

# **TEXAS AUTOMOBILE INSURANCE PLAN ASSOCIATION PRODUCER CERTIFICATION PROGRAM**

## **RULES OF OPERATION**

### **A. INTRODUCTION**

As provided in Section 54 in the Plan of Operation of the Texas Automobile Insurance Plan Association (TAIPA), 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. All producers requesting certification must certify in writing that they hold a valid Texas property and casualty license, must agree that they will abide by the Performance Standards for Producers and the rules and procedures of TAIPA, and must certify that they have on premises a current TAIPA Rules and Rating Manual. The producer must include a copy of his/her General Lines-Property and Casualty License, Personal 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.

The above certification shall not be construed as authorizing the producer to act as an agent of the Association or of any insurer to which an applicant is assigned.

### **B. APPLICATION FOR CERTIFICATION**

Any General Lines-Property and Casualty License, Personal Lines-Property and Casualty License, Limited Lines-Property and Casualty License, or County Mutual Agent who becomes licensed in Texas after the effective date of this program, who wishes to submit applications to the Association, must first complete the Application for Certification and be certified by the Association Manager on behalf of the Governing Committee. A producer who has not submitted an Application for Certification may not submit applications to the Association, or utilize the Electronic Application Submission interface (EASi).

Any Personal Lines-Property and Casualty licensee certified under this program is certified to submit personal lines applications, subject to coverage on a Personal Automobile Policy (PAP). For the submission of commercial lines applications subject to coverage on a Business Automobile Policy (BAP), the producer will be considered uncertified.

### **C. CERTIFICATION PROCESS**

#### 1. Certified Producers

Association staff shall review all Applications for Certification to confirm that each:

- a. has been properly and fully completed, including the Acceptance of Responsibility;
- b. has been properly signed by all authorized persons as required in the application; and

c. is accompanied by a copy of the producer's license.

Any certification application not properly or fully completed, or received without a copy of the producer license, shall be returned to the producer.

Properly completed applications will be submitted to the Association Manager for approval of the certification of each eligible producer on behalf of the Governing Committee.

Each producer for whom certification is approved will be assigned an EASi confidential user name and password.

## 2. Affiliated Producers

A licensed producer who is under the same financial ownership, arrangement or control as the certified producer or who is designated by the certified producer or affiliate on the Application for Certification is permitted to submit applications to the Association as an individual.

All such affiliated producers should be indicated on the Application for Certification in the areas designated for affiliated producers.

An affiliated, licensed producer is also eligible to apply for certification using his/her own Texas Department of Insurance (TDI) license number.

## **D. ACKNOWLEDGMENT OF CERTIFICATION**

An Acknowledgment of Certification and EASi Username and Password are forwarded to each producer who has satisfactorily fulfilled the certification process outlined above. Each certified producer will thereafter be permitted to submit applications to the Association and utilize the Electronic Application Submission interface (EASi).

## **E. PERMISSION TO USE THE ELECTRONIC APPLICATION SUBMISSION INTERFACE (EASi)**

The Governing Committee has approved an Electronic Application Submission interface (EASi) to effect coverage under certain circumstances on new business application. Only producers who are certified are allowed to use this interface. Each certified producer is provided with the rules and prescribed procedures which must be followed to establish an EASi transaction. The Association is authorized to restrict a certified producer's EASi authority pursuant to procedures approved by the Governing Committee.

Certified producers shall access EASi for private passenger, public and commercial new business applications. The completed EASi application is submitted electronically which is transmitted back to the Producer's computer with a unique eleven digit reference number, date and time of the transaction. The application and binder shall be printed and signed by both the applicant and producer. The original signed application and the premium remittance must be mailed to the Association not later than the next working day. The EASi binder is provided to the insured.

Any application that has been bound by EASi that is not received by the Association will be considered an "unmatched application". The Association will write to the producer and request the application be mailed immediately. The Association shall immediately deny the producer access to EASi when one "unmatched application" situation occurs.

