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SUBCHAPTER M. FILING REQUIREMENTS

**DIVISION 4. FILINGS MADE EASY - TRANSMITTAL INFORMATION AND
GENERAL FILING REQUIREMENTS FOR PROPERTY AND CASUALTY FORM,
RATE, UNDERWRITING GUIDELINE, AND CREDIT SCORING MODEL FILINGS
28 TAC §5.9310**

**DIVISION 5. FILINGS MADE EASY - REQUIREMENTS FOR PROPERTY AND
CASUALTY POLICY FORM, ENDORSEMENT, AND MANUAL RULE FILINGS
28 TAC §§5.9320 - 5.9322**

**DIVISION 6. FILINGS MADE EASY - REQUIREMENTS FOR RATE FILINGS
28 TAC §§5.9330 - 5.9337**

**DIVISION 7. FILINGS MADE EASY - REQUIREMENTS FOR UNDERWRITING
GUIDELINE FILINGS
28 TAC §§5.9340 - 5.9342**

**DIVISION 8. FILINGS MADE EASY - REQUIREMENTS FOR CREDIT SCORING
MODEL FILINGS FOR PERSONAL INSURANCE
28 TAC §§5.9350 - 5.9352**

**DIVISION 9. FILINGS MADE EASY - REDUCED FILING REQUIREMENTS FOR
CERTAIN INSURERS
28 TAC §5.9355 and §5.9357**

**DIVISION 10. FILINGS MADE EASY - ADDITIONAL FILING REQUIREMENTS FOR
CERTAIN COUNTY MUTUAL INSURANCE COMPANIES
28 TAC §5.9360 and §5.9361**

1. INTRODUCTION. The Texas Department of Insurance adopts amendments to 28 TAC, Chapter 5, Subchapter M, Division 4, §5.9310; Division 5, §5.9320; Division 7, §§5.9340 - 5.9342; Division 8, §§5.9350 - 5.9352; Division 9, §5.9355 and §5.9357; Division 10, §5.9360 and §5.9361; new Division 5, §5.9321 and §5.9322; and new Division 6, §§5.9330 - 5.9337, concerning filing requirements.

These amendments and new sections implement HB 1951, 82nd Legislature, 1st Called Session, 2011. Sections 5.9310, 5.9320, 5.9322, 5.9332, 5.9334, and 5.9337 are

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adopted with changes to the proposed text as published in the May 9, 2014, issue of the *Texas Register* (39 TexReg 3665).

2. REASONED JUSTIFICATION. The amendments and new sections conform the rules to revisions HB 1951 made to Insurance Code §2251.101, which require TDI to prescribe the process by which it will request supplementary rating information and supporting information under that section, including setting the number of times TDI may request information and the types of information TDI may request when reviewing a rate filing. The amendments and new sections also improve clarity and transparency and adjust the rules for compatibility with the System for Electronic Rate and Form Filing (SERFF). In conjunction with this adoption, TDI also adopts the repeal of existing Division 6, §§5.9330 - 5.9332 in a separate order, also published in this issue of the *Texas Register*.

This order summarizes the comments TDI received on the proposed rules. In response to comments on the published proposal, TDI has adopted changes to the proposed text of §§5.9310, 5.9320, 5.9322, 5.9332, 5.9334, and 5.9337. TDI has adopted nonsubstantive changes to the proposed text in §§5.9320, 5.9332, and 5.9334 to improve clarity. The changes do not introduce new subject matter, create additional costs, or affect persons other than those previously on notice from the proposal.

The following explains adopted §§5.9310, 5.9320 - 5.9323, 5.9330 - 5.9337, 5.9340 - 5.9342, 5.9350 - 5.9352, 5.9355, 5.9357, and 5.9360 - 5.9361 in greater detail.

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Section 5.9310. Property and Casualty Transmittal Information and General Filing

Requirements. This section replaces the TDI Property and Casualty Filing Transmittal form with general transmittal information requirements. This transmittal information consists of the company and group names and company and group NAIC numbers, whether the filing is new or replaces an existing filing, the line of insurance, the type of filing, the proposed effective date, and contact information. If applicable, the required transmittal information also includes the TDI file number of the replaced filing, and the TDI file number of any associated or companion filings of a different filing type. For example, the transmittal information for a rate filing must include the TDI file number of an associated form filing. The section removes the definition of “line of insurance” to accommodate SERFF filings, which use the NAIC Uniform Property and Casualty Product Coding Matrix.

Amended §5.9310 also contains new language that defines multi-peril insurance as “policies and rates for two or more lines of insurance that are subject to regulation under Insurance Code Chapters 2251 and 2301.” TDI adds this language to the section because Insurance Code Chapters 2251 and 2301 refer to multi-peril insurance but do not define it.

Amended §5.9310(e) contains new language regarding use of the word “copyright”. This section clarifies that marking documents “copyright” will not affect how TDI will treat their availability or openness under the relevant statute. Rate filings under Insurance Code Chapter 2251 that are marked “copyright” will be subject to

Government Code Chapter 552, while form filings under Insurance Code Chapter 2301 and rate filings under Chapters 2053 and 3502 marked “copyright” will be open for public inspection. The intent of the new language is to give filers notice as to what is subject to public disclosure, and the possible public disclosure methods. TDI will continue to comply with copyright law in making documents open or available for public disclosure.

