auto basis, and
 - (2) they are owned or hired under a long-term contract by an individual or by husband and wife who are residents in the same household or jointly by relatives other than husband and wife or jointly by resident individuals.
 - (3) they are not used in a business of rental or leasing, and
 - (4) coverage is limited in accordance with the Miscellaneous Type Vehicle Endorsement.

Exception: Exposures in Section 5.B.1.a or b above may be written under a Commercial Auto Policy when combined with a commercial risk or when an auto is used in business. The insurer must attach the Individual Named Insured Endorsement.

- c. The Personal Auto Policy shall be used to afford coverage to a named individual who does not own an auto. The applicable endorsement must be attached.
- d. "Owned" as used in this Section includes an auto leased under written contract for a continuous period of at least six months. If an auto lease contract requires the lessee to provide primary insurance for the lessor, attach the applicable endorsement.
- e. The Personal Auto Policy may be used to afford coverage to joint named insureds who are residents of the same household even if such joint named insureds do not jointly own the automobile(s).

The Personal Auto Policy may be used to afford coverage to joint named insureds who are related by blood, marriage or adoption, including a ward or foster child; and who are not residents of the same household, even if such joint named insureds do not jointly own the auto, if:

- (1) the auto is owned by one or more of the joint named insureds who are residents of the household address shown in the policy, and
- (2) the joint named insured who is a resident of the different household is the primary operator of the auto.

Note: The name of each named insured must be shown in the policy Declarations. The address of the first named insured shall be the address shown in the policy and shall be the

address used by the insurer for notice purposes.

2. Policy Term

All policies, new and renewal, shall be issued for a period of one year.

If a policy is being issued to comply with Section 1.F. (e) of the Texas Motor Vehicle Safety-Responsibility Act, the insurer will issue a certificate by which it is bound to issue a renewal policy so that the current policy and the commitment for renewal together cover a period of at least two years. In the event Section 5.B.3 conflicts with Section 7, Section 5.B.3 will control.

Exception: Policies written to provide proof of financial responsibility, after a second subsequent conviction under Section 601.262, Texas Transportation Code, must be written for a term of two years.

3. Certified Risks – Financial Responsibility Laws

A policy for which an SR-22 must be made shall be amended to conform with the definition, if any, of motor vehicle liability policy in any applicable financial responsibility, Safety-Responsibility, or compulsory automobile liability law.

The insurer must attach the appropriate Financial Responsibility Certificate Endorsement. Policies certified under an SR-22 filing must describe the motor vehicle so certified. If a Non-Owner Policy is involved, the certificate must so indicate. Further, the Texas Motor Vehicle Safety-Responsibility Act (Chapter 601, Texas Transportation Code) requires with respect to an "owners policy of liability insurance" that such policy shall provide coverage for the insured named therein and any other person, as insured, using a vehicle so certified with the express or implied permission of such named insured.

4. Policy and Endorsement Forms

The Association shall file policy forms and endorsements with the Department of Insurance to be approved by the Commissioner of Insurance for use with Association business. Insurers may use only those policy and endorsement forms adopted or approved by the Commissioner of Insurance as designated by the Association.

Sec. 6. PREMIUM DEPOSIT REQUIREMENTS AND PAYMENT OPTIONS

The application for assignment, other than EASi applications, must be submitted to the Association on a prescribed form in duplicate accompanied by the full gross annual premium or a deposit on a gross basis as indicated below.

If the application for assignment is submitted through EASi, the original application with signatures, must be submitted to the Association on a prescribed form accompanied by the full gross annual premium or a deposit on a gross basis as indicated below.

A. Full Annual Premium Option

No deposit

B. Advance Premium Payment Option—where the total annual premium is to be paid within 30 days of the date of the premium notice, a deposit of at least 25% of the annual premium, or \$40 per vehicle, whichever is greater, is required.

C. Installment Premium Payment Option

This option is available to all risks assigned through the

Association unless any portion of the annual premium is financed by a premium finance company. If any portion of the annual premium is financed after the Installment Premium Payment Option is elected, the insurer may bill the insured immediately for the unpaid balance of the annual premium. If an applicant requests an SR-22A with an SR-22, the full annual premium must accompany the application.

1. Deposit

A deposit of at least 20% of the total annual premium, or \$40 per vehicle, whichever is greater, is to accompany the new application and as the initial payment on renewal policies. No installment charge may be made on the deposit premium.

2. Installments

The first installment is due no sooner than 30 days after the inception of the policy. The first bill shall show the current annual premium plus the installment charge minus the deposit. Each installment bill thereafter shall display the status of the account showing the minimum amount payable.

One-eighth of the remainder of the premium, plus an installment charge of \$3 on each installment, will be due monthly thereafter. The installment charge shall be increased by \$0.50 for each \$250 or fraction thereof by which the annual premium exceeds \$500.

The application form shall contain a statement signed by the applicant and producer certifying that the installment payment option above has been offered and explained by the producer.

At any point during the installment billing period, should the insured elect to pay the outstanding balance, the installment charge only for the current bill would apply.

3. Additional Premium—Changes

Additional premium resulting from changes to the policy requested by the insured shall be spread over the remaining installments, if any. Compensation on the additional premium is payable by the insurer to the producer within 40 days after receipt of the requested change.

4. Return Premium—Changes

Return premium resulting from changes to the policy may be used to reduce the outstanding

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balance, or, if the outstanding balance is eliminated, any amount remaining from the return premium will be returned immediately. If any outstanding balance remains, the number and amounts of the remaining installments will be adjusted accordingly. If the return amount is less than \$20 it may be treated as a separate transaction.

5. Premium Notices

Copies of all premium notices must be provided to the producer at the same time as being mailed to the insured.

D. Deposit, Installment or Additional Premium Payments Applicable to A, B, or C, above

All deposit premiums, installments and additional premium payments shall be submitted in full, without reduction for producer's compensation. Compensation will be paid in accordance with Section 13. Payments shall be made by one instrument.

The deposit accompanying the application shall be either by producer's check, applicant's check, certified check, money order, or cashiers check payable to the Texas Automobile Insurance Plan Association. If the applicant is ineligible for assignment, the deposit shall be returned.

If the premium is not in the form of a certified check, cashiers check or money order, the Manager of the Association may require such safeguards as may in his or her judgment be deemed necessary.

Installment payments shall be in the form of a producer's check, insured's check, certified check, money order, or cashier's check payable to the assigned insurer.

Additional premium payments shall be by producer's check, insured's check, certified check, money order, cashier's check, or premium finance company check payable to the assigned insurer.

If the deposit premium is 20% or more inadequate, the insurer may bill for the deficiency immediately.

E. Dishonored Producer and Finance Company Checks

If the producer or premium finance company check is not paid upon presentation, the Manager shall immediately notify the Commissioner of Insurance of Insurance of such fact for disciplinary action.

Producers who have submitted dishonored checks issued by the agency or by the producer individually, on more than one occasion during a one-year period, must submit future payments by applicant's check, premium finance company check, certified check, cashier's check or money order. This shall not negate any rights of the Association to pursue action against a producer.

The Manager may refuse to accept checks from a premium finance company if its checks have been dishonored on more than one occasion during a one year period.

F. Premium Owed on Prior Policy

The insurer may deduct from the deposit premium any unpaid premium owed to the insurer by an applicant for a prior assigned policy issued by the insurer during the

12 months immediately preceding the effective date of the policy.

**Sec. 7. APPLICATION FOR ASSIGNMENT,
DESIGNATION OF INSURER,
EVIDENCE OF INSURANCE, AND
EFFECTIVE DATE OF COVERAGE**

A. Original Application

1. The Association will designate an insurer to which the application shall be assigned and advise the producer and applicant of the designated insurer. The notice of designation shall state that coverage becomes effective on 12:01 A.M. on the effective date shown on such notice.

2. Electronic Submission Procedures

Producers who are certified as provided in Section 54 of this Plan have the option to use the electronic submission procedures to establish the effective date of coverage if such date is earlier than that established by sub-sections 7.A.3 and 4. The electronic submission procedures include the Electronic Submission Procedure (ESP) by telephone and the Electronic Application Submission interface (EASi) by electronic transmittal of the application. Coverage will be effective only when procedures established by the Association are followed.

The requested coverage shall become effective to cover losses at the time and date of the ESP telephone call or EASi electronic transmittal of the application. The assignment notification and policy shall be issued effective 12:01 A.M. the following day subject to the rates in effect on that date.

All applications and deposit premiums for applicants for whom an electronic submission is used must be submitted to the Association no later than the working day following the date of the ESP telephone call or EASi electronic transmittal of the application. The electronic reference number must be included on the upper right hand corner of the application.

3. Other than the electronic submission procedures provided in subsection 7.A.2 or the delayed effective date method provided in subsection 7.A.4 below, the effective date for coverage is the day following the date of receipt in the Association office.

4. If the applicant does not desire coverage until a later date, not to exceed 30 days from the date of application, or in the event there is in force a policy terminating at a date later than the date which would be fixed per this Section, the applicant shall indicate such date in the application and the Association shall fix the date when the coverage becomes effective at 12:01 A.M. on the desired date of coverage.

5. Association Submission to Designated Insurer

The Association shall forward to the designated insurer the original copy of the application, the notice of the effective date of coverage and the deposit. The deposit is to be credited by the insurer against the policy premium. In the event the insurer finds the premium submitted with the application to be incorrect, the insurer shall make a premium adjustment directly with the insured with a copy sent to the producer.