Producers may retract an EASi application in writing to the Association. Complete and mail the EASi retraction form, along with a copy of the application (do not submit the premium remittance) and binder, within one working day of the transaction. The Association will mail an Acknowledgment of Retraction to the producer and applicant.

## **F. OBLIGATIONS OF CERTIFIED PRODUCERS**

Each producer certified under this program agrees, by signing the Acceptance of Responsibility on the Application for Certification, to abide by the Performance Standards for Producers and the rules and procedures of the Texas Automobile Insurance Plan Association and to have on premises access to an updated TAIPA Rules and Rating Manual.

The Acknowledgment of Certification forwarded by the Association to each such producer shall remain in effect provided the producer maintains his/her property and casualty license and does not develop an adverse record of violations of the Performance Standards of Producers or other Association rules and procedures.

Producer certification shall be renewed provided the producer submits a copy of his/her renewal license and has no pending or unresolved violations of Performance Standards for Producers or other Association rules or procedures. If a renewal license is not received by the expiration date of the current certified producer's license, the Association shall issue a notice on a prescribed form which will allow twenty (20) days for submission of the renewal license. If the renewal license is not received, the certified producer will be unable to submit applications to the Association, or receive compensation.

All certified producers are responsible for notifying the Association of any change in their affiliation. The Association shall maintain records of all certified producers and affiliates and shall issue a notice to the certified producer and the affiliate, if applicable, whenever a change in the group has occurred.

A certified producer must have a licensed producer, licensed solicitor or licensed insurance service representative on the premises at all times during business hours.

## **G. MAINTENANCE OF COMPLAINT RECORDS**

### **1. Performance Standards for Producers**

All complaints of a producer's failure to comply with the Performance Standards for Producers shall be filed with the Association by assigned insurers. Copies of all such complaints will be forwarded by the assigned insurers to the producer who shall have the opportunity to challenge, within twenty (20) days, the validity of the complaint. The Association's staff will also review any producer's challenge of the validity of a complaint and will, after investigation, determine whether or not the complaint is valid. If staff determines that the complaint is valid, notification will be sent to the producer together with an explanation of such determination.

Consumer complaints of a producer's failure to comply with Performance Standards for Producers and Association rules and procedures will be forwarded to the Texas Department of Insurance by the Association. Valid consumer complaints will be included in producer complaint records to be maintained by the Association.

Records of all such complaints shall be maintained separately for each producer by Association staff and the Review Panel.

### **2. Other Association Rules and Procedures**

Association staff shall also maintain, separately for each producer, complaints from assigned insurers of a producer's failure to comply with all other Association rules and procedures. As determined by

staff under the procedures established by the Governing Committee, records of each producer's failure to properly complete applications submitted to the Association and comply with other Association rules shall be maintained.

## **H. PERFORMANCE STANDARDS FOR PRODUCERS**

Certified producers shall comply with the following Performance Standards:

1. Original applications shall be fully completed and must include:
  - a. necessary information to rate and write the policy, prepare a bill, and make any required filings;
  - b. producers name, address, and TDI license number;
  - c. signature of applicant and producer; and
  - d. 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.

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. Additional premium payments and renewal premiums shall be submitted gross to the assigned insurer in accordance with Association rules and shall 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. Dishonored producer checks shall be reported to the Association.
3. Return Compensation shall be paid within 40 days from receipt of the insurer's request.
4. Producers must submit policy change requests in writing.
5. 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. No producer shall 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.
7. 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.
8. When an insured receives a take-out offer pursuant to Section 10 of the 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.

The Association staff will notify the producer when complaints are received from either the insurer or consumer as determined in Section G, or from the Association. The producer will be notified by the insurer and shall respond to the insurer within twenty (20) days with a copy to the Association. Consumer complaints will be forwarded to the producer by the Association. The producer will be notified of Association complaints as follows: 1) deficiencies in the preparation of the application as a criticism on the

reverse side of the assignment notification, 2) incomplete applications which are returned to the producer, 3) violations of the Producer Certification Program “Insurer/Consumer Advisory” letter(s), and 4) violations of the Electronic Application Submission interface by an “EASi Advisory” letter(s). The Association deficiencies are listed in Exhibit I of this document.