TDI makes changes to the proposed text as a result of comments. These changes do not affect persons not previously on notice, nor does it raise new issues.

As a result of comments, TDI changed proposed §5.9310(c)(6) to clarify that each filing’s transmittal information must specify the line of insurance using either a type of insurance and sub-type of insurance listed in the NAIC Uniform Property and Casualty Product Coding Matrix, or a line of insurance listed in the Filings Made Easy Guide. Insurers not filing through SERFF may use the latter.

Section 5.9320. Required Information for the Preparation and Submission of Policy Form, Endorsement, and Manual Rule (Other than Rating Manual) Filings.

This section specifies the filing requirements for property and casualty policy form, endorsement, and manual rule filings submitted under Insurance Code Chapters 2052, 2251, 2301, and 3502. The filing requirements in §5.9320 are in addition to those in §5.9310 (relating to Property and Casualty Transmittal Information and General Filing Requirements).

Section 5.9320(f) consists of new language on public information. To the extent that a filing submitted SERFF includes contact information, the filer affirmatively consents, as contemplated by Government Code §552.137, to the release and disclosure of the contact information, including any email addresses. The filer also certifies that each person associated with an email address contained in the filing has affirmatively consented to the release and disclosure of that email address. TDI will make filings submitted through SERFF available for public disclosure using SERFF. TDI cannot restrict contact information from public disclosure within SERFF. Filers who do not consent to the release and disclosure of contact information, or who cannot make the certification the rule requires, should not file using SERFF.

Section 5.9320(g) amends language regarding an incomplete filing under Division 5 and describes how TDI will process incomplete filings.

Section 5.9320 (h) and (i) contain new language to make the rule consistent with TDI's transition to SERFF. TDI will no longer accept filings submitted under Division 5 with rate filings or any other filings submitted under subchapter M. TDI will no longer accept manual rule filings with any other filings submitted under Division 5.

TDI makes changes to the proposed text as a result of comments. These changes do not affect persons not previously on notice, nor does it raise new issues.

As a result of comments, adopted §5.9320(c)(3)(B) requires all policy forms and endorsements contained in personal automobile and residential property insurance

filings to meet the statutory requirements for plain language in policies as set forth by Commissioner's Order No. 92-0573, or any superseding commissioner's orders.

As a result of comments, TDI makes nonsubstantive, clarifying changes to proposed §5.9320(c)(3)(A).

Section 5.9321. Request for Deemer Period Waiver. This section allows insurers to waive the time periods in Insurance Code §2301.006, after which a form is deemed approved if the commissioner has not disapproved it.

Section 5.9322. Insurers Providing Coverage through a Purchasing Group. This section provides that insurers that provide coverage to participants through a purchasing group must comply with the filing requirements in Division 5. As a result of comments, this section applies to policies effective on or after September 1, 2015. This section also reminds insurers writing commercial group property insurance that they must comply with Insurance Code §2171.003 and file a policy form with the commissioner before using the policy form for a group of businesses or an association in which each member of the group or association is not a large risk.

Section 5.9323. Insurers Providing Commercial Group Property Insurance Under Insurance Code §2171.002. This section reminds insurers writing commercial group property insurance that they must comply with Insurance Code §2171.003 and file a policy form with the commissioner before using the policy form for a group of businesses or an association in which each member of the group or association is not a

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large risk. Adopted §5.9323 was proposed as §5.9322(b); the adopted text is unchanged from the proposal but has been given its own section for clarity.

Section 5.9330. Purpose. Section 5.9330 sets out the purpose of Division 6, which is to specify requirements for rate filings under Insurance Code Chapters 2053, 2251, and 3502. This division governs rates and related concepts including prospective loss costs, loss cost multipliers, rating manuals, other supplementary rating information, and information concerning fees or other amounts charged or collected by an insurer in connection with a policy. Section 5.9330 contains nonsubstantive changes to conform the section to statutory recodifications.

Section 5.9331. Definitions. Section 5.9331 defines certain terms used in Division 6.

Because Insurance Code §2251.101(b)(1)(C) requires the commissioner to adopt rules on fee information included in filings, §5.9331 contains new language defining fees.

“Other amounts” in the definition of fees refers to amounts such as recoveries for assessments under Insurance Code Chapter 2007 for rural fire protection or fees for the Automobile Burglary and Theft Prevention Authority. Insurers must file these amounts or fees so that the commissioner may consider them, because they affect insurance rates and the amounts charged to policyholders.

Section 5.9331(4) defines and gives examples of a new type of rate filing called the “short track filing.” Short track filings are those for which TDI requires limited supporting information to determine compliance with Texas statutes and rules. TDI will

maintain a list of qualifying types of rate filings on its website. Section 5.9334(g) lists information required in short track filings.

Section 5.9332. Categories of Supporting Information. As Insurance Code §2251.101(b)(1)(A) requires, §5.9332 determines categories of supporting information. Some of the categories appear in the current §5.9332 and others are new. The rule does not require each category for all filings; instead, §5.9334 details when each category is required.