6. Financial Responsibility Certificates

If the applicant is eligible for assignment through the Association and the applicant or spouse requires proof of financial responsibility for the future (SR-22), the Association, on behalf of the designated insurer, will issue the certificate required by the State of Texas. However, if the applicant or spouse is required to file a form SR-22A with the State of Texas, the SR-22 and SR-22A will be issued by the insurer. If a separate payment for the required SR-22 fee is enclosed with the application, and if a request is made to file the certificate with the Texas Department of Public Safety, the Association will deliver the certificate to that agency for filing. If no separate payment is made, or if there is no request for direct filing, the certificate will be sent to the producer. Such certificate shall become effective as of the effective date of the coverage. Any out of state or subsequent filings, such as SR-26 or amended SR-22, are to be issued by the designated insurer.

7. Minimum Premium

The minimum premium rule contained in the Association Manual applies. For Personal Auto Policies, there is a non-refundable minimum premium for any period of coverage.

8. Standard Application Form

The application form for assignment through the Association will be adopted and amended by the Governing Committee. The application form and any changes are to be filed with the Commissioner of Insurance prior to use. The Commissioner of Insurance may disapprove the use of the form if it contains a prohibited eligibility standard. Instructions for completion of the application will be provided by the Association in the Producer's Guide.

B. Additional Vehicles or Coverages

1. If additional available coverages are desired or additional vehicles are to be insured, during the policy period, a completed policy change request shall be submitted directly to the designated insurer no later than the first working day after completion.
2. Coverage for additional vehicles to an existing policy will become effective in accordance with policy conditions. No coverage will become effective if a substitution or additional vehicle is of a different type or class than those eligible for coverage on the existing policy. To obtain coverage

in this situation, a new application must be submitted to the Association.

3. Additional available coverage may be added to an existing policy. The additional coverage will become effective at 12.01A.M on the day following the written request or the effective date specified in the request, whichever is later, except when one of the following applies:

- a. the policy change request is not mailed within one working day after completion; or
- b. the request is not mailed U.S. mail, postage prepaid, or the request is received by fax or electronic mail.

If a, or b applies coverage will become effective at 12.01A.M the day following the date such request is received by the insurer, or the effective date specified in the request, whichever is later.

4. If such coverages are not available with the assigned insurer, a new application for such coverages shall be submitted to the Association and shall become effective in accordance with Section 7.A.

C. Elimination of Coverage

In the event an elimination of coverage is desired during the policy period, a completed policy change request must be signed by the insured and submitted to the insurer.

D. Incomplete Applications

Applications shall be accepted by the Association and assignments shall be processed by the assigned insurer if the requirements shown in Sections 6 and 7 are reasonably met. It is the responsibility of the Association and the assigned insurer to communicate clearly to the insured and producer in what respect an application is incomplete and requires correction.

The assigned insurer shall give at least 15 days to the insured and to the producer for remedying any defects in the application. No part of the deposit premium shall be returned to the insured or to the producer except upon proper cancellation in accordance with the provisions of Section 11 of this Plan of Operation.

E. Applications Returned to the Association

An assignment to any insurer contrary to either the provisions of this Section or Section 41 shall be returned promptly to the Association for reassignment.

Sec. 8. RESERVED FOR FUTURE USE

Sec. 9. THREE-YEAR ASSIGNMENT PERIOD

An applicant shall be assigned to a designated insurer for a period of three consecutive years, at which time proper notice of non-renewal shall be mailed. If an insured is unable to obtain insurance at the end of the three-year period, re-application for insurance may be made to the Association. Such re-application shall be considered as a new application.

PERSONAL

- ★ If the designated insurer is an insurer organized under Chapter 912 Insurance Code and if the insurer claims a calendar year exemption under Section 13(f) Article 5.13-2 Insurance Code during the term of the three-year assignment period, the designated insurer shall continue the coverage using the Association rules and rating plans until the end of the three-year assignment period.

In the case of non-resident military personnel, as described under Section 2.A.1.c of the Plan of Operation, the insurer is not required to renew, if at the time of renewal the insured is stationed in another state in which the insurer is not authorized to do business or if the insured is stationed in another state and the automobile is not registered in Texas.

Sec. 10. TAKE-OUT

This Section is applicable to private passenger classed vehicles written on a Texas Personal Auto Policy form.

A. Mandatory Offer to Write

1. Eligibility

An insured is eligible for mandatory take-out if during the three successive years prior to the end of the three-year assignment period the named insured and all other persons who usually operate the vehicle:

- a. have been licensed to operate an automobile for at least three consecutive years; and
- b. have not been involved in an accident or convicted of a traffic violation for which premium charges are imposed in accordance with the Texas Automobile Insurance Plan Association Manual.

2. Offer to Write

- a. The assigned insurer or any authorized insurer within the group under the same ownership and management as the assigned insurer shall offer to write the coverage previously afforded by the assigned policy for a period of one year.
- b. The coverages and limits of liability to be offered for such insureds shall not be less than those afforded by the assigned policy. The rates offered shall be below those in effect for the Association at the time the new policy becomes effective. The offer to write may include any other coverages offered by the assigned insurer on a voluntary basis.
- c. The offer to insure may require the payment of a membership fee, as long as the membership fee is a uniform requirement of the insurer as a condition of providing insurance, is applied uniformly throughout the state and the total of the premium and membership fee is below the premium which would be charged for the equivalent coverage at rates in effect for the Association at the time the new policy becomes effective. The offer to insure may not require any other membership qualifications.

3. Notification

- a. On a prescribed form, the assigned insurer shall provide the insured with a notice of intent to offer coverage at expiration of the assigned policy. A copy of the notice shall be simultaneously provided to the producer of record. The offer to write must be mailed to the insured at least 30 days prior to the expiration of the assigned policy.
- b. The prescribed form will be adopted and amended by the Governing Committee. The prescribed form and any changes are to be filed with the Commissioner of Insurance prior to use. The Commissioner of Insurance may disapprove the use of the form if it contains a prohibited mandatory take-out eligibility standard.

4. Insurer Obligation

- a. If the insured does not accept the offer, the assigned insurer has no further obligation to the insured or to the producer of record.
- b. If the offer is accepted, the insurer is required to issue a voluntary policy for coverage for a period of one year. The insurer may, at its option, offer to service the voluntary policy through the producer of record.

B. Voluntary Offer to Write

1. Eligibility

An insured is eligible for voluntary take-out if the insured has been insured through the Association for at least one year immediately preceding the issuance of the voluntary policy.

2. Offer to Write

- a. The coverage and limits of liability to be offered for such voluntary policies shall not be less than those afforded by the assigned policy. The rates offered shall be below those in effect for the Association at the time the new policy becomes effective. The offer to write may include any other coverages offered by the insurer on a voluntary basis.
- b. The offer to insure may require payment of a membership fee, as long as the membership fee is a uniform requirement of the insurer as a condition of providing insurance, is applied uniformly throughout the state and the total of the premium and membership fee is below the premium which would be charged for the equivalent coverages at rates in effect for the Association at the time the new policy becomes effective. The offer to insure may not require any other membership qualification.

3. Notification

The assigned insurer or other insurer shall provide the insured with notice of intent to offer coverage. A copy of the notice shall be simultaneously provided to the producer of record.

4. Insurer Obligations

- a. If the insured does not accept the offer, the offering insurer has no further obligation to the insured or the producer of record, unless the offering insurer is also the assigned insurer.
- b. If the offer is accepted, the offering insurer is required to issue a policy for a period of one year. The offering insurer may, at its option, offer to service the voluntary policy through the producer of record. If the offering insurer issues a replacement voluntary policy, the assigned insurer has no further obligation to the insured or the producer of record, unless the assigned insurer is also the offering insurer.

C. **Right of Insured to Reapply to Association**

This Section does not render the insured ineligible for coverage through the Association. The insured has the option to continue the policy with the assigned insurer, unless the three-year assignment period has expired. In that case, the insured may reapply for assignment.

D. **Failure to Comply with the Provisions of this Section**

If the Governing Committee finds that any insurer without good cause is not complying with the provisions of this Section, it shall notify the Commissioner of Insurance.

E. **Reporting Take-Out Credits**

Refer to Administrative Provisions Section 45 for the procedures outlining insurer reporting of all take-out credits

Sec. 11. CANCELLATION/TERMINATION

- A. If the premium remittance which accompanies the application is dishonored, the insurer must resubmit the check to the institution before proceeding with termination of the policy.
- B. An insurer which has issued a policy or binder under this Plan of Operation has the right to cancel the insurance by following the terms of the policy.

Cancellation is effective on the date specified in the notice of cancellation and coverage ceases on that date.
- C. At the option of the insurer, the nonpayment cancellation date may be the date at which all collected premium is earned as computed pro rata.
- D. If default occurs in the payment of premium upon any policy subject to interim adjustment, the policy is subject to cancellation in accordance with the cancellation condition in the policy.