Each producer’s “norm” will be determined by the producer’s monthly application volume. When the “norm” is exceeded the Association will notify the producer with an “Association Advisory” letter(s) each month. When a producer exceeds the “norm” three months within a 6 month period he/she may receive notification from the Association to appear before the Review Panel (see Section I).

## **I. REVIEW OF PRODUCER PERFORMANCE**

The Review Panel will receive and investigate complaints alleging that the certified producer has willfully violated the Association rules, procedures or Performance Standards, or has failed to perform in accordance with Association rules and procedures with such frequency as to indicate a general business practice. Association staff shall base its review on the records maintained by the Association as required in Section G and H above, and in accordance with the criteria established by the Governing Committee. The certification of such producers whose records meet established criteria shall be referred to the Review Panel for such review and investigation.

Referrals of affiliate producers will be based on the total complaints of all producers so affiliated. A certified producer will be presumed to be an affiliate of another if designated as an affiliate on any application for producer certification or operates under the same financial ownership, arrangement or control. This presumption may be rebutted by a showing that control does not exist in fact.

The Review Panel shall be appointed for a term of two years and shall consist of three certified producers, one insurer representative and one public member. Review Panel members are to appoint alternates to sit on the Panel as necessary. A quorum of the Review Panel will be three members of the Review Panel, at least two of whom must be producers. The Review Panel shall not conduct hearings unless a quorum is present.

Producers referred to the Review Panel will be given at least fifteen (15) days prior written notice of the date, time and place of the hearing by the Panel. Affiliates will receive a separate notice of such hearing and an opportunity to be heard. The Review Panel will make a transcript of the hearing. Producers may obtain a copy of the transcript at their own expense. The producer has the right to have counsel present at the hearing. The producer must notify the Association that he/she will be represented by counsel at least five days in advance of the hearing.

The Panel, after notice and opportunity to be heard is given to the producer, may recommend to the Governing Committee that no action be taken or that the producer’s certification be conditioned, suspended or revoked. The Governing Committee may accept, reject or modify the recommendation of the Panel.

The Governing Committee shall advise the producer and the Commissioner of Insurance, in writing, of its decisions and the reasons therefore. Such decision, which will be forwarded to the producer by first class and certified mail, return receipt requested, will be effective at 12:01 A.M. on the date following receipt of the decision or on the 6th day following the date of mailing, whichever is earlier. The decision of the Governing Committee may be appealed to the Commissioner of Insurance within 20 days from the date of mailing of said decision. The Commissioner of Insurance may elect to hold a hearing on the producer’s appeal.

Any person who serves upon such Review Panel is entitled to indemnification as provided in Section 53 of the Plan of Operation.

The Association reserves the right, subject to the procedures established by the Governing Committee, that any restriction as may be imposed on any producer shall apply to any other producer who is under substantially the same financial ownership, arrangement or control, or who is an affiliate of such producer.

## **J. PROCEDURES FOR SUSPENSION, REVOCATION OR CONDITIONING CERTIFICATION**

### 1. Summary Suspension Procedure

If the Association determines that immediate action is required to protect the public interest prior to a hearing in accordance with the usual procedures of the Producer Review Panel (Review Panel), it may immediately suspend a producer's certification pending producers compliance. The Association notifies the producer in writing of the suspension of certification and provides a written statement of the allegations against the producer which clearly evidence that delay until a full hearing will pose harm to the public interest. Upon compliance by the producer, the Association may lift the temporary suspension and place the producer back into an active certified status.