The categories of supporting information in both the current rule and the adopted rule are “actuarial support,” “rate change information,” “historical premium and loss information,” “historical and projected expense information,” “loss cost information for reference filings,” and “profit provision information.” These categories are in paragraphs (3), (7), (8), (9), (10), and (11) of §5.9332 of the proposed rule. Some of the categories of supporting information in the adopted rule differ substantively from the current rule. For example, new language in the “actuarial support” category describes three subcategories— rate indications, relativity analysis, and other actuarial support. The “rate change information” category now specifies a six-year rate change history. New language in the “historical and projected expense information” category addresses additional expense provisions, such as the net cost of reinsurance or an expense offset from fee income. “Loss cost information for reference filings” now includes supporting documentation for loss cost modification factors other than 1.00.

The adopted §5.9332 contains categories of supporting information that are not listed as distinct categories of supporting information in the current §5.9332, but which TDI has requested or filers have included as supporting documentation with filings under the current rule. These categories are “actuarial memorandum,” “SERFF rate data,” “policyholder impact information,” “average rate change by county,” “side-by-side comparison,” “mark up,” “sample premium impacts by selected ZIP codes,” and “other information” in paragraphs (2), (4), (5), (6), (12), (13), (14), and (16) in the adopted rule, respectively. The “SERFF rate data” category applies to all filers, whether or not they use SERFF.

The adopted §5.9332 contains two new categories of supporting information, “rate filing checklists” and “rate filing templates,” which are in paragraphs (1) and (15) of this section of the adopted rule. The checklists and the template should provide clarity to filers. Insurers must submit a rate filing checklist with each filing. Use of rate filing templates, which TDI will make available to insurers, is optional; but they are a convenient way for insurers to file certain supporting information.

TDI makes changes to the proposed text as a result of comments. These changes do not affect persons not previously on notice, nor does it raise new issues.

As a result of comments, the second sentence of adopted §5.9332 provides that not every rate filing requires every category of supporting information.

As a result of comments, adopted §5.9332(11) is changed to clarify that profit provision information must include support for the assumptions used to arrive at the profit provisions.

As a result of comments, adopted §5.9332(12) is changed to include rating rules.

Section 5.9333. Categories of Supplementary Rating Information. As Insurance Code §2251.101(b)(1)(A) requires, adopted §5.9333 determines categories of supplementary rating information. The section elaborates on the definition of supplementary rating information found in Insurance Code §2251.002(7), so as to name some of the kinds of “similar information” insurers may use to determine the applicable premium for an insured. This information includes rating algorithms and rating plans. Adopted §5.9333(5) makes clear that “classification system” refers to criteria used to place individual risks into groupings for rating purposes, regardless of whether the groupings are called tiers, categories, or some other term.

Section 5.9334. Requirements for Rate Filing Submissions. This section describes submission requirements for workers’ compensation rate filings, rate filings for insurance governed by Insurance Code Chapter 2251, and mortgage guaranty insurance rate filings.

Section 5.9334(b) specifies that for rates governed by Chapter 2251, insurers must file any new or revised rates, rating manuals, rating rules, all other supplementary rating information, fees, and all other information required under the section. This

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information may be used on and after the date of the filing. Subsection (b) has new language to conform the rule to new language in Insurance Code §2251.101(a).

Section 5.9334(e) contains a revised description of the memorandum that must accompany each filing. The filing memorandum must explain the purpose of the filing, describe each change the filing would make, and summarize any related form or endorsement filings.

Section 5.9334(f) describes which categories of supporting information, defined in §5.9332, insurers must include with which filings under Division 6. The goal of subsection (f) is to aid insurers in filing sufficient supporting information for TDI to determine whether a filing produces rates that are not excessive, inadequate, unreasonable, or unfairly discriminatory for the risks to which they apply. Section 5.9334(f)(7) requires all owner-occupied homeowner and personal automobile filings to include policyholder impact information if the filings will result in minimum and maximum policyholder impacts that differ by more than 5 percentage points. TDI does not intend to discourage any filings with this requirement; but TDI does intend to get information on how many policyholders the rate change will affect.

Insurers submitting short track filings under §5.9334(g) or who qualify for the reduced filing requirements under Division 9 will not need to file all the supporting information required under Division 6.

Section 5.9334(g) describes which categories of supporting information insurers must file with short track filings, which are defined in §5.9331(b)(4).

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Section 5.9334(h) requires that filings be legible, accurate, internally consistent, and complete. Paragraphs (1)-(5) list specific standards that, when followed, will facilitate TDI's review of the filings.

Subsection (i) addresses public information received with a filing. Filers submitting through SERFF affirmatively consent, as contemplated by Government Code §552.137, to the release of any contact information, including email addresses, disclosed in a filing. Filers submitting through SERFF also certify that each person associated with an email address contained in the filing has affirmatively consented to the release and disclosure of that email address. TDI will make filings submitted through SERFF available for public disclosure using SERFF. TDI cannot restrict contact information within SERFF from public disclosure. Filers who do not consent to the release and disclosure of contact information, or who cannot make the certification the rule requires, should not file using SERFF.

