

**SUBCHAPTER E. Notice of Toll-Free Telephone Numbers and Procedures for
Obtaining Information and Filing Complaints
28 TAC §1.602**

1. INTRODUCTION. The Commissioner of Insurance adopts new §1.602, concerning a notice to be given by insurers to policyholders regarding an Internet website providing information to consumers relating to the purchase of residential property insurance and personal automobile insurance. The new section is adopted without changes to the proposed text published in the November 9, 2007 issue of the *Texas Register* (32 TexReg 8093).

2. REASONED JUSTIFICATION. This new section is necessary to implement the provisions of SB 611, 80th Legislature, Regular Session, effective May 21, 2007, which adds Subchapter D to Chapter 32 of the Insurance Code. Subchapter D requires the Department and the Office of Public Insurance Counsel to establish and maintain a single website that provides information to enable consumers to make informed decisions relating to the purchase of residential property insurance and personal automobile insurance.

Section 32.104(b) of the Insurance Code requires specified insurers to provide notice of the Internet website required by Subchapter D in a conspicuous manner with each residential property insurance or personal automobile insurance policy issued or renewed in this state. Section 32.104(b) also requires the Commissioner of Insurance to determine the form and content of the notice. The adopted new section establishes the form and content of this notice.

The new section provides the text of the notice in English and Spanish for consistency with the notice currently required under §1.601 (relating to Notice of Toll-Free Telephone Numbers and Information and Complaint Procedures). To allow for flexibility and cost containment, especially during the implementation process, the new section allows insurers to provide the required notice in one of two specified ways and also allows insurers to opt to provide the notice both ways. Insurers may provide the notice as part of the Notice of Toll-Free Telephone Numbers and Information and Complaint Procedures required under §1.601 or otherwise in a conspicuous manner with each policy.

As provided by §32.104(b) of the Insurance Code, the new section applies only to insurers that comprise the top 25 insurance groups in the national market and that issue residential property insurance or personal automobile insurance policies in this state, including a Lloyd's plan, a reciprocal or interinsurance exchange, a county mutual insurance company, a farm mutual insurance company, the Texas Windstorm Insurance Association, the FAIR Plan Association, and the Texas Automobile Insurance Plan Association.

As required by SB 611, the notice requirement mandated by the new section applies to all policies that are delivered, issued for delivery, or renewed on or after January 1, 2008.

3. HOW THE SECTION WILL FUNCTION. Adopted §1.602(a) states the purpose and applicability of the new §1.602. It specifies which insurers are subject to the section and provides the effective date for the notice requirements mandated by the section.

Adopted §1.602(b) requires insurers to provide the required notice in one of two specified ways and also allows insurers to opt to provide the required notice both ways.

Notwithstanding the requirements in §1.601(a)(3) of this title (relating to Notice of Toll-Free Telephone Numbers and Information and Complaint Procedures) to the contrary, an insurer shall include the notice required in §1.602(b)(1) in English and Spanish. The text must be in at least 10-point type. If an insurer elects to comply with the new section by amending the notice required under §1.601 to include the requirements of this new section, the insurer need provide only the one notice to comply with both §1.601 and §1.602.

Alternatively, the insurer may provide the notice specified in adopted §1.602(b)(2) in English and Spanish to comply with the notice requirements. This notice is required to be provided in a conspicuous manner with each policy and to be printed in at least 10-point type.

As authorized by the Uniform Electronic Transactions Act (Business and Commerce Code, Chapter 43), which is addressed in Commissioner's Bulletin No. B-0002-02, dated January 16, 2002, insurers may provide the notice required by the new §1.602 in the form that their policyholders have opted to receive policies, including via e-mail.

4. SUMMARY OF COMMENTS AND AGENCY'S RESPONSE.

Comment: Several commenters raised concern that the January 1, 2008 effective date does not allow sufficient lead time for programming and implementation.

Agency Response: The effective date is statutorily mandated by SB 611. The Department recognizes the difficulties presented by the commenters but the law does not provide the Department waiver authority or the opportunity to excuse the application of the statute. The Department sees the language in SB 611 as unambiguous and the adopted section requirements are consistent with the legislation. Further, insurers can meet the notice requirement deadline by using an insert.