Sec. 12. RESERVED FOR FUTURE USE

Sec. 13. COMPENSATION TO PRODUCER OF RECORD

Compensation shall be paid to the licensed producer designated by the insured in the application as follows:

- A. 10% of the policy premium.
- B. Compensation is to be paid by the insurer on the full annual premium.
- C. A producer accounting system may be utilized by an insurer in its payment of producer compensation.
- D. Compensation will not be paid on installment charges.
- E. In the event of cancellation or a policy change involving return or additional premium, compensation will be adjusted directly with the producer. The producer is to refund unearned compensation within 40 days from policy adjustment or cancellation. The insurer shall pay the additional compensation on policy changes within 40 days of the effective date of the endorsement.
- F. Should the producer fail to provide his or her tax identification number, the insurer may defer payment of compensation until the proper identification is provided.

Sec. 14. PERFORMANCE STANDARDS FOR INSURERS WRITING ASSOCIATION PRIVATE PASSENGER ASSIGNMENTS

A. **Performance Standards**

Insurers will provide insureds assigned under this Plan of Operation with the same level of service provided to customers in the voluntary market. The Performance Standards listed below set forth the specific time during which insurers must perform in accordance with the rules of this Plan of Operation.

1. Issuance of Original Policy

Upon receipt from the Association of the Notice of Designation and the premium deposit prescribed by Section 6 the designated insurer shall:

- a. within two working days following the effective date of coverage or receipt of Notice of Designation, whichever occurs last, make filings on policies and Financial Responsibility Certificates (for states other than Texas) as may be required, provided all information necessary is contained in the application form. Such filings will indicate the effective date specified by the Association in the Notice of Designation.

However, if the applicant or spouse is required to file a form SR-22A with the Texas Department of Public Safety, the insurer will issue the SR-22 and SR-22A only upon receipt of the full annual policy premium.

The day the Notice of Designation and premium or deposit are received from the Association is deemed the first working day, regardless of the time of such receipt. No Saturday, Sunday or legal holiday in the place of receipt, shall be deemed a working day.

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- b. within 30 days issue a policy if all information necessary for the insurer to fix the proper rate is contained on the application form. The policy will become effective in accordance with the provisions of Section 7.
2. Policy Term
- Policies assigned through the Association shall be written for a 12 month period only.
- If a policy is being issued to comply with Section 1.F (e) of the Texas Motor Vehicle Safety-Responsibility Act, the insurer will issue a certificate by which it is bound to issue a renewal policy so that the current policy and the commitment for renewal together cover a period of at least two years. In the event Section 5.B.3 conflicts with Section 7, Section 5.B.3 will control.
- Exception: Policies written to provide proof of financial responsibility, after a second subsequent conviction under Section 601.262, Texas Transportation Code, must be written for a term of two years.
3. Policy Fee
- A policy fee may not be charged by an insurer.
4. Renewal Policies Or Certificates
- At least 30 days prior to the inception date of renewals the designated insurer shall notify the insured that:
- a. a renewal will be issued, provided the premium as outlined in Section 6 is received on or before the inception date;
- b. a renewal will not be issued for the reason that the insured is not entitled to insurance under the Plan of Operation.
- If an insurer is unable to quote rates to be effective on renewal, it must notify the insured of a possible rate change. Using language authorized by the Association shall be deemed sufficient notice.
- A copy of such notice shall be sent to the producer.
- Renewal policies must be mailed within 30 days of the insurer's receipt of the renewal premium specified under subsection 14.A.4 above.
- Note:** Policies may be renewed by renewal certificates. When renewal certificates are used, they must conform in every respect with current rules, rates, and forms at the time of renewal.
5. End of Assignment Period
- At least 30 days prior to the expiration date of the final renewal of the assignment period, the insurer shall notify the insured that the period of assignment under the Plan of Operation will terminate on said expiration date. A copy of such notice shall be sent to the producer.
6. Endorsements
- Any endorsement requested by the insured shall be issued and mailed within 30 days.
7. Return Premium
- Within 30 days of receipt of a request for either cancellation or an endorsement resulting in return premium, the insurer must mail the return premium check.
8. Collection Of Premium
- Insurers are to follow rules outlined in Section 6 of this Plan of Operation.
9. Producer Compensation
- Within 40 days of receipt of the gross premium, the insurer must issue the proper compensation check unless the producer fails to provide his/her proper identification number. Compensation shall be paid on the full annual premium. A producer accounting system may be utilized by an insurer in its payment of producer compensation. Compensation will not be paid on installment charges. Final compensation adjustment will be in accordance with Section 13. Only an insurer which issues producer compensation statements on personal auto policies reporting all activity for that producer for no more than the preceding 31 days may file producer complaints concerning repayment of unearned compensation.
10. Claim Handling
- Insurers shall provide policyholders and producers with information on how and where to report claims. Claim adjustment practices and procedures of each insurer shall correspond with those followed for voluntary business.
11. Additional Charges
- At the time of the initial application of an additional charge based on a driving record, the insurer will furnish to the insured and producer a listing of the undisclosed accidents/convictions which determined the additional charge(s).
12. Miscellaneous
- The Manager may evaluate a complaint not clearly within any of the preceding standards to determine whether the action complained of was reasonable within the purpose and intent of the Plan of Operation. If the action is deemed unreasonable, it may be considered as a valid complaint against the insurer.
- B. Procedures for Compliance with Performance Standards**
1. A copy of the complaint mailed to the insurer is to be sent to the Association. Such complaint is to be based upon non-compliance with Insurer Performance Standards.

The insurer must give a written response to the producer and the Association within 20 days of receipt of the complaint.

2. Upon receipt by the Association of the producer complaint:
 - a. the type of complaint for each insurer is logged;
 - b. the Association copy is to be filed; and
 - c. a copy shall be forwarded to the insurer with a request for a written response within 20 days.
3. If the complaint is determined to be invalid, the Association shall so record it and advise the insurer and the producer.
4. In the absence of an acknowledgment from the insurer stating resolution of the complaint within 20 days, a follow-up letter will be sent to the insurer giving 10 days to respond.
5. If after 10 days the insurer does not respond, the Association will contact an executive of the insurer and notify the producer.
6. If after an executive of the insurer is contacted, the matter is not resolved, the files will be turned over to the Governing Committee for further action and the producer will be advised of such action.
7. If, in a single month, the number of valid complaints against an insurer exceeds the greater of two or 1/10 of 1% of the most recent three month total of assignments of the insurer, then the Association will send a letter to the insurer asking for an explanation as to why these monthly limits were exceeded. The insurer must respond in writing within 20 days. The response must include its intended plans to resolve any problems.

If an insurer fails to timely or adequately respond, or exceeds the prescribed limits in three consecutive months, it will be referred to the Governing Committee for further action.

Once an insurer is referred to the Governing Committee, the Manager will report any subsequent valid complaint during the 12-month period following referral. If any valid complaints are reported during this period, the Governing Committee may take further action, including action under Section 14.B.8 below.

8. If the Governing Committee finds that any insurer without good cause is not complying with the provisions of this Section, it shall notify the Commissioner of Insurance.

Sec. 15. PERFORMANCE STANDARDS FOR PRODUCERS WRITING ASSOCIATION PRIVATE PASSENGER ASSIGNMENTS

A. Performance Standards

1. Original Applications
 - a. Original applications shall be fully completed and must include:

- (1) necessary information to rate and write the policy, prepare a bill, and make any required filings;
 - (2) name, address, Texas license number, and tax identification number of producer;
 - (3) signature of applicant and producer; and
 - (4) premium payment submitted gross with the application in accordance with Association rules. The premium payment or deposit shall be either by producer's check, applicant's check, certified check, cashier's check, premium finance company check, or money order payable to the Texas Automobile Insurance Plan Association.
- b. A producer may not charge an administrative or other service charge to an applicant for completion of an application for insurance under the Association.

2. Renewals

- a. The renewal premium shall be submitted gross to the assigned insurer in accordance with Association rules.
- b. The renewal premium must be in the form of a producer's check, insured's check, certified check, cashier's check, premium finance company check, or money order payable to the assigned insurer.

3. Return Compensation

Return compensation shall be paid within 40 days from the date of notice to the producer.

4. Policy Change Request

Producers must submit policy change requests in writing.

5. Claims

When an insured reports an accident or claim to the producer, the producer shall report it to the insurer within one working day in accordance with the instructions of the insurer.

6. Payments

- a. Additional premium payments shall be submitted gross by producer's check, insured's check, certified check, cashier's check, premium finance company check, or money order payable to the assigned insurer.
- b. Dishonored producer checks shall be reported to the Association.

7. Fraud or Misrepresentation

A producer shall not engage either in fraud or misrepresentation with regard to the contents of an application, the necessary information to rate and write a policy, a claim, or any other information material to underwriting a risk.

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8. Take-out Offers

When an insured receives a take-out offer pursuant to Section 10 of this Plan of Operation and contacts the producer, the producer shall inform the insured of his or her options pursuant to the take-out offer. A producer shall not engage in misrepresentation with regard to the contents of the take-out offer letter or the take-out program.

B. Procedures For Compliance With Performance Standards

The Association shall maintain a record of infractions of Performance Standards.