For documents filed under Insurance Code Chapter 2251, insurers must mark each page of documents they consider confidential and excepted from disclosure under Government Code Chapter 552. TDI does not consider loss cost multipliers, rates, rating factors and relativities, rating manuals, fees, and summary information about the rate filing as excepted from disclosure under Government Code Chapter 552.

Subsection (i) also lists categories of supporting information under Chapter 2251 that will not be considered excepted from disclosure under Government Code Chapter 552.

Filings under Insurance Code Chapters 2053 and 3502 will be open for public

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inspection. TDI will comply with copyright law in making documents open or available for public disclosure.

Subsection (k) directs insurers to the Filings Made Easy Guide on TDI's website for rate filing templates or exhibits they may use to display supporting information.

Subsection (l) contains new language to make the rule consistent with TDI's transition to SERFF. TDI will no longer accept filings submitted under Division 6 with form filings or any other filings submitted under subchapter M.

TDI makes changes to the proposed text as a result of comments. These changes do not affect persons not previously on notice, nor does it raise new issues.

As a result of comments, adopted §5.9334(b) references "other information required by this section," to encompass categories of supporting information the section requires for certain filings.

As a result of comments, TDI makes nonsubstantive changes to adopted §5.9334(f)(6)(C) for clarity.

Section 5.9335. Requests for Information. In compliance with Insurance Code §2251.101(b)(2), §5.9335 prescribes the process by which TDI may request additional supplementary rating information and supporting information. Section 5.9335(b) defines a fully responsive answer to a request.

Section 5.9335(c) explains that additional information may include a comprehensive set of rates, rating manuals, rating rules, fees, and all other supplementary rating information when an insurer has filed a revision to previously filed

rates, rating manuals, rating rules, fees, and all other supplementary rating information.

This will improve TDI's understanding of the revision by enabling comparison of the revision with the comprehensive set of rates.

Section 5.9335(d) limits to five the number of times TDI may request additional supplementary rating information and limits to five the number of times TDI may request additional supporting information. Follow-up requests for information necessitated by an incomplete response, requests for clarification of an unclear response, and requests for information that would have been included in a complete filing will not count against the limits. Section 5.9335(e) gives examples of requests necessary to make a filing complete.

Section 5.9336. Request for Information Limit Waiver. This section enables an insurer to waive the limits §5.9335 places on the number of times TDI may request additional supplementary rating information and supporting information.

Section 5.9337. Insurers Providing Coverage through a Purchasing Group. This section provides that insurers providing coverage to participants through a purchasing group must comply with the filing requirements in Division 6. As a result of comments, this section applies to policies effective on or after September 1, 2015.

Section 5.9340. Purpose. This section is amended to specify underwriting guideline filing requirements under Insurance Code §38.003. In addition, nonsubstantive amendments conform this section to statutory recodifications.

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Section 5.9341. Definitions. Nonsubstantive amendments conform this section to statutory recodifications.

Section 5.9342. Filing Requirements. TDI amends this section to specify underwriting guideline filing requirements under Insurance Code §38.003, which insurers must follow only if TDI requests underwriting guidelines under §38.003. Amendments to this section conform the filing requirements for underwriting guidelines for personal automobile, residential property, and workers' compensation insurance to the changes in Division 4. The filing transmittal information required in §5.9310 (relating to Property and Casualty Transmittal Information and General Filing Requirements) must accompany each underwriting guideline filing or update to underwriting guideline filings. The amended section also states that all underwriting guideline filings must relate to only one line of insurance.

Section 5.9350. Purpose. Nonsubstantive amendments conform this section to statutory recodifications.

Section 5.9351. Definitions. Nonsubstantive amendments conform this section to statutory recodifications and current agency style.

Section 5.9352. Filing Requirements. Amendments to this section conform the filing requirements for credit scoring models to the changes in Division 4. The amendments in subsection (b) impose the same requirements on insurers that file credit scoring models themselves and those that reference a credit scoring model filed by another entity on behalf of an insurer. Subsection (b)(2) adds tiering as a use for credit scoring.

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This reflects the increased use of tiering in the Texas market. Subsection (b)(3) requires the completion of a questionnaire to verify that the insurer's use of the model complies with Insurance Code Chapter 559.

Subsection (c) describes how TDI will treat information received with a filing. Insurers submitting through SERFF affirmatively consent, as contemplated by Government Code §552.137, to the release of any contact information included with a filing. The filer also certifies that each person associated with an email address contained in the filing has affirmatively consented to the release and disclosure of that email address. TDI will make filings submitted through SERFF available for public disclosure using SERFF. TDI cannot restrict contact information from public disclosure within SERFF. Filers who do not consent to the release and disclosure of contact information, or who cannot make the certification the rule requires, should not file using SERFF.

New subsections (e) and (f) state that all filings for credit scoring models must relate to only one line of insurance and that the credit scoring model must be refiled before it may be used for another line of insurance that was not identified in the original filing.

Consistent with TDI's use of SERFF, amended §5.9352 no longer addresses credit scoring model filings by insurer groups or groups of affiliated insurers.

Section 5.9355. Purpose. Nonsubstantive amendments conform this section to statutory recodifications and changes to section and division names in this title.

