

Locke
Lord^{LLP}

Texas Insurance Practice

We've Got You Covered



Practical Wisdom, Trusted Advice.

www.lockelord.com

With insurance attorneys located in our Austin, Dallas and Houston offices, Locke Lord's longstanding and diverse insurance practice has strong roots throughout Texas as well as in the state capital where the Texas Department of Insurance is based.

Locke Lord's Texas Insurance Team practices in a broad range of insurance fields, including general corporate and corporate governance, investments, mergers and acquisitions, regulatory compliance, licensing, county mutual regulatory issues, unclaimed property regulatory audits, rulemaking, open records and confidentiality issues, holding company issues, negotiations on revolving credit facilities, formations of insurance holding companies, conservatorship matters, regulatory disputes, investigations and enforcement, commercial litigation matters, class actions and insurance coverage disputes. Our Firm provides these services to a broad range of life and health and property and casualty insurance companies, agencies, brokers, life settlement companies, HMOs and PPOs, holding companies and related financial services companies.

Although not typically regulated as insurance in Texas, Locke Lord also has considerable experience representing clients involved in the sale of residential and non-residential service contracts as well as other ancillary products regulated by the Texas Real Estate Commission, Texas Department of Licensing and Regulation, Texas Office of the Consumer Credit Commissioner, and Texas Attorney General.

Some of our recent representative experience includes:

INSURANCE CORPORATE, REGULATORY, COMPLIANCE AND LICENSING PRACTICE

- Represented insurance company purchasers and sellers in Texas Form A matters, including related filings and negotiations with the Texas Department of Insurance
- Advised private insurance holding company as issuer in capital raises effected through private offering of subordinated debt securities and preferred securities
- Advised mutual insurance holding company as purchaser in acquisition of market leading workers' compensation and liability insurer
- Advised Texas surety company in merger with public insurance holding company
- Advised holding company purchaser in various acquisitions of property and casualty managing general agency operations
- Advised manufacturer in formation of captive insurer and existing Texas captive insurers on regulatory matters
- Advised wholesale agency in transition of fronted insurance program to a new insurance company partner
- Advised holding company seller in disposition of multiple North American business units
- Advised assuming insurer in assumption reinsurance and novation transaction
- Advised insurance holding companies and agencies in credit facility negotiations
- Advised multiple Texas agency sellers in dispositions of Texas insurance agency assets and book of business to national platform purchasers
- Advised seller in the sale of Texas life and health insurance company
- Advised national title company in connection with acquisition of title assets in multi-state transaction and of appraisal services company
- Advised numerous carriers on FCRA-related topics, including firm offer rules and adverse actions
- Advised clients on Guaranteed Asset Protection (GAP) laws and regulations in Texas, including laws governing related debt-cancellation, trade-in, depreciation and other non-insurance ancillary products
- Advised clients on Texas specialty insurance licenses, including credit insurance and portable electronic vendor licenses
- Represented premium finance companies (including banks) in licensing, annual reporting, and compliance matters
- Represented numerous buyers and sellers of insurance agencies, adjusters, and third-party administrations in change of control matters before the Texas Department of Insurance, including preparation of Texas FIN531 forms and attainment of no-objection letters
- Advised on compliance issues concerning the sale and administration of insurance and ancillary products to apartment tenants
- Advised on insurtech compliance issues concerning certificates of insurance
- Represented Texas HMO and Texas PPO in a receivership proceeding and throughout conservatorship by the Texas Department of Insurance
- Represented multiple life and health and property and casualty insurance companies in various regulatory and holding company act matters with the Texas Department of Insurance
- Advised multiple clients on potential insurance and regulatory classification issues arising with proposed protection programs and warranties
- Assisted with all filings with the Texas Department of Insurance relating to the establishment and ongoing operations of a continuing-care retirement center
- Advised client on Texas Lloyd's plan and Texas county mutual regulatory issues under the Texas Insurance Code
- Advised numerous carriers on payment card and ACH issues, including payments by phone