1. A copy of the complaint mailed to the producer is to be sent to the Association. Such complaint is to be based upon non-compliance with Producer Performance Standards.
2. Upon receipt by the Association of the complaint:
 - a. the type of complaint for each producer is logged.
 - b. the Association copy is to be filed.
 - c. a copy shall be forwarded to the producer with a request for a written response within 20 days.
3. If the complaint is determined to be invalid, the Association shall so record it and advise the producer and insurer.
4. In the absence of acknowledgment from the producer to the Association request, a follow-up letter will be sent to the producer giving 10 days to respond.
5. If after 10 days the producer does not respond to the Association request, the Association will refer the matter to the Governing Committee for further action in accordance with subsections 15.B.6.a. and b. below and shall so advise the producer.
6. Violations of Producer Performance Standards shall result in the following action:
 - a. The Governing Committee shall bring repeated violations to the producer's attention and offer to assist the producer with any education deemed necessary to avoid future violations. The Governing Committee may establish a probationary period for improvement.
 - b. If the producer fails to respond to the Association request within 10 days after the date of the follow-up letter, or if significant violations or continued repetition of violations under subsections 15.B.1–5 are alleged to have occurred, the Association Manager shall notify the producer in writing of a hearing before the Producer Review Panel to review the nature and extent of such violations. At such hearing the Producer Review Panel will hear evidence. Its findings and recommendations will be reported in writing to the Governing Committee.

- c. If the Governing Committee determines that such violations have occurred, it may refer the matter, in writing, to the Commissioner of Insurance and may recommend appropriate action.
- d. The Producer Review Panel consists of three certified producers selected by approval of the Governing Committee, one insurer representative, and one public member of the Governing Committee. The insurer and public member will be selected by the Chair of the Governing Committee. Each of the five panel members shall have an alternate. Panel members serve for a term of two years. Each member of the panel is entitled to reimbursement of expenses and producer and public members are entitled to compensation all as provided in Section 36.A.4. A person who serves on the panel is entitled to immunity and indemnification as provided in Section 53.
- e. Meetings of the Producer Review Panel are to be held at a site determined by the Governing Committee. A quorum of the panel is three members at least two of whom are producers. Hearings before the panel will be conducted under the provisions of the Plan of Operation.

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coverage on the existing policy. To obtain coverage in this situation, a new application must be submitted to the Association.

3. Additional available coverage may be added to an existing policy. The additional coverage will become effective at 12.01A.M on the day following the written request or the effective date specified in the request, whichever is later, except when one of the following applies:

- a. the policy change request is not mailed within one working day after completion; or
- b. the request is not mailed U.S. mail, postage prepaid, or the request is received by fax or electronic mail.

If a, or b applies coverage will become effective at 12.01A.M the day following the date such request is received by the insurer, or the effective date specified in the request, whichever is later.

4. If such coverages are not available with the assigned insurer, a new application for such coverages shall be submitted to the Association and shall become effective in accordance with Section 23.A.

C. Elimination of Coverage

In the event an elimination of coverage is desired during the policy period, a completed policy change request must be signed by the insured and submitted to the insurer.

D. Incomplete Applications

Applications shall be accepted by the Association and assignments shall be processed by the assigned insurer if the requirements shown in Sections 22 and 23 are reasonably met. It is the responsibility of the Association and the assigned insurer to communicate clearly to the insured and producer in what respect an application is incomplete and requires correction.

The assigned insurer shall give at least 15 days to the insured and to the producer for remedying any defects in the application. No part of the deposit premium shall be returned to the insured or to the producer except upon proper cancellation in accordance with the provisions of Section 28 of this Plan of Operation.

E. Applications Returned to the Association

An assignment to any insurer contrary to either the provisions of this Section or Section 42 shall be returned promptly to the Association for reassignment.

Sec. 24. RESERVED FOR FUTURE USE

Sec. 25. THREE-YEAR ASSIGNMENT PERIOD

An applicant shall be assigned to a designated insurer for a period of three consecutive years, at which time proper notice of non-renewal shall be mailed. If an insured is unable to obtain insurance at the end of the three-year period, re-application for insurance may be made to the Association. Such re-application shall be considered as a new application.

If the designated insurer is an insurer organized under Chapter 912 Insurance Code and if the insurer claims a calendar year exemption under Section 13(f) Article 5.13-2 Insurance Code during the term of the three-year assignment period, the designated insurer shall continue the coverage using the Association rules and rating plans until the end of the three-year assignment period.

In the case of non-resident military personnel, as described under Section 18.A.1.c of the Plan of Operation, the insurer is not required to renew, if at the time of renewal the insured is stationed in another state in which the insurer is not authorized to do business or if the insured is stationed in another state and the automobile is not registered in Texas.

Sec. 26. RESERVED FOR FUTURE USE

Sec. 27. RESERVED FOR FUTURE USE

Sec. 28. CANCELLATION/TERMINATION

- A. If the premium remittance which accompanies the application is dishonored, the insurer must resubmit the check to the institution before proceeding with termination of the policy.
- B. An insurer which has issued a policy or binder under this Plan of Operation has the right to cancel the insurance by following the terms of the policy.

Cancellation is effective on the date specified in the notice of cancellation and coverage ceases on that date.

- C. At the option of the insurer, the nonpayment cancellation date may be the date at which all collected premium is earned as computed pro rata.
- D. If default occurs in the payment of premium upon any policy subject to interim adjustment, the policy is subject to cancellation in accordance with the cancellation condition in the policy.

Sec. 29. RESERVED FOR FUTURE USE

Sec. 30. RESERVED FOR FUTURE USE

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Sec. 31. COMPENSATION TO PRODUCER OF RECORD

- A. Compensation shall be paid to the licensed producer designated by the insured in the application as follows:
1. For motor vehicles of a truck-type operating beyond a radius of 200 miles from the limits of the city or town of principal garaging and public passenger carrying vehicles, 5% of the policy premium.
 2. For other classes of risks, 10% of the policy premium.
- B. Compensation is to be paid by the insurer on the full annual premium.
- C. A producer accounting system may be utilized by an insurer in its payment of producer compensation.
- D. Compensation will not be paid on installment charges.

In the event of cancellation or a policy change involving return or additional premium, compensation will be adjusted directly with the producer. The producer is to refund unearned compensation within 40 days from policy adjustment or cancellation. The insurer shall pay the additional compensation on policy changes within 40 days of the effective date of the endorsement.

- F. Should the producer fail to provide his or her tax identification number, the insurer may defer payment of compensation until the proper identification is provided.

Sec. 32. PERFORMANCE STANDARDS FOR INSURERS WRITING ASSOCIATION COMMERCIAL ASSIGNMENTS

A. Performance Standards

Insurers will provide insureds assigned under this Plan of Operation with the same level of service provided to customers in the voluntary market. The Performance Standards listed below set forth the specific time during which insurers must perform in accordance with the rules of this Plan of Operation.

1. Issuance Of Original Policy

Upon receipt from the Association of the Notice of Designation and the premium deposit prescribed by Section 22 the designated insurer shall:

- a. within two working days following the effective date of coverage or receipt of Notice of Designation, whichever occurs last, make filings on policies and Financial Responsibility Certificates (for states other than Texas) as may be required, provided all information necessary is contained in the application form. Such filings will indicate the effective date specified by the Association in the Notice of Designation.

However, if the applicant or spouse is required to file a form SR-22A with the Texas Department of Public Safety, the insurer will issue the SR-22 and SR-22A only upon receipt of the full annual policy premium.

The day the Notice of Designation and premium or deposit are received from the Association is deemed the first working day, regardless of the time of such receipt. No Saturday, Sunday or legal holiday in the place of receipt, shall be deemed a working day.

- b. within 30 days issue a policy if all information necessary for the insurer to fix the proper rate is contained on the application form. The policy will become effective in accordance with the provisions of Section 23.

2. Policy Term

Policies assigned through the Texas Automobile Insurance Plan Association shall be written for a 12-month period only.

If a policy is being issued to comply with Section 1.F. (e) of the Texas Motor Vehicle Safety-Responsibility Act, the insurer will issue a certificate by which it is bound to issue a renewal so that the current policy and the commitment for

renewal together cover a period of at least two years. In the event subsection 21.B.4 conflicts with Section 23, subsection 21.B.4 will control.

Exception: Policies written to provide proof of financial responsibility, after a second subsequent conviction under Section 601.262, Texas Transportation Code, must be written for a term of two years.

3. Policy Fee

A policy fee may not be charged by an insurer.

4. Renewal Policies Or Certificates

At least 60 days prior to the inception date of renewals the designated insurer shall notify the insured that:

- a. a renewal will be issued, provided the premium as outlined in Section 22 is received on or before the inception date, except for insureds subject to certified filings on Business Auto Coverage forms which may be due 30 days prior to renewal;
- b. a renewal will not be issued for the reason that the insured is not entitled to insurance under the Plan of Operation.

If an insurer is unable to quote rates to be effective on renewal, it must notify the insured of a possible rate change. Using language authorized by the Association shall be deemed sufficient notice.

A copy of such notice shall be sent to the producer.

Renewal policies must be mailed within 30 days of the insurer's receipt of the renewal premium specified under subsection 32.A.4 above.

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Note: Policies may be renewed by renewal certificates. When renewal certificates are used, they must conform in every respect with current rules, rates, and forms at the time of renewal.

5. End of Assignment Period

At least 60 days prior to the expiration date of the final renewal of the assignment period, the insurer shall notify the insured that the period of assignment under the Plan of Operation will terminate on said expiration date. A copy of such notice shall be sent to the producer.

6. Endorsements

Any endorsement requested by the insured shall be issued and mailed within 30 days.

