

**Subchapter F. Inland Marine Insurance, ~~and~~ Multi-Peril Insurance, and
Commercial Lines**

Division 3. Exempt Commercial Lines
28 TAC §5.5201

INTRODUCTION. The Texas Department of Insurance (TDI) proposes to amend the title of Subchapter F of 28 TAC Chapter 5 and to add new Division 3, containing new 28 TAC §5.5201, concerning exempt commercial lines. The new section implements Senate Bill 1367, 87th Legislature, 2021.

EXPLANATION. This proposal implements SB 1367, which exempts certain commercial lines of insurance from rate and form filing requirements. SB 1367 also authorizes the commissioner to exempt additional commercial lines of insurance to promote enhanced competition or more effectively use TDI resources that might otherwise be used to review commercial lines filings.

As part of the implementation of 1367, a proposed amendment revises the title of Subchapter F to reflect that a section in it addresses commercial lines and adds new Division 3 to address exempt commercial lines.

Proposed new §5.5201 identifies 12 additional commercial lines of property and casualty insurance and exempts them from the rate and form filing requirements in Insurance Code Chapter 2251, Subchapter C, and Insurance Code Chapter 2301, Subchapter A. The rule does not exempt these insurance lines from any other applicable statute or rule.

These lines are appropriate to exempt because TDI receives comparatively few rate and form filings or policyholder complaints involving them. These factors indicate that there is less need for TDI to review forms and rates for these lines. Further, exempting these lines of insurance will promote enhanced competition and allow TDI to more

effectively use its resources to review other commercial lines filings, as contemplated by SB 1367.

FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT. Mark Worman, deputy commissioner of the Property and Casualty Division, has determined that during each year of the first five years the proposed new section is in effect, there will be no measurable fiscal impact on state and local governments as a result of enforcing or administering the new section, other than that imposed by the statute. Mr. Worman made this determination because the proposed new section does not add to or decrease state revenues or expenditures, and because local governments are not involved in enforcing or complying with the proposed new section.

Mr. Worman does not anticipate any measurable effect on local employment or the local economy as a result of this proposal.

PUBLIC BENEFIT AND COST NOTE. For each year of the first five years the proposed new section is in effect, Mr. Worman expects that administering it will have the public benefits of ensuring that TDI's rules conform to Insurance Code §2251.0031 and §2301.0031 and promoting more effective use of TDI resources.

Mr. Worman expects that the proposed new section will not increase the cost of compliance with Insurance Code §2251.0031 and §2301.0031 because it does not impose requirements beyond those in the statute. Insurance Code §2251.0031 and §2301.0031 exempt certain lines of insurance from rate and form filing requirements and authorize the commissioner to exempt additional commercial lines of insurance to promote enhanced competition or more effectively use TDI resources that might otherwise be used to review commercial lines filings. Because it will reduce the lines of insurance subject to filing requirements, the proposed new section will likely reduce the cost of compliance.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS. TDI has determined that the proposed new section will not have an adverse economic effect on small or micro businesses, or on rural communities. As a result, and in accordance with Government Code §2006.002(c), TDI is not required to prepare a regulatory flexibility analysis.

EXAMINATION OF COSTS UNDER GOVERNMENT CODE §2001.0045. TDI has determined that this proposal does not impose a cost on regulated persons. Even if it did, no additional rule amendments are required under Government Code §2001.0045 because proposed new §5.5201 is necessary to implement legislation. The proposed rule implements Insurance Code §2251.0031 and §2301.0031, as added by SB 1367.

GOVERNMENT GROWTH IMPACT STATEMENT. TDI has determined that for each year of the first five years that the proposed new section is in effect, the proposed rule:

- will not create or eliminate a government program;
- will not require the creation of new employee positions or the elimination of existing employee positions;
- will not require an increase or decrease in future legislative appropriations to the agency;
- will not require an increase or decrease in fees paid to the agency;
- will not create new regulations;
- will limit existing regulations;
- will not increase the number of individuals subject to the rule's applicability; and
- will not positively or adversely affect the Texas economy.

This rule will limit existing regulations by exempting additional lines of insurance from rate and form filing requirements.