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Section 5.9357. Filing Requirements. Amended §5.9357 lists the filing requirements for the three classes of insurers who qualify for reduced rate filing requirements under Insurance Code Chapter 2251, subchapters E and F. The amendments conform §5.9357 to Division 6 (relating to Filings Made Easy - Requirements for Rate Filings).

Section 5.9357(a) and (c) contain nonsubstantive amendments to the provisions on county mutual insurers writing only nonstandard personal automobile insurance and insurers writing residential property insurance in underserved areas. Both must file in compliance with Division 6, but need not provide some of the supporting information required in §5.9334(f).

Amended §5.9357(d) specifies that insurers submitting a filing under Division 9 must still comply with 28 TAC §5.9941 and §5.9960 (relating to Differences in Rates Charged Due Solely to Difference in Credit Scores and Exception to Rating Territory Requirements under Insurance Code §2253.001). The amendments remove a redundant sentence but do not change this requirement. Amended §5.9357(d) also specifies that §5.9335 (relating to Requests for Information) governs additional requests for information.

Consistent with TDI's use of SERFF, the amended section no longer addresses combined filings.

Amended §5.9357(e) describes how TDI will treat information received with a filing. Insurers submitting through SERFF affirmatively consent, as contemplated by Government Code §552.137, to the release of any contact information included with a

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filing. The insurer also certifies that each person associated with an email address contained in the filing has affirmatively consented to the release and disclosure of that email address. TDI will make filings submitted through SERFF available for public disclosure using SERFF. TDI cannot restrict contact information from public disclosure within SERFF. Insurers who do not consent to the release and disclosure of contact information, or who cannot make the certification the rule requires, should not file using SERFF.

New §5.9357(f) states that insurers may obtain the certification forms in the Filings Made Easy Guide.

Section 5.9360. Purpose. Nonsubstantive amendments conform this section to statutory recodifications and changes in section names in this title.

Section 5.9361. Additional Requirements. Nonsubstantive amendments conform this section to statutory recodifications and changes in section names in this title.

The department has made other changes to text for clarity and consistency with agency style.

3. HOW THE SECTIONS WILL FUNCTION.

Section 5.9310. Property and Casualty Transmittal Information and General Filing Requirements. This section specifies the general filing requirements for property and casualty form, endorsement, rate, underwriting guideline, and credit scoring model filings and the transmittal information each filing must contain. Subsequent sections contain additional requirements depending on the filing.

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Section 5.9320. Required Information for the Preparation and Submission of Policy Form, Endorsement, and Manual Rule (Other than Rating Manual) Filings.

This section specifies the filing requirements for property and casualty policy form, endorsement, and manual rule filings submitted under Insurance Code Chapters 2052, 2251, 2301, and 3502. The section also addresses public information as it relates to these filings. The filing requirements in §5.9320 are in addition to those in §5.9310 (relating to Property and Casualty Transmittal Information and General Filing Requirements).

Section 5.9321. Request for Deemer Period Waiver. This section allows insurers to waive the time periods in Insurance Code §2301.006, after which a form is deemed approved if the commissioner has not disapproved it.

Section 5.9322. Insurers Providing Coverage Through a Purchasing Group. This section provides that, for policies effective on and after September 1, 2015, insurers that provide coverage to participants in a purchasing group must comply with the filing requirements in Division 5. This section also reminds insurers writing commercial group property insurance under Insurance Code §2171.002 that they must comply with Insurance Code §2171.003.

Section 5.9330. Purpose. Section 5.9330 sets out the purpose of Division 6, which is to specify requirements for rate filings under Insurance Code Chapters 2053, 2251, and 3502. The section also briefly sets out the types of information that may be included under the term rate filing.

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Section 5.9331. Definitions. Section 5.9331 defines certain terms used in Division 6.

Section 5.9332. Categories of Supporting Information. Section 5.9332 determines categories of supporting information. The rule does not require each category for all filings; instead, §5.9334 details when each category is required.

Section 5.9333. Categories of Supplementary Rating Information. Section 5.9333 determines categories of supplementary rating information.

Section 5.9334. Requirements for Rate Filing Submissions. Section 5.9334 describes submission requirements for workers' compensation rate filings, rate filings for insurance governed by Insurance Code Chapter 2251, and mortgage guaranty insurance rate filings. The section also addresses public information as it relates to these filings. The filing requirements in §5.9334 are in addition to those in §5.9310 (relating to Property and Casualty Transmittal Information and General Filing Requirements).

Section 5.9335. Requests for Information. Section 5.9335 prescribes the process by which TDI may request additional supplementary rating information and supporting information.

Section 5.9336. Request for Information Limit Waiver. This section enables an insurer to waive the limits §5.9335 places on the number of times TDI may request additional supplementary rating information and supporting information.

Section 5.9337. Insurers Providing Coverage through a Purchasing Group. This section provides that, for policies effective on and after September 1, 2015, insurers

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providing coverage to participants through a purchasing group must comply with the filing requirements in Division 6.

Section 5.9340. Purpose. This section sets out the purpose of Division 7: to specify underwriting guideline filing requirements under Insurance Code §38.002 and §38.003, and Chapter 2053.