INSURANCE REGULATORY DISPUTE PRACTICE

- Represented clients in multiple enforcement matters before the Texas Department of Insurance, including investigations, self-reporting matters, consent order negotiations, and appeal of contested cases
- Represented former board member in dispute over scope of insurance receivership injunction in Texas
- Represented major surplus lines wholesalers in disputes with the Texas Department of Insurance involving filings with the Surplus Lines Stamping Office of Texas
- Represented clients in numerous pre-suit investigations by the Texas Department of Insurance, including investigations under Chapters 38.001, 101.104 and 401 of the Texas Insurance Code
- Represented officer of life settlement company in dispute involving securities fraud claims, security registration issues and deceptive trade practice claims
- Represented life settlement company in an administrative appeal of a Texas Department of Insurance, Enforcement Division emergency cease and desist order involving unauthorized business of insurance allegations, burden of proof issues and independently procured insurance issues
- Advised insurance company on Texas regulatory and examination issues involving international insurance transactions and scope of the McCarran-Ferguson Act
- Represented electronic device company in regulatory matters with the Texas Department of Insurance and the Texas Department of Licensing and Regulation involving loss-damage waiver, service contract, and identity-theft issues
- Represented clients in enforcement matters concerning alleged sale of unauthorized insurance products
- Represented surplus lines carriers and agents in enforcement matters involving the Texas Department of Insurance, the Surplus Lines Stamping Office of Texas, and Texas Comptroller
- Represented reinsurer in turnover proceedings under the Texas Receivership Act

INSURANCE LITIGATION PRACTICE

- Represented Canadian life insurers in several class actions including cases filed by policyholders from the U.S., South America, Pacific Rim and Mexico. Devised strategy whereby Canadian government converted debentures to nonvoting common stock which allowed client to assert the Foreign Sovereign Immunities Act which facilitated removal of hundreds of cases to federal court and required that they proceed non-jury
- Represented life insurer in five purported national class actions and was able to remove them to federal court under various theories of federal pre-emption, and then was able to convince the MDL Panel to consolidate and transfer the cases to the client's home venue notwithstanding the fact that no case was pending in that venue
- Represented numerous life insurance companies in class action, mass action, and multi-district litigation with policyholders over allegedly fraudulent sales practices
- Represented insurance and financial services companies with sales practice, securities, and claim litigation and arbitrations arising from a variety of insurance products and/or registered securities including: annuities, equity and debt securities, whole life insurance, universal life insurance, variable life insurance, disability insurance, AD&D insurance, homeowners insurance, automobile insurance, catastrophic loss insurance and health insurance
- Represented insurers in coverage matters involving reinsurance, CGL coverage, BOP coverage, D&O coverage, workers' compensation coverage, professional liability coverage, umbrella coverage, and excess coverage
- Represented insurers in declaratory judgment actions to obtain declarations of no duty to defend or indemnify insured against third-party claims
- Represented insurance companies in coverage disputes involving claims for "bad faith" and other violations of the Texas Insurance Code
- Represented large insurance company in breach of contract, breach of fiduciary duty, and third-party beneficiary litigation resulting in summary judgment on all claims
- Substantial representation of national and international insurance clients in insurance coverage claims and litigation across a variety of product lines and industry sectors, including construction defect, energy, business torts, D&O risks, non-profit entity liabilities, and maritime liabilities for primary, excess and umbrella placements

SERVICE CONTRACT PRACTICE

- Represented multiple sellers and obligors in licensing and compliance matters concerning home warranties regulated by the Texas Real Estate Commission and non-residential service contracts regulated by the Texas Department of Licensing and Regulation
- Advised home warranty company on change of control/ownership requirements
- Advised clients on cross-jurisdictional warranty, service contract, and ancillary product issues (including identity theft protection, debt cancellation, and automobile deficiency and trade-in products) involving the Texas Department of Insurance, Texas Real Estate Commission, Texas Department of Licensing and Regulation, Texas Office of the Consumer Credit Commissioner, and Attorney General of Texas
- Represented clients in enforcement matters before the Texas Department of Licensing and Regulation concerning service contracts regulated under Chapter 1304 of the Texas Occupations Code
- Represented clients before the Texas Real Estate Commission concerning residential service contract financial security requirements imposed by Chapter 1303 of the Texas Occupations Code
- Published the most comprehensive law review discussion to date of Texas service contracts laws and regulations

IT/SECURITY

- Advised both TPAs and carriers on new business and policy administration outsourcing agreements
- Assisted carriers in negotiating cyber risk provisions in various contracts with IT/cloud vendors
- Advised numerous carriers in implementing e-signature and e-delivery projects

KEY PRACTICE GROUP CONTACTS

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4 | TEXAS INSURANCE PRACTICE