April 27, 2026

General Counsel Division
Attn: Rule Comments
Office of the Attorney General
P.O. Box 12548
Austin, Texas 78711-2548
Via email: OAGRuleCommentsCh67@oag.texas.gov

Re: OAG Proposed Rule, Ch. 67 Foreign Ownership Enforcement; 1 TAC §§67.1-67.9

On behalf of our member insurers and independent agents, our property and casualty insurance trade associations appreciate the opportunity to comment on the proposed rules. These comments are submitted jointly on behalf of the Insurance Council of Texas (ICT), the National Association of Mutual Insurance Companies (NAMIC), the American Property Casualty Insurance Association (APCIA) and the Independent Insurance Agents of Texas (IIAT). The Insurance Council of Texas (ICT) is a Texas-based property and casualty trade association representing over 430 insurance companies doing business in Texas who provide insurance policies and coverage, including residential and commercial property insurance. The National Association of Mutual Insurance Companies (NAMIC) serves more than 1,300 member companies nationwide—including local and regional insurers as well as some of the nation's largest carriers—NAMIC members collectively write $467 billion in annual premiums, representing 61% of the homeowners and 53% of the automobile insurance markets. Representing nearly 60 percent of the U.S. property casualty insurance market, the American Property Casualty Insurance Association (APCIA) promotes and protects the viability of private competition for the benefit of consumers and insurers. The Independent Insurance Agents of Texas (IIAT) is the nation's largest state association of Trusted Choice agencies. IIAT represents approximately 1,600 agencies and more than 15,000 agents and insurance professionals.

Our associations took no position on SB 17 during the 89th Legislative session, and we fully support efforts to stop hostile foreign entities from acquiring property in Texas. We are concerned, however, about including property insurers in the definition of "facilitating entity" and the obligations the proposed rules would impose on insurers—a role we believe is not consistent with a property insurer's appropriate function, is not are unlikely to yield additional information useful for enforcement of the law, and is not required to implement SB 17. We respectfully ask that property insurers be removed from the proposed rules.

The proposed rules are in furtherance of the attorney general's obligation, under new Property Code Section 5.255(a), to "establish procedures to examine a purchase of acquisition of an interest in real property and determine whether an investigation for a possible violated of this subchapter is warranted." We appreciate the attorney general's efforts to establish such procedures, but the proposed rules go beyond the scope of the statutory requirements. Our overarching concern is with the inclusion of property insurers within proposed Section 67.2(3), which creates and defines the term "facilitating entities". This provision imposes a duty to investigate and report potential violations of the statute. In effect, the rules are delegating the attorney general's examination authority in the statute to private entities like property insurers.

The reality is that insurers are not directly or necessarily involved in real estate transactions. Many property insurance transactions occur entirely outside of a purchase or transfer of property. Even when a property insurance transaction occurs ancillary to a real property purchase, an application for insurance is seldom, if ever, involved in the initial stages of property purchase or acquisition. By the time an individual

or business entity applies for or purchases a property insurance policy, the real estate transaction is nearly, if not fully, complete. Including property insurers adds no meaningful value to the compliance process and inappropriately extends regulatory burdens to entities without direct involvement in pre-sale negotiations or vetting**.**

A property insurer's role, in general, is to appropriately assess risk, considering factors such as the characteristics of the property and the named insureds as they relate to risk exposure, and to pay claims as and when due. Further complicating any required role for insurers in vetting property transactions is the prohibition in Tex. Ins. Code §544.002(a)(1), which provides that an insurer:

> "…may not refuse to insure or provide coverage to an individual, refuse to continue to insure or provide coverage to an individual, limit the amount, extent, or kind of coverage available for an individual, or charge an individual a rate that is different from the rate charged to other individuals for the same coverage because of the individual's ……race, color, religion, or national origin."

In keeping with this requirement, insurers do not collect information on these prohibited considerations from prospective policyholders. At the least, the due diligence requirements imposed in the rules could be in tension with the statutory factors insurers are specifically instructed not to consider. This is yet another reason to exclude property insurers from the "facilitating entity" definition.

To be clear, insurers, along with other entities, are subject to federal requirements that prohibit financial transactions with certain individuals and entities designated by the federal government. This is the Office of Foreign Assets Control (OFAC) process, administered by the U.S. Department of the Treasury pursuant to federal law. The OFAC process is fundamentally different than what is envisioned in the proposed rule. OFAC includes a set list of individuals and entities against which insurers (and other entities) must check before engaging in financial transactions; transactions may not occur with those listed. These rules include no such list. That process, involving a known list of individuals and entities, is very different from the requirements described in the proposed rule.

We also do not believe that including insurers in the definition of "facilitating entity" is necessary to implement SB 17. The requirement in Property Code Section 5.255 to "establish procedures to examine a purchase or acquisition of an interest in real property" to enforce the law does not reference a role for third parties in being required to file complaints or otherwise enforce the statute, and SB 17 does not mention insurers at all. The proposed rules create new legal duties on the private sector tangentially involved in real estate transactions that were never specifically mentioned or required in SB 17.

The proposed rules are not "procedures" that will be used by the office to investigate compliance with SB 17. Instead, the rules impose new duties on insurers to investigate and file complaints. The rules could be limited to procedures the office will use to request information that may be useful in investigating potential violations.

The specific requirement for insurers as "facilitating entities" is also unclear. The complaint filing requirement in proposed Section 67.4 is triggered by information the insurer "knows or should have known, after reasonable due diligence" that a purchase or acquisition violates Subchapter H, Chapter 5, Texas Property Code (SB 17). While insurers exercise due diligence relevant to underwriting an insurance policy, they have no role in the property transfer itself, and no established standard of due diligence in compliance with the rule is spelled out in existing statute. Including insurers in this requirement is no more reasonable than including any other individual or entity who may provide services to a property owner.

Finally, although we believe the best alternative is to remove property insurers entirely from the proposed rule, if that approach is not adopted, other alternatives could be less problematic. One would be to make clear that reasonable due diligence only applies to information discovered in the course of a

facilitating entity's ordinary business practice, consistent with applicable law. That change would remove the tension between what the rule appears to require of insurers and existing Insurance Code provisions referenced above. Similarly, it could be clarified that a "facilitating entity" is not deemed to have known or should have known of a violation solely because the entity did not request or collect information that is not otherwise required in the ordinary course of the entity's business.

Thank you for your time and consideration of these comments. Please feel free to contact us if you have any questions.

Respectfully,



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Cc: APCIA
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