Section 5.9341. Definitions. This section references Insurance Code §38.002 and §38.003 and Chapter 2053, and §5.9310 (relating to Property and Casualty Transmittal Information and General Filing Requirements), which define terms used in Division 7.

Section 5.9342. Filing Requirements. This section sets out the requirements for underwriting guideline filings submitted under Insurance Code §38.002 and §38.003, and Chapter 2053. The filing requirements in §5.9342 are in addition to those in §5.9310 (relating to Property and Casualty Transmittal Information and General Filing Requirements).

Section 5.9350. Purpose. This section sets out the purpose of Division 8: to specify filing requirements for insurers using credit scoring models.

Section 5.9351. Definitions. This section defines the term credit scoring model and references Insurance Code Chapter 559 and §5.9310 (relating to Property and Casualty Transmittal Information and General Filing Requirements), which define terms used in Division 8.

Section 5.9352. Filing Requirements. This section sets out the filing requirements for insurers using credit scoring models. The filing requirements in §5.9352 are in addition

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to those in §5.9310 (relating to Property and Casualty Transmittal Information and General Filing Requirements). The section also addresses public information as it relates to credit scoring model filings.

Section 5.9355. Purpose. This section sets out the purpose of Division 9: to specify requirements for insurers who qualify for reduced rate filing requirements under Insurance Code Chapter 2251, Subchapters E or F.

Section 5.9357. Filing Requirements. This section specifies the filing requirements for county mutual insurers writing nonstandard personal automobile insurance, insurers writing personal automobile insurance, and insurers writing residential property insurance in underserved areas who qualify for reduced rate filing requirements under Insurance Code Chapter 2251, Subchapters E or F. Insurers qualifying under §5.9357 must still comply with the requirements of §5.9310 (relating to Property and Casualty Transmittal Information and General Filing Requirements). Section 5.9357 also addresses public information as it relates to reduced filing requirements.

Section 5.9360. Purpose. This section sets out the purpose of Division 10: to specify additional filing requirements for certain county mutual insurance companies and appointed managing general agents, districts, or local chapter programs of certain county mutual insurance companies. The section also identifies the county mutual insurance companies and appointed managing general agents, districts, or local chapter programs to which Division 10 applies.

Section 5.9361. Additional Requirements. This section specifies additional filing requirements for certain county mutual insurance companies and appointed managing general agents, districts, or local chapter programs of certain county mutual insurance companies.

4. SUMMARY OF COMMENTS AND AGENCY RESPONSES.

General Comments

Comment: A commenter writes that the proposed rules do not require insurers to file rate information that is specific enough to determine whether the rates meet statutory requirements. The commenter writes that under existing rules, insurers may submit a rate filing and “implement rates without including information any reasonable actuary would believe is necessary to provide sufficient justification.”

Response: TDI appreciates the comment. The adopted rules are intended to enable TDI to gather sufficient information to enable TDI to determine whether a filing produces rates that are not excessive, inadequate, unreasonable, or unfairly discriminatory for the risks to which they apply, while not unduly burdening insurers. Under Insurance Code §2251.101, the commissioner must by rule determine the categories of supporting information and supplementary rating information required in rate filings. The adopted rules contain some new categories of supporting information and expand on or more clearly define existing categories. The adopted rules also separately define some categories of supporting information that previously were not listed as distinct

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categories. At the same time, however, not every rate filing requires every category of supporting information and supplementary rating information.

The adopted rules explicitly require that each rate filing be legible and that insurers must respond to requests for information in sufficient detail to allow a qualified actuary to understand the response. Section 5.9334(a)-(g) details requirements for different rate filings. All rate filings require the rate filing checklist defined in §5.9332(1), which is intended to assist insurers in attaching all the information a particular filing requires.

Comment: A commenter expresses concern that there is a disincentive for insurers to comply with filing rules because money collected on a rate in effect while TDI is evaluating that rate is not subject to refund if the rate is eventually found to be excessive or discriminatory. The commenter states this makes it important for rules to clearly establish what information insurers must include in a filing.

Response: The calculation of refunds is determined by statute and is outside the scope of these rules. The adopted rules are designed to enable TDI to gather sufficient information to determine whether rates are excessive, inadequate, unreasonable, or unfairly discriminatory for the risks to which they apply, while doing so in a targeted way that does not unduly burden insurers.

Comments by Section

Comment on §5.9310(b): A commenter writes that the definition of “line of insurance” should not be removed from the rules because while companies filing through SERFF

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use the NAIC Uniform Property and Casualty Product Coding Matrix, not all companies use SERFF. The lines of insurance listed in the definition which TDI proposes removing are useful to companies that do not file with SERFF.

Response: TDI agrees that insurers that do not file through SERFF should be able to specify the line of insurance without using the NAIC Uniform Property and Casualty Product Coding Matrix, which SERFF requires. As a result of this comment, adopted §5.9310(c)(6) states that insurers filing through SERFF must use the appropriate type of insurance and sub-type of insurance listed in the NAIC Uniform Property and Casualty Product Coding Matrix. Insurers not filing through SERFF must use the appropriate line of insurance listed in the Filings Made Easy Guide.