Comment: Several commenters asserted that the notice is premature. The new section mandates that insurers begin providing the notice on January 1, 2008, for a website that will not be available until September 1, 2008.

Agency Response: The Department recognizes the situation but the law does not provide the Department waiver authority or the opportunity to excuse the application of the statute. The Department sees the language in SB 611 as unambiguous and the adopted section requirements are consistent with the legislation. Further, the existing www.helpinsure.com website will be used. The website has been updated with links to the Office of Public Insurance Counsel's policy comparisons and the Department's current price comparisons for personal automobile and homeowners insurance.

Comment: Several commenters expressed concerns about providing the required notice with policies effective on or after January 1, 2008, which are sent out for renewal prior to January 1, 2008.

Agency Response: The Department recognizes that many insurers send out renewals up to 60 days prior to their effective dates. If an insurer sends out renewal notices prior to January 1, 2008, for policies effective on or after January 1, 2008, the insurer may provide the notice in a subsequent mailing to comply with §1.602. As authorized by the

Uniform Electronic Transactions Act, the insurer may provide the notice to these policyholders in the form that the policyholders have opted to receive policies and other information from the insurer, including via e-mail.

Comment: One commenter opined that the required notice is attempting to go beyond the scope of the legislation and should apply only to new policies and not renewals due to the use of the term *issued* in Insurance Code §32.104(b). The commenter also suggested that the notice should be provided only with the first renewal.

Agency Response: SB 611 in SECTION 3(b) clearly states that the §32.104(b) notice requirements apply to insurance policies that are “delivered, issued for delivery, or renewed” on or after January 1, 2008. The new requirements are consistent with SB 611.

Comment: One commenter questioned the applicability of the proposed section to the Texas Automobile Insurance Plan Association (TAIPA) because TAIPA does not issue insurance policies.

Agency Response: The Department recognizes that TAIPA assigns policyholders to authorized insurers that write automobile liability insurance in Texas and does not issue policies itself. However, under §1.602(a)(2), the top 25 insurance groups in the national market and who issue residential property insurance or personal automobile insurance policies in Texas are required to provide the notice to TAIPA risks that have been assigned to them.

Comment: One commenter requested clarification on how the new §1.602 would apply to Lloyd’s plans, reciprocals, county mutuals, or other insurers.

Agency Response: In accordance with §32.101 of the Insurance Code, the new §1.602 applies to insurers that comprise the top 25 insurance groups in the national market and that issue residential property insurance or personal automobile insurance policies in Texas. Lloyd's plans, reciprocals or interinsurance exchanges, county mutual insurance companies, farm mutual insurance companies, and other insurers that are part of the top 25 insurance groups in the national market and issue residential property insurance or personal automobile insurance policies in Texas are required to comply with the new §1.602.

Comment: One commenter stated that the notice requirement in the proposed §1.602(b)(1) should be amended because it is confusing as to whether insurers are required to send either or both forms of the notice and whether they are required to send separate notices to comply with §1.601 and §1.602.

Agency Response: The Department disagrees that §1.602(b)(1) is confusing. Section 1.602(b) provides that each insurer specified in subsection (a)(2) must comply with either subsection (b)(1) or (b)(2), or may opt to comply with both. Further, §1.602(b)(1) states that an insurer may include the specified text in the notice required under §1.601(a)(3). Thus, if an insurer elects to comply with the new §1.602 by amending the notice required under §1.601, the insurer need provide only the one notice to comply with both §1.601 and §1.602.

Comment: One commenter requested that either the proposed §1.602 be amended or a new rule be published concerning data reporting under Insurance Code, Chapter 32, Subchapter D.

Agency Response: The Department disagrees with the comment. As provided in the new §1.602(a)(1), the purpose of the new §1.602 is to establish the form and content of the notice required under Insurance Code §32.104(b). Hence, the new §1.602 is limited in scope to the notice of the Internet website.

Comment: One commenter recommended that the term *boldface* in §1.602(b)(1) be replaced with *bold face*.

Agency Response: The Department has consulted the American Heritage Dictionary of the English Language, Fourth Edition (Houghton Mifflin Company, 2004) and determined that the term *boldface* is acceptable.