7. Return Premium

Within 30 days of receipt of a request for either cancellation or an endorsement resulting in return premium, the insurer must mail the return premium check.

8. Collection of Premium

Insurers are to follow rules outlined in Section 22 of this Plan of Operation.

9. Producer Compensation

Within 40 days of receipt of the gross premium, the insurer must issue the proper compensation check unless the producer fails to provide his/her proper identification number. Compensation shall be paid on the full annual premium. A producer accounting system may be utilized by an insurer in its payment of producer compensation. Compensation will not be paid on installment charges. Final compensation adjustment will be in accordance with Section 31. Only an insurer which issues producer compensation statements on personal auto policies reporting all activity for that producer for no more than the preceding 31 days may file producer complaints concerning repayment of unearned compensation.

10. Claim Handling

Insurers shall provide policyholders and producers with information on how and where to report claims. Claim adjustment practices and procedures of each insurer shall correspond with those followed for voluntary business.

11. Additional Charges

At the time of the initial application of an additional charge based on a driving record, the insurer will furnish to the insured and producer a listing of the undisclosed accidents/convictions which determined the additional charge(s).

12. Miscellaneous

The Manager may evaluate a complaint not clearly within any of the preceding standards to determine

whether the action complained of was reasonable within the purpose and intent of the Plan of Operation. If the action is deemed unreasonable, it may be considered as a valid complaint against the insurer.

B. Procedures For Compliance With Performance Standards

1. A copy of the complaint mailed to the insurer is to be sent to the Association. Such complaint is to be based upon non-compliance with Insurer Performance Standards.

The insurer must give a written response to the producer and the Association within 20 days of receipt of the complaint.

2. Upon receipt by the Association of the producer complaint:
 - a. the type of complaint for each insurer is logged;
 - b. the Association copy is to be filed; and
 - c. a copy shall be forwarded to the insurer with a request for a written response within 20 days.

3. If the complaint is determined to be invalid, the Association shall so record it and advise the insurer and the producer.

4. In the absence of an acknowledgment from the insurer stating resolution of the complaint within 20 days, a follow-up letter will be sent to the insurer giving 10 days to respond.

5. If after 10 days the insurer does not respond, the Association will contact an executive of the insurer and notify the producer.

6. If after an executive of the insurer is contacted, the matter is not resolved, the files will be turned over to the Governing Committee for further action and the producer will be advised of such action.

7. If, in a single month, the number of valid complaints against an insurer exceeds the greater of two or 1/10 of 1% of the most recent three month total of assignments of the insurer, then the Association will send a letter to the insurer asking for an explanation as to why these monthly limits were exceeded. The insurer must respond in writing within 20 days. The response must include its intended plans to resolve any problems.

If an insurer fails to timely or adequately respond, or exceeds the prescribed limits in three consecutive months, it will be referred to the Governing Committee for further action.

Once an insurer is referred to the Governing Committee, the Manager will report any subsequent valid complaint during the 12-month period following referral. If any valid complaints are reported during this period, the Governing Committee may take further action, including action under Section 32.B.8 below.

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8. If the Governing Committee finds that any insurer without good cause is not complying with the provisions of this Section, it shall notify the Commissioner of Insurance of Insurance.

Sec. 33. PERFORMANCE STANDARDS FOR PRODUCERS WRITING ASSOCIATION OTHER THAN PRIVATE PASSENGER ASSIGNMENTS

A. Performance Standards

1. Original Applications
 - a. Original applications shall be fully completed and must include:
 - (1) necessary information to rate and write the policy, prepare a bill, and make any required filings;
 - (2) name, address, Texas license number, and tax identification number of producer;
 - (3) signature of applicant and producer; and
 - (4) premium payment submitted gross with the application in accordance with Association rules. The premium payment or deposit shall be either by producer's check, applicant's check, certified check, cashier's check, premium finance company check, or money order payable to the Texas Automobile Insurance Plan Association.
 - b. A producer may not charge an administrative or other service charge to an applicant for insurance under the Association.
2. Renewals
 - a. The renewal premium shall be submitted gross to the assigned insurer in accordance with Association rules.
 - b. The renewal premium must be in the form of a producer's check, insured's check, certified check, cashier's check, premium finance company check, or money order payable to the assigned insurer.
3. Return Compensation

Return compensation shall be paid within 40 days from the date of notice to the producer.
4. Policy Change Request

Producers must submit policy change requests in writing.
5. Claims

When an insured reports an accident or claim to the producer, the producer shall report it to the insurer within one working day in accordance with the instructions of the insurer.

6. Payments
 - a. Additional premium payments shall be submitted gross by producer's check, insured's check, certified check, cashier's check, premium finance company check, or money order payable to the assigned insurer.
 - b. Dishonored producer checks shall be reported to the Association.

7. Fraud or Misrepresentation

A producer shall not engage either in fraud or misrepresentation with regard to the contents of an application, the necessary information to rate and write a policy, a claim, or any other information material to underwriting a risk.

B. Procedures For Compliance With Performance Standards

The Association shall maintain a record of infractions of Performance Standards.

1. A copy of the complaint mailed to the producer is to be sent to the Association. Such complaint is to be based upon non-compliance with Producer Performance Standards.
2. Upon receipt by the Association of the complaint:
 - a. the type of complaint for each producer is logged.
 - b. the Association copy is to be filed.
 - c. a copy shall be forwarded to the producer with a request for a written response within 20 days.
3. If the complaint is determined to be invalid, the Association shall so record it and advise the producer and insurer.
4. In the absence of acknowledgment from the producer to the Association request, a follow-up letter will be sent to the producer giving 10 days to respond.
5. If after 10 days the producer does not respond to the Association request, the Association will refer the matter to the Governing Committee for further action in accordance with subsections 33.B.6.a. and b. below and shall so advise the producer.
6. Violations of Producer Performance Standards shall result in the following action:
 - a. The Governing Committee shall bring repeated violations to the producer's attention and offer to assist the producer with any education deemed necessary to avoid future violations. The Governing Committee may establish a probationary period for improvement.

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- b. If the producer fails to respond to the Association request within 10 days after the date of the follow-up letter, or if significant violations or continued repetition of violations under subsections 33.B.1–5 are alleged to have occurred, the Association Manager shall notify the producer in writing of a hearing before the Producer Review Panel to review the nature and extent of such violations. At such hearing the Producer Review Panel will hear evidence. Its findings and recommendations will be reported in writing to the Governing Committee.
- c. If the Governing Committee determines that such violations have occurred, it may refer the matter, in writing, to the Commissioner of Insurance and may recommend appropriate action.
- d. The Producer Review Panel consists of three certified producers selected by approval of the Governing Committee, one insurer representative, and one public member of the Governing Committee. The insurer and public member will be selected by the Chair of the Governing Committee. Each of the five panel members shall have an alternate. Panel members serve for a term of two years. Each member of the panel is entitled to reimbursement of expenses and producer and public members are entitled to compensation all as provided in Section 36.A.4. A person who serves on the panel is entitled to immunity and indemnification as provided in Section 53.
- e. Meetings of the Producer Review Panel are to be held at a site determined by the Governing Committee. A quorum of the panel is three members at least two of whom are producers. Hearings before the panel will be conducted under the provisions of the Plan of Operation.

Sec. 34. RESERVED FOR FUTURE USE

ADMINISTRATIVE PROVISIONS

Sec. 35. ASSOCIATION MEMBERSHIP

The Texas Automobile Insurance Plan Association is created by Article 21.81 Insurance Code. As a condition of its authority to write motor vehicle liability insurance in this state, each authorized insurer as defined by statute shall be and remain a member of the Association as long as the Association is in existence.

- ★ If a member is an insurer organized under Chapter 912, Insurance Code and it claims an exemption from membership in the Association under the provisions of Article 5.13-2 Insurance Code §13(f), the member shall submit a claim for exemption annually. The exemption shall be based on the provision of §13(f) and market share data for the prior year ending December 31st. The claim for exemption is to be sent to the Association. Exemptions must be claimed no later than November 1st for exemption in the following calendar year.

Sec. 36. ADMINISTRATION

A. Governing Committee Composition

The Association is administered by a Manager and a Governing Committee consisting of fifteen members.

1. Eight members shall represent the interests of insurers. To be eligible to act as a representative of insurers, a person must be a full time employee of an authorized insurer. Representatives of the insurers shall be elected by the members of the Association as follows:

- ★ a. One insurer member shall be selected by each of the following trade associations:
 - American Insurance Association (AIA)
 - Association of Fire & Casualty Companies in Texas (AFACT)
 - Property Casualty Insurers Association of America (PCI)
- b. One insurer member shall be selected to represent members of the Association which are not affiliated with any of these trade associations.
- c. Four insurer members shall be elected to represent the membership at large.

Insurer members of the Governing Committee shall be selected to represent the trade associations and unaffiliated insurers as prescribed under Section 36.B. The four member insurers to serve at-large shall be elected by ballot of the members of the Association at the annual meeting.