TAKINGS IMPACT ASSESSMENT. TDI has determined that no private real property interests are affected by this proposal and that this proposal does not restrict or limit an owner's right to property that would otherwise exist in the absence of government action. As a result, this proposal does not constitute a taking or require a takings impact assessment under Government Code §2007.043.

REQUEST FOR PUBLIC COMMENT. TDI will consider any written comments on the proposal that are received by TDI no later than 5:00 p.m., central time, on November 6, 2023. Send your comments to ChiefClerk@tdi.texas.gov or to the Office of the Chief Clerk, MC: GC-CCO, Texas Department of Insurance, P.O. Box 12030, Austin, Texas 78711-2030.

To request a public hearing on the proposal, submit a request before the end of the comment period to ChiefClerk@tdi.texas.gov or to the Office of the Chief Clerk, MC: GC-CCO, Texas Department of Insurance, P.O. Box 12030, Austin, Texas 78711-2030. The request for public hearing must be separate from any comments and received by TDI no later than 5:00 p.m., central time, on November 6, 2023. If TDI holds a public hearing, TDI will consider written and oral comments presented at the hearing.

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STATUTORY AUTHORITY. TDI proposes new §5.5201 under Insurance Code §§2251.0031, 2301.0031, 36.001, and 36.002.

Insurance Code §2251.0031 exempts certain lines of insurance from rate filing requirements and provides that the commissioner may by rule exempt additional commercial lines of insurance to promote enhanced competition or more effectively use TDI resources. Section 2251.0031 also provides that the commissioner may adopt reasonable and necessary rules to implement §2251.0031.

Insurance Code §2301.0031 exempts certain lines of insurance from form filing requirements and provides that the commissioner may by rule exempt additional commercial lines of insurance to promote enhanced competition or more effectively use TDI resources. Section 2301.0031 also provides that the commissioner may adopt reasonable and necessary rules to implement §2301.0031.

Insurance Code §36.001 provides that the commissioner may adopt any rules necessary and appropriate to implement the powers and duties of TDI under the Insurance Code and other laws of this state.

Insurance Code §36.002 provides that the commissioner may adopt reasonable rules that are necessary to effect the purposes of Insurance Code Chapter 2251 and Chapter 2301, Subchapter A.

CROSS-REFERENCE TO STATUTE. Section 5.5201 implements Insurance Code §2251.0031 and §2301.0031.

TEXT.

§5.5201. Exempt Commercial Lines.

(a) The purpose of this section is to identify commercial lines of insurance that the commissioner of insurance has determined should be exempt from the rate filing

requirements in Insurance Code Chapter 2251, Subchapter C, concerning Rate Filings, and the form filing requirements in Insurance Code Chapter 2301, Subchapter A, concerning Policy Forms Generally. These exemptions are in addition to the exceptions for certain lines of insurance listed in Insurance Code §2251.0031(a), concerning Exceptions for Certain Lines, and Insurance Code §2301.0031(a), concerning Exceptions for Certain Lines.

(b) The rate filing requirements in Insurance Code Chapter 2251, Subchapter C, and the form filing requirements in Insurance Code Chapter 2301, Subchapter A, do not apply to any line of the following kinds of insurance written under a commercial insurance policy or contract:

(1) commercial credit insurance products that cover outstanding commercial debt, including trade credit insurance and commercial guaranteed auto protection (GAP) insurance;

(2) crime insurance;

(3) fidelity and surety products, whether referred to as a bond or insurance, including products that cover crime, forgery, and employee dishonesty;

(4) financial guaranty;

(5) glass insurance;

(6) hail insurance on farm crops;

(7) rain insurance;

(8) employee benefits liability;

(9) liquor liability;

(10) owners and contractors protective liability;

(11) railroad protective liability; or

(12) commercial tuition withdrawal insurance.

CERTIFICATION. This agency certifies that legal counsel has reviewed the proposal and found it to be within the agency's legal authority to adopt.

Issued in Austin, Texas, on September 19, 2023.

DocuSigned by:
Jessica Barta
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Jessica Barta, General Counsel
Texas Department of Insurance