5. NAMES OF THOSE COMMENTING FOR AND AGAINST THE PROPOSAL.

Neither for nor against, with recommended changes: Association of Fire and Casualty Companies of Texas, Allstate, Farmers Insurance Group, Insurance Council of Texas, Texas Automobile Insurance Plan Association.

6. STATUTORY AUTHORITY. The section is adopted pursuant to Insurance Code §32.104(b) and §36.001. Section 32.104(b) requires the Commissioner of Insurance to determine the form and content of the notice of the Internet website, which insurers are required to provide pursuant to §32.104(b) of the Insurance Code. Section 36.001 provides that the Commissioner of Insurance may adopt any rules necessary and appropriate to implement the powers and duties of the Department under the Insurance Code and other laws of this state.

7. TEXT.

§1.602. Notice of Internet Website.

(a) Purpose and Applicability.

(1) The purpose of this section is to establish the form and content of the notice required under Insurance Code §32.104(b).

(2) This section applies to insurers who comprise the top 25 insurance groups in the national market and who issue residential property insurance or personal automobile insurance policies in this state, including a Lloyd's plan, a reciprocal or interinsurance exchange, a county mutual insurance company, a farm mutual insurance company, the Texas Windstorm Insurance Association, the FAIR Plan Association, and the Texas Automobile Insurance Plan Association.

(3) This section applies to all residential property insurance and personal automobile insurance policies that are delivered, issued for delivery, or renewed in this state on or after January 1, 2008.

(b) Notice Requirements. Each insurer specified in subsection (a)(2) of this section must comply with either subsection (b)(1) or (b)(2) of this section, or may opt to comply with both:

(1) Notwithstanding the requirements in §1.601(a)(3) of this subchapter (relating to Notice of Toll-Free Telephone Numbers and Information and Complaint Procedures) to the contrary, the insurer must include the following text between item 6 and item 7 in the notice required under §1.601(a)(3) with each policy specified in subsection (a)(3) of this section. The text must be in at least 10-point type. The

website address “www.helpinsure.com” must be in boldface type and must be preceded by one blank line.

(A) “To obtain price and policy form comparisons and other information relating to residential property insurance and personal automobile insurance, you may visit the Texas Department of Insurance/Office of Public Insurance Counsel website: www.helpinsure.com” in the English portion; and

(B) “Para obtener formas de comparación de precios y póliza y otra información acerca del seguro de propiedad residencial y del seguro de automóvil, visite el sitio web del Departamento de Seguros de Texas y la Oficina del Asesor Público de Seguros: www.helpinsure.com” in the Spanish portion.

FIGURE: 28 TAC §1.602(b)(1)(B):

1 IMPORTANT NOTICE

AVISO IMPORTANTE

To obtain information or make a complaint:

Para obtener informacion o para someter una queja:

2 You may contact your (title) at (telephone number).

Puede comunicarse con su (title) al (telephone number).

3 You may call (company)'s toll-free telephone number for information or to make a complaint at:

Usted puede llamar al numero de telefono gratis de (company)'s para informacion o para someter una queja al:

1-XXX-XXX-XXXX

1-XXX-XXX-XXXX

4 You may also write to (company) at:

Usted tambien puede escribir a (company):

5 You may contact the Texas Department of Insurance to obtain information on companies, coverages, rights or complaints at:

Puede comunicarse con el Departamento de Seguros de Texas para obtener informacion acerca de companias, coberturas, derechos o quejas al:

1-800-252-3439

1-800-252-3439

6 You may write the Texas Department of Insurance:

Puede escribir al Departamento de Seguros de Texas:

P. O. Box 149104
Austin, TX 78714-9104
Fax: (512) 475-1771
Web: <http://www.tdi.state.tx.us>
E-mail: ConsumerProtection@tdi.state.tx.us

P. O. Box 149104
Austin, TX 78714-9104
Fax: (512) 475-1771
Web: <http://www.tdi.state.tx.us>
E-mail: ConsumerProtection@tdi.state.tx.us