Comment on §5.9310(e): A commenter suggests adding to this new subsection on copyright language stating that TDI will continue to comply with applicable copyright law before making documents open or available for public disclosure.

Response: TDI declines to make the suggested change. As stated in the introduction of this adoption order, TDI will comply with applicable copyright law. It is not practical for an agency's rules to list all of the laws with which the agency complies.

Comment on §5.9320(c)(2): A commenter writes that proposed §5.9320(c)(2), regarding filing requirements specific to new policy forms or endorsements for use with new products, should be changed to require insurers to submit either a summary of all

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policy provisions or a coverage comparison with a similar, previously approved policy form or endorsement. The commenter writes that requiring either the summary or comparison up front, instead of having TDI request them, will prevent the introduction of forms or endorsements with unacceptable provisions and delays in the approval process.

Response: While TDI appreciates the concerns expressed in the comment, TDI declines to make the suggested changes. Some new policy forms and endorsements for use with new products do not require the summary of all policy provisions or the coverage comparison described in §5.9320(c)(2)(A)(i) and (ii), but can be fully explained in the memorandum required under §5.9320(c)(1)(B)(iii). Retaining the existing language will allow staff to require a comparative evaluation when necessary, while not requiring insurers to provide information that staff may not need to complete the review.

Comment on §5.9320(c)(3): A commenter writes that §5.9320(c)(3) should not allow insurers to indefinitely add the required statutory or regulatory provisions to their policy forms by attaching amendatory endorsements. The commenter writes that amendatory endorsements make policies confusing for consumers. The commenter gives examples of amendatory endorsements that add to policies provisions that have been in effect for over 10 years. The commenter suggests revising §5.9320(c)(3) to require the incorporation of “the statutory and regulatory provisions contained in a Texas amendatory endorsement into the policy every three calendar years.”

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Response: TDI appreciates the suggestion, and will consider addressing it in a separate rulemaking.

Comment on §5.9320(c)(3)(A): A commenter writes that the first sentence in §5.9320(c)(3)(A) should have the words “if any” added to it, so that it would read: “Filings for new and amended policy forms or endorsements must include all provisions, if any, required by statute, administrative rule, or commissioner’s order.” The commenter also writes that the second sentence in §5.9320(c)(3)(A) should have the word “order” added to it, so that it would read: “Filers may add the required statutory, order, or administrative rule provisions to a policy form by a Texas amendatory endorsement.” The commenter writes that this change would make the second sentence consistent with the first sentence, which requires filings for new and amended policy forms and endorsements to include all provisions required by “statute, administrative rule, or commissioner’s order.”

Response: TDI declines to accept the first suggestion in the comment. The addition of “if any” to the first sentence in §5.9320(c)(3)(A) is unnecessary as it would not change the meaning of the sentence.

As a result of the second suggestion in the comment, TDI changes the second sentence in §5.9320(c)(3)(A) to read: “Filers may add the required provisions to a policy form by a Texas amendatory endorsement.”

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Comment on §5.9320(c)(3)(B): A commenter writes that the rules should require that policy forms be in plain language and not reference an order from 1992. The commenter states that, “There have been a number of law changes since the commissioner’s order.”

Response: The chapters referenced in Commissioner’s Order No. 92-0573 have been recodified, but not substantively changed since the order was issued. The order is still accurate and appears on TDI’s website. Insurance Code §2301.053 requires policy forms to be in plain language, with plain language defined as achieving a score set by the commissioner on a reading ease test the commissioner has selected, or conforming to the language requirements in a NAIC model act, if that is the criterion the commissioner has selected. Commissioner’s Order No. 92-0573 contains the commissioner’s selections required by Insurance Code §2301.053.

As a result of the comment, however, §5.9320(c)(3)(B) has been changed to read: “All policy forms and endorsements contained in personal automobile and residential property insurance filings must meet the statutory requirements for plain language in policies as set forth by Commissioner’s Order No. 92-0573, or any superseding order.”

Comment on §5.9320(g)(1): A commenter writes that instead of considering a filing incomplete if it “does not comply with the filing requirements” in §5.9320(c), (d), and (e), TDI should consider a filing incomplete if it does not “include all information required to

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be filed.” The commenter states that TDI reviewers have used the phrase “does not comply” subjectively, when all information required has in fact been filed. The commenter states that subjective criteria should not be used to determine whether a filing is complete.

Response: TDI declines to accept the suggestion. The phrase the commenter requests, “include all information required to be filed,” does not differ from the phrase, “does not comply with the filing requirements.” TDI staff’s determination that a filing is incomplete is objective and based on the statutory and regulatory requirements set out in the applicable statutes and these rules.

Comment on §5.9322: A commenter writes that requiring insurers that provide coverage to participants in a risk purchasing group to comply with Division 5 requirements is a major position change for TDI and that the 1981 and 1986 federal statutes on risk purchasing groups did not contemplate the requirement. In 1987, State Board of Insurance member David Thornberry testified on the bill that would be codified as Article 21.54, now Chapter 2201, that if the bill were passed, business written through RPGs “would not be written on regulated forms and rates.”