2. Five public members shall be nominated by the Office of Public Insurance Counsel and selected by the Commissioner of Insurance. Appointments shall be made by December 31 of each year. The public members serve staggered two year terms

Terms for three public members shall expire in odd numbered years and terms for two public members shall expire in even numbered years. A person may not serve as a public member if that person, an individual related to that person within the second degree of consanguinity or affinity, or an individual residing in the same household with that person is:

- a. required to be registered or licensed under the Insurance Code;
- b. employed by or acts as a consultant to a person required to be registered or licensed under the Insurance Code;
- c. the owner of, or has a financial interest in, or participates in the management of an organization required to be registered or licensed under the Insurance Code;
- d. an officer, employer or consultant of an association in the field of insurance or;
- e. required to register as a lobbyist under Chapter 305, Government Code.

The Office of Public Insurance Counsel may nominate and the Commissioner of Insurance may appoint up to three additional persons who meet these qualifications to act as alternates for public members. If a public member is unable to attend a meeting of the Governing Committee, that person may designate one of these alternates to attend the meeting and act for the absent member.

3. Two members shall be licensed General Lines – Property and Casualty Agents, or Limited Lines – Property and Casualty Agents, one of whom is selected by the Independent Insurance Agents of Texas and the other by the Commissioner of Insurance. The producer representatives to the Governing Committee serve a one year term.

The Independent Insurance Agents of Texas may appoint an alternate, subject to the approval of the Commissioner of Insurance. If either producer member is unable to attend a meeting of the Governing Committee, that person may designate the alternate to attend the meeting and act for the absent member.

4. Public and producer members and any alternate members are entitled to be reimbursed for reasonable expenses incurred and to be compensated in the amount of \$250 for each day that they participate in any meeting as authorized by the Governing Committee.

B. Selection of Insurer Governing Committee Representatives

1. Trade Associations
 - Prior to the annual meeting, each trade association shown above shall select its representative to the Governing Committee. Each trade association will advise the Manager of the insurer chosen.

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2. Non-Affiliated Insurers

The Manager shall poll the non-affiliated insurers by mail ballot annually to determine those insurers

desiring to serve on the Governing Committee. Prior to the annual meeting, the Manager will conduct a mail ballot for the non-affiliated insurers to select their representatives.

a. Weighted Voting Procedure

Non-Affiliated insurers shall select representatives in accordance with the following weighted voting procedure:

Each non-affiliated insurer shall cast a proportionate vote based on its total voluntary automobile liability and physical damage premiums as stated on the Exhibit of Premiums and Losses of the insurer's Annual Statement written in the State for the calendar year ending December 31 of the second prior year by non-affiliated insurers.

b. Completion of Mail Ballot

If one or more non-affiliated insurers are members of a group under the same ownership or management, the insurers must vote as a group for one insurer. A group of insurers which is non-affiliated may not split its votes between individual insurers.

3. At-Large Representatives

At-Large representatives of insurers shall be elected at the annual meeting.

C. Association Annual Meeting

1. The Association shall hold an annual meeting on a date and at a place selected by the Governing Committee. At least 45 days prior to the meeting, the Manager shall send written notice to all member insurers, producer representatives of the Governing Committee and public members of the Governing Committee. An agenda for the meeting shall accompany the notice of meeting. The purpose of the meeting is the election of insurer representatives to serve on the Governing Committee.
2. At the annual meeting, ten percent of member insurers present or by proxy constitutes a quorum. Member insurer voting by proxy shall be permitted. Prior to the annual meeting, the Manager shall distribute proxies to all member insurers.
3. Each class of insurers shall select its representatives to the Governing Committee in the manner stated in Section 36.B above to serve for a term of one year.

D. Terms of Office

Terms of office for members of the Governing Committee commence on the day of the annual meeting and each member shall continue to serve until

a successor for that member of the Governing Committee is selected.

E. Vacant Seats

1. In the event a trade association insurer vacancy occurs on the Governing Committee, it shall be filled by the respective trade association by appointing a successor to serve until the next annual meeting.
2. If a non-affiliated insurer vacancy occurs, the non-affiliated insurers shall elect a successor to serve until the next annual meeting.
3. If an at-large insurer vacancy occurs, the remaining representatives of insurers shall select an insurer to serve until the next annual meeting.
4. The Commissioner of Insurance will select a public member or a Commissioner of Insurance appointed insurance producer if a vacancy occurs, to serve until the next annual meeting.
5. The Independent Insurance Agents of Texas will select an Independent Insurance Agents of Texas replacement if a vacancy occurs.

Sec. 37. COST OF ADMINISTRATION

A. Membership Fee

Each member of the Association shall pay an annual membership fee, the amount of which is determined by the Governing Committee.

B. Assessment

Each member's ratio of voluntary private passenger liability writings and voluntary all other automobile liability writings to the statewide industry respective totals is the basis of apportionment of all Association expense incurred in excess of the membership fees.

If at the time of assessment for any calendar year, data for the second prior year is not available, the assessment shall be based upon the latest available year's data. In such event, the assessment shall be adjusted subsequently using the data for the second prior year.

C. Late Payment Charge

If an assessment or membership fee is not postmarked on or before the due date shown on the invoice, a late payment charge will be applied. The late payment charge will be 0.05 percent per day (1.50 percent per month) subject to a minimum charge of \$50. In addition, the Association may report such fact to the Commissioner of Insurance for disciplinary action as provided in Chapter 82, Insurance Code.

D. Insurers Not Writing

No assessment other than the annual fee may be levied against an insurer which has written no automobile liability insurance other than for Association insureds during the period for which the assessments are based.

Sec. 38. DUTIES OF GOVERNING COMMITTEE

The Governing Committee shall meet as often as may be required to perform the general duties of administration of the Association. The presence of nine members of the Governing Committee, which includes at least one public member, constitutes a quorum.

In the event a member of the Governing Committee or an alternate for that member does not attend two consecutive meetings of the Governing Committee the appropriate insurer, association or agency that made the appointment will be notified.

All meetings of the Governing Committee are to be conducted in accordance with Chapter 551, Government Code.

The Governing Committee is to appoint a Manager, budget expenses, levy assessments, disburse funds and perform all duties essential to the proper administration of the Association. The Manager shall perform the duties under the supervision and control of the Governing Committee, and shall employ personnel, secure office space, equipment and supplies necessary to the administration of the Association.

Annually, the Manager shall prepare an operating budget for Governing Committee review and approval. The budget shall be furnished to member companies upon request. No expenditure in excess of an approved budgeted amount or which has not been included in the budget may be made without Governing Committee approval.

The Governing Committee shall furnish to all members of the Association a written report annually in such form and detail as the Governing Committee shall determine.

Sec. 39. AMENDMENT OF PLAN

Any interested party may file amendments to this Plan of Operation in writing with the Manager, who shall submit each amendment to the membership of the Governing Committee prior to the meeting at which the amendment is to be considered.

Amendments to the Plan of Operation become effective when approved by a majority of the Governing Committee members present and voting, with a quorum present, and approved by the Commissioner of Insurance.

If the Commissioner of Insurance at any time believes that any part of the Plan of Operation is not in keeping with the purposes of the Texas Motor Vehicle Safety-Responsibility Act (Chapter 601, Texas Transportation Code), the Commissioner of Insurance shall notify the Governing Committee in writing so that the Governing Committee may take corrective action.

Sec. 40. RESERVED FOR FUTURE USE

Sec. 41. DETERMINATION AND FULFILLMENT OF PRIVATE PASSENGER QUOTAS

A. Assignment of Private Passenger Applications

The Association shall assign eligible applicants classified as private passenger in a random manner so that each member will receive its assignment quota. For purposes of calculating the assignment quota, the Texas Private Passenger Automobile Statistical Plan Quarterly Market Report provided by the Texas Department of Insurance is the source of information for the "vehicles on policies in force" and "territorial credits." Records provided to the Association are used to determine take-out credits and take-out credits sold between members.

"Private passenger" also includes "named non-owner" and miscellaneous personal vehicles, individually owned and written on a Personal Auto Policy form such as:

1. Motor homes, (self-propelled)
2. Campers and travel trailers
3. Dune buggies
4. All-terrain vehicles
5. Antique autos
6. Golf carts
7. Motorcycles, mopeds, motorscooters, motorbikes, go-carts and other similar motor vehicles

B. Quota Determination

Using data for voluntary business, the assignment quota for each member shall be calculated quarterly as follows:

1. Determine the total of the member's average vehicles on policies in force for the most recent four calendar quarters. "Average vehicles on policies in force" means the average of the vehicles with bodily injury liability coverage on policies in force at the end of a quarter and the vehicles on policies in force at the end of the previous quarter. The total of the average vehicles on policies in force is the sum of the average vehicles on policies in force for each of the previous four quarters.
2. Determine the total of the member's territorial credits for the most recent four calendar quarters. For each quarter, multiply the member's average vehicles in each underserved ZIP code category by the applicable credits for that ZIP code category as set out below. The sum of the credits of all categories is the total credits for that quarter. The sum of the credits for each of the most recent four calendar quarters is the "territorial credits." Members may not buy or sell "territorial credits."

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By rule, the Commissioner of Insurance will maintain a listing of all Texas ZIP codes indicating a category based on the degree to which a ZIP code area is "underserved".