To obtain price and policy form comparisons and other information relating to residential property insurance and personal automobile insurance, you may visit the Texas Department of Insurance/Office of Public Insurance Counsel website:

Para obtener formas de comparacion de precios y poliza y otra informacion acerca del seguro de propiedad residencial y del seguro de automóvil, visite el sitio web del Departamento de Seguros de Texas y la Oficina del Asesor Publico de Seguros:

www.helpinsure.com

www.helpinsure.com

7 PREMIUM OR CLAIM DISPUTES:

Should you have a dispute concerning your premium or about a claim you should contact the (agent) (company) (agent or the company) first. If the dispute is not resolved, you may contact the Texas Department of Insurance.

DISPUTAS SOBRE PRIMAS O RECLAMOS:

Si tiene una disputa concerniente a su prima o a un reclamo, debe comunicarse con el (agente) (la compania) (agente o la compania) primero. Si no se resuelve la disputa, puede entonces comunicarse con el departamento (TDI).

8 ATTACH THIS NOTICE TO YOUR POLICY:

This notice is for information only and does not become a part or condition of the attached document.

UNA ESTE AVISO A SU POLIZA: Este aviso es solo para proposito de informacion y no se convierte en parte o condicion del documento adjunto.

(2) The insurer must provide the following notice in a conspicuous manner with each policy specified in subsection (a)(3) of this section. The notice must be printed in at least 10-point type and must be preceded and followed by at least one blank line. "Insurance Website Notice" and "Anuncio Del Sitio Web De Seguros" must be in all capital letters and boldface type and "www.helpinsure.com" must be in boldface type.

FIGURE: 28 TAC §1.602(b)(2):

INSURANCE WEBSITE NOTICE

To obtain price and policy form comparisons and other information relating to residential property insurance and personal automobile insurance, you may visit the Texas

Department of Insurance/Office of Public Insurance Counsel website:

www.helpinsure.com.

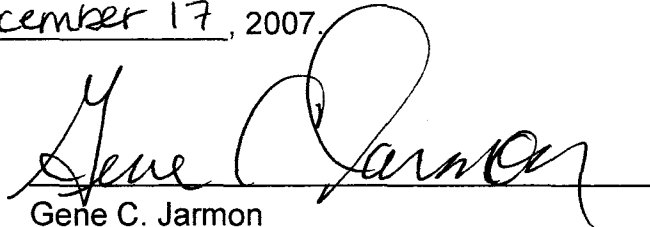
ANUNCIO DEL SITIO WEB DE SEGUROS

Para obtener formas de comparación de precios y póliza y otra información acerca del seguro de propiedad residencial y del seguro de automóvil, visite el sitio web del Departamento de Seguros de Texas y la Oficina del Asesor Público de Seguros:

www.helpinsure.com.

CERTIFICATION. This agency hereby certifies that the adopted section has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued at Austin, Texas, on December 17, 2007.



Gene C. Jarmon
General Counsel and Chief Clerk
Texas Department of Insurance

IT IS THEREFORE THE ORDER of the Commissioner of Insurance that new §1.602 specified herein, concerning a notice to be given by insurers to policyholders regarding an Internet website providing information to consumers relating to the purchase of residential property insurance and personal automobile insurance, is adopted.

07-1154

TITLE 28. INSURANCE

Part I. Texas Department of Insurance

Chapter 1. General Administration

Adopted Section

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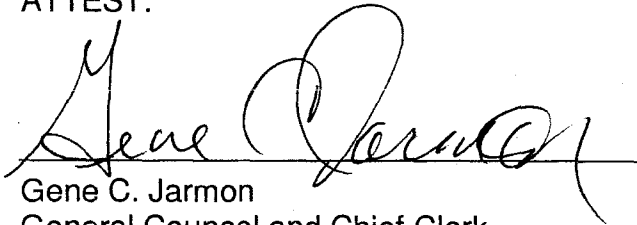
AND IT IS SO ORDERED.



MIKE GEESLIN

COMMISSIONER OF INSURANCE

ATTEST:



Gene C. Jarmon

General Counsel and Chief Clerk

Texas Department of Insurance

COMMISSIONER'S ORDER NO.

07-1154

DEC 18 2007