If the producer fails to comply with the Association's allegations, a full hearing on the merits before the Review Panel shall take place at the next Review Panel meeting, in accordance with usual procedures of the Review Panel. Within seven (7) days of the hearing, the Review Panel must render a decision and make appropriate recommendation to the Governing Committee. At its next meeting, the Governing Committee shall accept, reject or modify the recommendations of the Review Panel and the Association shall notify the producer immediately, in writing, of the Governing Committee's decision. The Commissioner of Insurance will be notified of the Governing Committee decision. Any final decision of the Association under this Section shall be subject to the right of appeal to the Commissioner of Insurance as provided in Section 52 of the Plan of Operation.

### 2. Effective Date of Revocation, Suspension or Conditioning of Certification

Except as described in (1) above, the Revocation, Suspension or Conditioning of a producer shall be effective 12:01 A.M. on the day following the producer's receipt of the Governing Committee's decision, or 12:01 A.M. six days following the date of mailing, whichever occurs first.

### 3. Notice of Revocation, Suspension or Conditioning:

A producer whose certification has been revoked, suspended or conditioned will be notified of the Governing Committee's decision in writing. Such notice, which shall be forwarded to the producer by first class and certified mail, return receipt requested, with a copy to the Commissioner of Insurance, will be accompanied by a written statement of the reason(s).

### 4. Definition of Revoked, Suspended or Conditioned\_Producer

- a. A producer whose certification is revoked may not submit new applications to the Association or utilize the Electronic Application Submission interface (EASi) procedure, service any existing policies, or be entitled to compensation for either new business applications, in force policies, or renewals during such period of revocation.
- b. A producer whose certification has been suspended may not submit new applications to the Association, utilize the Electronic Application Submission interface (EASi) procedure, or receive compensation for new business.
- c. A producer whose certification is conditioned, will be immediately notified of the conditions.

## **K. APPEAL PROCEDURE**

The decision of the Governing Committee to revoke, suspend or condition a producer's certification may be appealed to the Commissioner of Insurance within twenty (20) days of the date of mailing notice of said decision. The Commissioner of Insurance may elect to hold a hearing on the producer's appeal.

## **L. UNCERTIFIED PRODUCER**

### 1. Currently Licensed Producer

Any producer licensed to transact property and casualty insurance in the State of Texas who fails to submit an Application for Certification, after having been given opportunity to do so, or who fails to maintain producer certification through renewal re-certification, shall not be authorized to submit applications to the Association or utilize the Electronic Application Submission interface (EASi).

### 2. Newly Licensed Producer

Producers who are newly licensed after the implementation date of this producer certification program may apply for producer certification by completing an Application for Certification and forwarding the completed application accompanied by a copy of their current property and casualty license to the Association.

### 3. Producers who are licensed under a Personal Lines Property and Casualty license are considered uncertified for assignment of commercial applications. Commercial assignments are those assignments that do not qualify for coverage on a Personal Automobile Policy (PAP).

## **M. NEW APPLICATIONS FROM REVOKED/SUSPENDED/UNCERTIFIED PRODUCER**

Should a producer whose certification has been revoked or suspended continue to submit new business applications to the Association, such applications will be assigned to an insurer as required by the Plan of Operation. In such event, the revoked/suspended/uncertified producer will not be recognized as the producer of record under any such assignment and shall not be entitled to any compensation under policies written for such assignments. The assignment notice advising such shall be forwarded to the producer.

The assigned insurer shall furnish the applicant with the following information:

- a. An explanation of the Producer Certification Program;
- b. Instructions to seek the services of a certified producer and to notify the insurer of the new producer of record; and
- c. Include a toll free number to enable the insured to contact the assigned insurer for temporary service on their policy until he/she has designated a certified producer as the producer of record.

The assigned insurer shall issue the policy indicating no designated producer with a reminder to the insured to provide the assigned insurer with the name of a newly designated certified producer of record. During this time, the assigned insurer will be entitled to all compensation since the insurer will be responsible for servicing the insured's policy. Once a new certified producer has been designated, any future compensation will be paid to the newly designated producer.

The Association will report to the Commissioner of Insurance any producer who continues to submit applications to the Association after certification has been revoked or suspended or who does so without certification.

