

SUBCHAPTER P. COMMERCIAL PROPERTY INSURANCE
28 TAC §5.9600

1. INTRODUCTION. The Texas Department of Insurance (Department) proposes the repeal of §5.9600, concerning the conduct of commercial property inspections and rating functions by private entities and the Department's regulatory oversight of these functions. The repeal of this section is necessary to discontinue the oversight of commercial property inspections. Pursuant to 28 Texas Administrative Code §5.9600, the Department oversees the commercial property inspections and ratings services of private entities by providing oversight inspections. The Department has determined that this oversight function is no longer necessary to assure that the consumers of Texas are adequately and fairly served by private entities providing commercial property inspections and rating services. Private entities conducting commercial property inspections and rating services have been subject to oversight inspections since September 1994. Since November 1998, the Department had not found any significant defects in the commercial property inspections and rating services being provided to Texas consumers by private entities. Further, the oversight of private entities providing commercial property inspections and rating is not required by statute. Thus, the Department determines that the oversight of commercial property inspections and rating functions is an obsolete departmental function and is no longer required.

2. FISCAL NOTE. Alexis Dick-Paclik, Inspections Director, Property and Casualty, Regulatory Policy Division, has determined that during the first five years that the

proposed repeal is in effect, there will be no fiscal impact on state or local government as a result of enforcing or administering the section. There will be no measurable effect on local employment or the local economy as a result of the proposal.

3. PUBLIC BENEFIT/COST NOTE. Ms. Dick-Paclik also has determined that for each year of the first five years the repeal of the section is in effect, the public benefit anticipated as a result of administration and enforcement of the repealed section will be an efficient reallocation of taxpayer resources, because the repeal of this section will allow the Department to reallocate resources currently being spent on the obsolete oversight inspection function. There is no anticipated economic cost to persons who are required to comply with the proposed repeal. There is no anticipated difference in cost of compliance between small and large businesses.

4. ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS FOR SMALL AND MICRO BUSINESSES. In accordance with the Government Code §2006.002(c), the Department has determined that this proposed repeal will not have an adverse economic effect on small or micro business carriers because it is simply a repeal of an obsolete rule. Therefore, in accordance with the Government Code §2006.002(c), the Department is not required to prepare a regulatory flexibility analysis.

5. TAKINGS IMPACT ASSESSMENT. The Department 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 and, therefore, does not constitute a taking or require a takings impact assessment under the Government Code §2007.043.

6. REQUEST FOR PUBLIC COMMENT. To be considered, written comments on the proposal must be submitted no later than 5:00 p.m. on May 21, 2012, to Sara Waitt, General Counsel, Mail Code 113-1C, Texas Department of Insurance, P.O. Box 149104, Austin, Texas 78714-9104. An additional copy of the comment must be simultaneously submitted to Alexis Dick-Pacliik, Inspections Director, Property and Casualty, Regulatory Policy Division, 103-1A, Texas Department of Insurance, P.O. Box 149104, Austin, Texas 78714-9104. Any request for a public hearing must be submitted separately to the Office of Chief Clerk, Mail Code 113-1C, Texas Department of Insurance, P.O. Box 149104, Austin, Texas 78714-9104 before the close of the public comment period. If a hearing is held, written and oral comments presented at the hearing will be considered.

7. STATUTORY AUTHORITY. Repeal of §5.9600 is proposed pursuant to the Insurance Code §2001.002(b) and §36.001. Section 2001.002(b) addresses the Department's conduct of commercial property inspections and prescription of rating schedules for commercial property under a law described by the Insurance Code §2001.001(a). Section 36.001 provides that the Commissioner of Insurance may adopt

any rules necessary and appropriate to implement the powers and duties of the Texas Department of Insurance under the Insurance Code and other laws of this state.

8. CROSS REFERENCE TO STATUTE. The proposed repeal affects regulation pursuant to the following statutes:

<u>Rule</u>	<u>Statute</u>
§5.9600	Insurance Code §2001.002

9. TEXT.

§5.9600. Commercial Property Inspections and Rating.