Each member will receive credits for all vehicles according to the following schedule:

Commissioner of Insurance's ZIP Code Designation	Number of Credits
Category 0	0
Category 1	1
Category 2	2
Category 3	3
Category 4	4

3. Determine the member's total credits for voluntary take-out activity for the most recent four quarters.
4. Determine the net total of credits bought or sold by the member for the previous four calendar quarters.
5. A member's credit-adjusted vehicle count may not go below zero for the purpose of calculating credit-adjusted quotas.
6. Calculate the credit-adjusted vehicle count for the most recent four calendar quarters. The member's credit-adjusted vehicle count is the average vehicles on policies in force minus territorial credits, take-out credits, and credits purchased from other members, plus credits sold to other members.
7. Repeat steps 1-6 for the aggregate of all members to obtain state-wide totals.
8. Calculate the credit-adjusted quota. The credit-adjusted quota is the ratio of the member's credit-adjusted vehicle count to the credit-adjusted vehicle count for all members.
9. Calculate the adjusted new business quota. Determine the member's new business quota by modifying the credit-adjusted quota to recognize the renewal premium a member is expected to write. Adjust this quota to reflect prior over or under assignments to determine the adjusted new business quota, which is the quota of state-wide new premium that is to be assigned to a member.

A member may earn credits in excess of total vehicles and may sell credits to any other member. The Association may not place restrictions on the sale of credits other than to require that the sale of such credits be within a period of time sufficient to allow the timely calculation of quarterly quotas. A member may sell any or all credits. The terms of the sale of credits sold are to be reported by members to the Texas Department of Insurance.

C. Distribution of Private Passenger Quota Reports

The Association will provide a quarterly report of private passenger quota calculation to members. The report to a member will list each member's credit adjusted quota, new business quota, adjustments for over/under assignments and adjusted new business quota. The Association will also make available to all members and producers upon request a list of all valid Texas ZIP

Codes separated by Category as determined by the Commissioner of Insurance.

D. Data Corrections/Adjustments

Insurers making corrections to data used for private passenger quota determination are to be guided by the following:

1. Corrections and adjustments to voluntary base data will be accepted for a period of 17 months from the close of the quarter.
2. Corrections for Association data will be accepted for 8 months following the close of the calendar year.

Note: For example, corrections for 2003 Association data will be accepted until August 31, 2004.

E. Limited Assignment Distribution Procedure (LAD)

This sub-section sets forth the Limited Assignment Distribution Program (LAD), which applies to private passenger automobile liability. A member which elects to be excused from assignments and thereby become an "excused member" must enter into a written agreement with an approved servicing carrier. The agreement must be approved by the Manager and will be subject to the provisions of that agreement and this program. Non-participating companies are not subject to this program and will continue to receive their normal assignments under the other provisions of this Section.

1. Any member which satisfies the requirements of Art. 21.81, Insurance Code may elect to be a servicing carrier and thereafter receive assignments in addition to its normal premium quota under the other provisions of the Plan of Operation.

To be eligible as a LAD servicing carrier, a member must:

- a. have been licensed in Texas to write automobile liability insurance for a minimum period of five years, or be currently engaged as a servicing carrier for automobile insurance plan business in at least one other state;
- b. demonstrate to the satisfaction of the Governing Committee its successful performance servicing automobile insurance plan business and ability to perform satisfactorily as a servicing carrier in this state;

- c. have at least \$15,000,000 Policyholder Surplus and a ratio of Net Premiums Written to Policyholder Surplus of no greater than 3 to 1 based on the most recent annual or quarterly financial statement;
- d. have applied for servicing carrier status and been approved by the Governing Committee for a specified maximum premium volume which may be assumed as a servicing carrier, and
- e. have maintained an A.M. Best financial rating not less than B+ for a continuous three-year period, and must reapply every five years. A servicing carrier that is rated less than a B+ based on the most recent A.M. Best financial rating, or has no A.M. Best rating or that has a ratio of Net Premiums Written to Policyholder Surplus greater than 3 to 1 based on the most recent annual or quarterly financial statement will be subject to review annually by the Governing Committee.

The Governing Committee may prospectively modify the limit on the volume of assignments to be assumed by an approved servicing carrier in order to assure the ability to perform satisfactorily as a servicing carrier.

2. The terms of the LAD agreement, including the buy-out fee, shall be determined by negotiations between the excused member and the servicing carrier. The Governing Committee shall adopt reasonable standards for the agreement.
3. Upon receipt of a signed LAD agreement from the servicing carrier, the Association will transfer to the servicing carrier the assignment quota of the excused member covered under the agreement. Annually, the Association will indicate how much of the servicing carrier's contract business was needed to fulfill each excused member's quota. Any over/under assignment of the excused member will be attributed to the servicing carrier.
4. The servicing carrier must assume each policy of the excused member at the renewal date. At least 30 days prior to the renewal date of each policy, the excused company shall give notice to the insured that the servicing carrier will provide coverage at the renewal date for the balance of the three year assignment period. Such notice is to be given in the form prescribed by the Governing Committee. The servicing carrier shall provide a renewal offer in accordance with Section 14.A.4.

When there is a termination of participation by an excused member, each servicing carrier shall continue its policies in force under this program for the remainder of the assignment period provided in Section 9.

5. This program does not limit in any manner the authority of the Governing Committee to make assessments on an excused member or a servicing carrier for operations of the Association.

Sec. 42. DETERMINATION AND FULFILLMENT OF OTHER THAN PRIVATE PASSENGER QUOTAS

A. Assignment of Commercial Applications

The Association shall assign eligible applicants classified as commercial in a random manner so that each member will receive its assignment quota. For purposes of calculating other than private passenger assignment quota, the Association shall utilize statistical data provided by the statistical agent designated by the Texas Department of Insurance as the source of information for the "net direct written premium" and "voluntary OTPP premiums" and any other information necessary to calculate the assignment quota in accordance with this section.

No applicant in any of the following classifications is to be assigned to a member which did not, during the calendar year ending December 31 of the prior year, and currently does not, write as voluntary business in this state any automobile liability insurance in such classification:

1. public automobiles other than school or church buses;
2. motor vehicles of truckers operating beyond a radius of 200 miles from the limits of the city or town of principal garaging.

Assignment of buses, interstate and long haul truckers and public automobiles will be made with due regard to the state insurance licenses held by the member.

A member is entitled to a credit of two dollars of premium for every dollar of premium for an assignment which meets the description in Section 42.A. 1 or 2 above.

A member which has received an assignment may return it to the Association if the member's surplus to policyholders, as determined by the latest financial statement filed with the Commissioner of Insurance, is insufficient to cover the risk. In this case the risk shall be reassigned.

B. Quota Determination

The Association shall assign eligible applicants other than private passenger ("OTPP") in a random manner so that each member will receive the same portion of the OTPP premiums of the Association that its net direct "voluntary OTPP premiums" bear to the total of such "voluntary OTPP premiums" of all authorized insurers in the state.

1. "Net direct written premium" means gross direct premiums, less return premiums and premiums on policies not taken, without including reinsurance assumed and without deducting reinsurance ceded, but include premiums for OTPP excess of

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- c. The take-out policy must be written at rates below the rates in effect for the Association at the time the take-out policy becomes effective.
- d. To claim for voluntary take-out, the insurer must submit an approved reporting form to the Texas Department of Insurance and the Association or its designee quarterly for all policies qualifying during the calendar quarter. The report is due 30 days following the end of the quarter. An insurer is required to submit supporting data upon request to the Texas Department of Insurance or the Association.

D. Failure to Comply with the Provisions of this Section

If the Governing Committee finds that any insurer without good cause is not complying with the provisions of this Section, it shall notify the Commissioner of Insurance.

Sec. 46. RESERVED FOR FUTURE USE

Sec. 47. GENERAL PROVISIONS

A. Assignments

1. Assignment Exceptions

There are no exceptions to the type or class of insurance assigned to a member other than as provided in Section 42.A. The Association may not agree with a member to refrain from making assignments in any territory or area of the state.

2. Assignment Suspensions

Assignments to a member may not be suspended for any period of time for any reason without approval by the Manager and notice to the Governing Committee.

B. Mergers and Consolidation of Insurers

If a member merges with another member or there is a consolidation of members, the continuing member is to receive the assignments and assessments of the member merged or consolidated until the quota of such merged or consolidated member as established by its writings prior to such merger or consolidation has been filled. The continuing member may be relieved from such obligations if another member agrees, in a manner satisfactory to the Governing Committee, to assume such obligations.

C. Insurer Groups

A group of members under the same ownership may elect to be treated as a single member to receive assignments and assessments.

D. Insurers Discontinuing Writing

If a member discontinues writing automobile liability insurance in this state but retains its license to write such business, it must continue to pay assessments and receive assignments until its quota established by its writings prior to discontinuance of business has been

filled. If the automobile liability business of a member discontinuing the writing of automobile liability insurance in this state is purchased by, transferred to, or assumed by another member, the latter is to receive the assignments and assessments of the former until the quota of the former as established by its writings prior to such transfer has been filled, unless another member has agreed, in a manner satisfactory to the Governing Committee, to assume such obligation.

E. Insurers Exempt Under Section 35

If a member qualifies for a calendar year exemption, the member shall continue to report all Association premiums until the end of the assignment period. These premiums for the year(s) of exemption shall be credited against the member's quota.

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Sec. 48. RULES AND RATE DETERMINATION

All insureds assigned under the Plan of Operation shall be subject to the classifications, rules, rates, rating plans, and minimum premiums filed with the Texas Department of Insurance by the Association and approved by the Commissioner of Insurance. A policy fee may not be charged by an insurer.