#### **N. IN FORCE POLICIES OF REVOKED/UNCERTIFIED PRODUCERS**

The assigned insurer will continue any policies in force for which the producer of record is revoked/uncertified. Notice that the producer has been revoked/uncertified will be forwarded to the insured and producer. The insured will be advised by the assigned insurer that such policy will continue. The insured must seek the services of a new certified producer and notify the assigned insurer of such producer as soon as possible.

The assigned insurer shall provide the insured with the following information:

- a. An explanation of the Producer Certification Program;
- b. Instructions to seek the services of a certified producer and notify the assigned insurer; and
- c. Include a toll free number to enable the insured to contact the assigned insurer for temporary service on their policy until he/she has designated a certified producer as the producer of record.

Should the insured fail to designate a certified producer of record, the assigned insurer will maintain the uncertified producer as the producer of record for thirty (30) days, after which time the assigned insurer's records will be amended to remove the uncertified producer with no designation of a producer of record.

Upon renewal, the assigned insurer will issue said renewal indicating no designated producer with a reminder to the insured to provide the assigned insurer with the name of a newly designated certified producer of record. During this time, the assigned insurer will be entitled to all compensation since the insurer will be responsible for servicing the insured's policy. Once a new certified producer has been designated, any future compensation will be paid to the newly designated producer.

#### **O. NOTIFICATION TO ASSIGNED INSURERS OF REVOKED/SUSPENDED PRODUCERS**

The Association shall distribute to all insurers subject to assignments a listing of all producers who have been revoked/suspended by the Governing Committee.

Each insurer will be required to notify each assigned applicant whose coverage is still in effect that the designated producer is revoked/suspended by the Governing Committee and can no longer be recognized as the producer. Insurers will be provided with a sample letter to be used for this purpose.

In the event the revoked/suspended producer appeals the Governing Committee's decision to the Commissioner of Insurance and the Commissioner grants a stay of such decision subsequent to Association release of the above notice, the Association will immediately advise the assigned insurers of the stay of the Governing Committee's decision.

#### **P. ELIGIBILITY OF REVOKED/SUSPENDED PRODUCER TO REAPPLY FOR CERTIFICATION**

A producer whose certification has been revoked will not be eligible to apply for certification for a period of one year following the effective date of revocation, unless the Governing Committee, upon recommendation of the Review Panel, establishes a specified period of revocation, other than one year.

A Governing Committee decision of Permanent Revocation shall render the producer ineligible for re-certification.

Producers with outstanding TAIPA violations, whose licenses are suspended or revoked by the Texas Department of Insurance or surrendered voluntarily, shall be prohibited from reapplying to the Association upon restoration of their property & casualty license until such time as the producer appears before the Review Panel, resolves all outstanding TAIPA violations, and has complied with all terms and conditions of the suspension or revocation of prior producer certification.

1. Producers with Revoked Certification

As a prerequisite to re-certification, all revoked producers must first complete a Producer Procedures Course, subsequent to the effective date of their revocation and must provide the Association with all documentation referred to in Section B. In addition, the producer must be in compliance with all terms and conditions of the revocation of prior producer certification.

In the event a revoked producer is re-certified, the Association will so advise the assigned insurers by indicating such on the listing provided to all insurers receiving assignments.

2. Producers with Suspended Certification

A producer whose certification is suspended will automatically be reinstated effective the day following the termination date of the period of suspension provided he/she is in compliance with all terms and conditions of the suspension of prior producer certification. In the event the suspended producer is reinstated, the Association will so advise the insurer by indicating such on the listing provided to all insurers receiving assignments.

**Q. BREACH OF TERMS AND CONDITIONS OF REVOCATION**

In the event that a revoked producer transacts business on behalf of an Association applicant, and during the period of revocation, either with regard to new business or an existing policy, or submits applications to the Association which are transmitted after the effective date of revocation such producer shall be ineligible to apply for re-certification for 60 days after the end of the revocation period.