Sec. 49. CONSUMER BILL OF RIGHTS

All insurers writing personal automobile insurance policies must provide with each new policy of personal auto insurance a copy of the "Consumer Bill of Rights for Personal Automobile Insurance promulgated by the Texas Department of Insurance." The Consumer Bill of Rights shall accompany each renewal notice for personal automobile insurance unless the current version of the Bill of Rights has been previously provided to the insured by the insurer. The Bill of Rights must appear in no less than 10-point type and be on separate pages with no other text on those pages. The Spanish language version of the Consumer Bill of Rights promulgated by the Texas Department of Insurance must be provided to any consumer who requests it from the company.

Sec. 50. AUTOMOBILE THEFT PREVENTION AUTHORITY PASS THROUGH FEE

A. Texas Civil Statutes, Article 4413(37), § 10. requires each insurer to pay a fee of \$1 per motor vehicle year to the Automobile Theft Prevention Authority. Each insurer is authorized to recoup this fee from the policyholder.

B. Any insurer recouping the fee from the policyholder as authorized by subsection 50.A must include on or with each motor vehicle insurance policy providing primary liability coverage delivered, issued for delivery, or renewed in this state on or after October 3, 1992, a notice conforming with either subsection 50.B.1 or 2.

1. This notice shall be in no less than 10-point type and shall be attached to or stamped or printed on the Declarations page and shall become part of the policy. The notice shall read as follows:

NOTICE: A fee of \$ _____ is payable in addition to the premium due under this policy. This fee reimburses the insurer, as permitted by 28 TAC §5.205, for the \$1 fee per motor vehicle year

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required to be paid to the Automobile Theft Prevention Fund under Texas Civil Statutes, Article 4413(37), §10, which became effective on June 6, 1991.

2. This notice shall be in no less than 10-point type and shall be included as part of the policy. The notice shall read as follows:

NOTICE: The Automobile Theft Prevention Authority Fee is payable in addition to the premium due under this policy. This fee reimburses the insurer, as permitted by 28 TAC §5.205, for the \$1 fee per motor vehicle year required to be paid to the Automobile Theft Prevention Fund under Texas Civil Statutes, Article 4413(37), §10, which became effective on June 6, 1991.

If this notice is provided, the following shall be printed on the Declarations page, renewal certificate, or billing:

Automobile Theft Prevention Authority

Fee \$ _____ .

(See enclosed explanation)

- C. All automobile insurance policies providing primary liability coverages shall be assessed the \$1 fee per motor vehicle year. For purposes of this Section, the term "motor vehicle year" shall mean one motor vehicle insured for one year.

Sec. 51. RESERVED FOR FUTURE USE

Sec. 52. RIGHT OF APPEAL

- A. The Governing Committee may hear any appeal from an applicant, insured, producer or insurer on a matter pertaining to the administration of the Association. Each notice of cancellation or denial of insurance under the provisions of the Association shall contain or be accompanied by a statement that the insured or applicant has a right of appeal to the Governing Committee. The Association shall promptly notify the insured or applicant, and the insurer and producer of the disposition of the appeal. The action of the Governing Committee may be appealed to the Commissioner of Insurance.
- B. In no event shall an appeal operate as a stay of cancellation pending resolution of the appeal by the Governing Committee or Commissioner of Insurance. If the Governing Committee or Commissioner of Insurance refuses to sustain a cancellation or denial of coverage, the insurer shall either issue a new policy or reinstate the former policy, with an effective date as determined by the Governing Committee or Commissioner of Insurance.
- C. If a new policy is to be issued, upon receipt of the proper premium deposit or outstanding premium

balance from the applicant or insured within 30 days after the determination of the appeal, the insurer shall issue a policy or binder within two working days, reflecting no lapse in coverage.

- D. In the event of a reinstatement of a policy previously issued by the insurer, upon receipt of the outstanding premium balance due to date from the insured within 30 days after the determination of the appeal, the insurer shall issue a reinstatement of the policy within two working days using the cancellation date as the reinstatement effective date.
- E. The Governing Committee may form a subcommittee to review any appeal and to make recommendations to the Governing Committee with regard to such appeal.

Sec. 53. IMMUNITY AND INDEMNIFICATION

A. Immunity

Article 21.81, Insurance Code, provides that the Association, a member of the Governing Committee, and any employee of the Association is not personally liable for any act performed in good faith within the scope of the person's authority as determined under that article or the Plan of Operation or for damages occasioned by his or her official acts or omissions except for an act or omission that is corrupt or malicious. The Association shall provide counsel to defend any action brought against a member of the Governing Committee or any employee by reason of the person's official act or omission whether or not at the time of the institution of the action the defendant has terminated service with the Association.

B. Indemnity

In addition to providing counsel as required by statute, the Association shall indemnify any present or former officer, member of the Governing Committee or any subcommittee, employee, agent, or member of the Association or its predecessor against judgments, penalties, fines, settlements, and reasonable expenses incurred by the person in connection with any proceeding in which the person was, is, or is threatened to be made a named defendant or respondent in litigation or other proceeding because a person is or was a member of the Governing Committee or any subcommittee, officer, employee or agent of the Association or its predecessor. Alternate public and producer members are also covered by this Section.

C. Procedures for Indemnification

Indemnification shall be provided upon the request of the person or member unless the Governing Committee finds that the person seeking indemnification is not legally entitled to be indemnified. The Governing Committee may withhold indemnity only if it believes that the act or

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omission of the person or member seeking indemnity, which forms the basis of the complaint against such person or member, was:

- a. not in good faith;
 - b. not within the scope of the person's authority under law, from the Plan of Operation or from direction of the Association; or
 - c. corrupt or malicious.
2. The Association may elect to defend, pay, or otherwise dispose of any claim and will promptly advise the person or member seeking indemnification of its election. Any settlement of any claim must be made with the prior approval of the Governing Committee in order for the indemnification under this section to be available.
 3. A person or member seeking to be indemnified under the provisions of this section shall promptly notify the Association of any demand or suit giving rise to a claim for indemnity.
 4. The cost of fulfilling the obligations of the Association under this section shall be apportioned in the same manner as Cost of Administration under Section 37 among all members, including the member or members named in the claim which is the basis of the claim for indemnification.

Sec. 54. PRODUCER CERTIFICATION PROGRAM

The Governing Committee of the Association shall certify qualifying insurance producers licensed to transact property and casualty insurance in Texas to submit applications to the Association on behalf of their clients. A producer requesting certification must provide proof that he/she holds a valid Texas license as a general property and casualty agent, a limited property and casualty agent, or a county mutual agent, and must agree to abide by the Performance Standards for Producers and the rules and procedures of the Association. The producer must include a copy of his/her General Lines – Property and Casualty License, Limited Lines – Property and Casualty License, or County Mutual Agent License with the Application for Certification. All changes of address and renewal licenses must also be submitted to the Association. Producer information on an application for insurance that does not match the Association's Producer Certification records may result in the loss of commission on that application.

The Governing Committee, or its designated subcommittee, shall be responsible for creating and establishing a Producer Procedures Course and for developing an instructor's manual for use in presentation of such course. Attendance at such course is suggested but not required. Any subsequently revoked producer who makes an application for re-certification at the conclusion of his/her revocation period must complete the course.

Sec. 55. RESERVED FOR FUTURE USE

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EFFECTIVE DATES

PERSONAL AUTOMOBILE PART

Sec 1	December 1, 2004
Sec 2	December 1, 2004
Sec 3	December 1, 2004
Sec 4	December 1, 2004
Sec 5	March 1, 2006
Sec 6	December 2, 2005
Sec 7	December 1, 2004
Sec 8	December 1, 2004
★ Sec 9	February 9, 2006
Sec 10	December 1, 2004
Sec 11	December 1, 2004
Sec 12	December 1, 2004
Sec 13	December 1, 2004
Sec 14	December 1, 2004
Sec 15	December 1, 2004
Sec 16	December 1, 2004

COMMERCIAL AUTOMOBILE PART

Sec 17	December 1, 2004
Sec 18	December 1, 2004
Sec 19	December 1, 2004
Sec 20	December 1, 2004
Sec 21	March 1, 2006
Sec 22	December 2, 2005
Sec 23	December 1, 2004
Sec 24	December 1, 2004
★ Sec 25	February 9, 2006
Sec 26	December 1, 2004
Sec 27	December 1, 2004
Sec 28	December 1, 2004
Sec 29	December 1, 2004
Sec 30	December 1, 2004
Sec 31	December 1, 2004
Sec 32	December 1, 2004
Sec 33	December 1, 2004
Sec 34	December 1, 2004

ADMINISTRATIVE PROVISIONS

★ Sec 35	February 9, 2006
★ Sec 36 A.1.a	February 9, 2006
Sec 37	December 1, 2004
Sec 38	December 2, 2005
Sec 39	December 1, 2004
Sec 40	December 1, 2004
Sec 41	December 2, 2005
Sec 42	December 1, 2004
Sec 43	December 1, 2004
Sec 44	December 1, 2004
Sec 45	December 1, 2004
Sec 46	December 1, 2004
★ Sec 47.e	February 9, 2006
Sec 48	December 1, 2004
Sec 49	December 1, 2004
Sec 50	December 1, 2004
Sec 51	December 1, 2004
Sec 52	December 1, 2004
Sec 53	December 1, 2004
Sec 54	December 1, 2004
Sec 55	December 1, 2004