**R. REVOCATION, SUSPENSION OR NON-RENEWAL OF PRODUCER LICENSE**

In the event the Texas Department of Insurance revokes or suspends the property and casualty license of a certified producer the certification of such producer shall automatically be revoked without notice.

In the event that the producer fails to notify TAIPA of his license renewal within 60 days of renewal, the producer's certification status will be changed to uncertified. The assignment notice will display the producers status as uncertified.

## EXHIBIT I

### DEFICIENCIES LISTED ON ASSIGNMENT NOTIFICATION CARD

- 01A FUTURE SUBMISSIONS MUST BE IN DUPLICATE
- 008 ITEM #8 PAYMENT OPTIONS
- 08A SR22A REQUIRES GROSS ANNUAL PREMIUM
- 018 INVALID FORM OF PAYMENT
- 020 NO RESPONSE TO REQUEST FOR INFORMATION
- 021 PRODUCERS LICENSE NUMBER
  - 31B PRODUCER'S TDI LICENSE NUMBER MISSING/INACCURATE
  - 31C PRODUCER NOT EXACT MATCH
- 023 INCOMPLETE INFORMATION ON ALL OPERATORS
  - 003 DATE OF BIRTH SR-22
  - 03A DRIVERS LICENSE # MISSING
  - 033 PRINCIPLE OPERATOR NOT INDICATED
  - 33A NO DATE OF BIRTH IF NOT SR-22
  - 33B OPERATOR'S GENDER MISSING
  - 33C MARITAL STATUS MISSING
  - 33D OPERATOR'S OCCUPATION MISSING
- 024 INCOMPLETE INFORMATION ON VEHICLE USE, INCLUDING REQUIRED STATISTICAL INFORMATION
  - 004 VEHICLE INFORMATION (YEAR, MAKE VIN MISSING)
  - 04A REGISTERED VEHICLE OWNER
  - 034 RATE CLASS MISSING
  - 34A USE OF VEHICLE MISSING
  - 34B MILE TO/FROM WORK/SCHOOL MISSING
  - 34C ESTIMATED ANNUAL MILES MISSING
    - COMMERCIAL APPLICATIONS
    - 44A COMMERCIAL GROSS VEHICLE WEIGHT MISSING
    - 44B COMMERCIAL RADIUS MISSING
    - 44C PUBLIC SEATING CAPACITY MISSING
    - 44D COMMERCIAL DESCRIPTION OF USE (IF NOT STATED ABOVE)
- 025 INCOMPLETE NON-OWNER INFORMATION
- 028 INCOMPLETE REQUIRED STATISTICAL PRIOR INSURANCE INFORMATION

### ASSOCIATION COMPLAINTS

### DEFICIENCIES WHICH GENERATE INDIVIDUAL LETTERS

001 OUTDATED APPLICATION  
002 APPLICANT INFORMATION  
003 DATE OF BIRTH SR-22  
03A DRIVER LICENSE NUMBER  
004 VEHICLE INFORMATION  
04A REGISTERED VEHICLE OWNER NOT APPLICANT OR SPOUSE  
005 NAMED NON-OWNER  
007 SR-22 OTHER THAN APPLICANT OR SPOUSE  
009 FUTURE EFFECTIVE DATE MORE THAN 30 DAYS IN ADVANCE  
013 APPLICANT'S SIGNATURE MISSING  
014 PRODUCER'S SIGNATURE MISSING  
15 PREMIUM NOT PAYABLE TO TAIPA  
15A NUMERICAL/WRITTEN AMOUNTS DIFFER/SIGNATURE MISSING  
016 SEPARATE PAYMENT WITH EACH APPLICATION  
017 PRODUCER/FINANCE DRAFT UNACCEPTABLE  
019 NO REMITTANCE  
020 APPLICATION ASSIGNED WITHOUT RESPONSE TO SUSPENSE  
022 MORE THAN FIVE VEHICLES  
030 APPLICATION ASSIGNED WITHOUT PREMIUM  
88A LATE EASi APPLICATION  
88B UNMATCHED EASi APPLICATION  
88D LATE EASi POSTMARK