The commenter writes that in 2004 TDI determined it could regulate rates by making periodic requests under §38.001.

The commenter asks how the rule would be applied to out of state purchasing groups operating in Texas, which may issue policy forms outside of Texas. The group

may receive a policy and the members may receive certificates of insurance. The commenter asks whether both the master group policy and certificates need to be filed for approval in Texas.

Response: TDI declines to remove the requirement, but the adopted rule applies it to policies effective on and after September 1, 2015.

Federal courts have found that the 1981 and 1986 federal statutes on risk purchasing groups did not exempt insurers providing coverage to members of risk purchasing groups from all state policy form and rate regulation. The Second Circuit found that “both the language and the legislative history of the [Risk Retention Act] indicate that Congress did not intend to preempt all such regulation.” ***Insurance Co. of Pennsylvania v. Corcoran***, 850 F. 2d 88, 89 (2d Cir. N.Y. 1988).

Texas law does not exempt insurers providing coverage to members of risk purchasing groups from all rate and form filing requirements; the only exemption with respect to rate and form filing requirements appears in Insurance Code §2201.254. Insurance Code §2201.254(b) exempts insurers from any Texas law that prohibits providing certain advantages to purchasing groups or their members with respect to rates and forms; it does not exempt the insurers from rate and form regulation altogether. While the commenter correctly cites the legislative testimony of State Board of Insurance member David Thornberry, the testimony is not determinative because the statute is not ambiguous. When the text of a statute is clear, courts use the language in

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the statute to determine the legislature's intent. *LTTS Charter School, Inc. v. C2 Constr., Inc.*, 54 Tex. Sup. Ct. J. 1176, (Tex. 2011).

As with other authorized group property and casualty products, the adopted rules apply to those policies covering risks in Texas.

Most states require insurers providing coverage to participants in a risk purchasing group to comply with certain rate and form filing requirements. Requiring insurers to comply with the filing requirements of Division 5 enables TDI to monitor whether the insurers are complying with statutory requirements for cancellation and nonrenewal.

Comment on §5.9322: A commenter writes that requiring insurers that provide coverage to participants in a risk purchasing group to comply with Division 5 and 6 requirements would create a burden on risk purchasing groups and insurers providing coverage to participants in risk purchasing groups. Policyholders would ultimately bear this burden in the form of higher rates. The proposed requirements may lead to the elimination of some risk purchasing groups. The commenter also writes that the proposed requirements are unnecessary because TDI can request rate information from insurers providing coverage to participants in risk purchasing groups and can regulate the rates if TDI shows the market is not competitive. The commenter writes that the market for insurers writing coverage for participants in risk purchasing groups is competitive.

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Response: Most states require insurers providing coverage to participants in a risk purchasing group to comply with certain rate and form filing requirements. Requiring insurers to comply with the filing requirements of Division 5 enables TDI to monitor whether the insurers are complying with statutory requirements for cancellation and nonrenewal. Requiring insurers to comply with the filing requirements of Division 6 enables TDI to monitor rates. Although this requirement should not be an undue burden on insurers, TDI has changed the adopted rule so that it applies to policies effective on and after September 1, 2015.

Comment on §5.9330: A commenter writes that although the proposed rule says rate filings may include information on fees collected under Insurance Code §550.001 and §4005.003, fees collected under §4005.003 would not be collected by an insurer. The commenter states that any fees collected under §4005.003 would be collected by an agent and the insurer may not have information about them.

Response: Insurance Code §2251.101(b)(1)(C) states that the commissioner shall determine by rule the information to be included in a rate filing, including fees “that are charged or collected by the insurer under [Insurance Code] Section 550.001 or 4005.003.” If an insurer does not charge or collect fees under Insurance Code §4005.003, then they will not be part of the insurer’s rate filing information.

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Comment on §5.9330: A commenter writes that §5.9330 is unclear and provides an incomplete explanation of a rate filing. The commenter suggests either removing from the section the lists of information that rate filings may include or adding language stating that rate filings are not limited to the categories of information included in those lists.

Response: TDI declines to accept the suggestion. The last two sentences in adopted §5.9330 begin with “Rate filings may include” and “Rate filings may also include ” Under Government Code §311.005(13), the terms “include” and “including” do not “create a presumption that components not expressed are excluded.” In addition, it should be clear that rate filings may include information other than the kinds listed because §5.9330 states that rate filings may include “other supplementary rating information” and “other amounts collected by the insurer in connection with a policy.” Changing the sentences to “Rate filings may include but are not limited to” would not change the meaning of §5.9330.

Comment on §5.9332: A commenter states that the rules are not clear as to whether all the categories of supporting information are required in all filings. The commenter states that requiring an actuarial memorandum and actuarial support for each filing creates additional expense.

Response: Section 5.9332 lists and defines the categories of supporting information that TDI may use to verify compliance with Texas statutes and rules. Not every

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category of supporting information is required for every rate filing. To make this clear, TDI has added the preceding sentence to the adopted rule.

Comment on §5.9332(5): A commenter states that this paragraph would require policyholder impact information for “every homeowners and personal automobile rate filing.” The commenter expresses concern that this will create additional expense for insurers without in-house actuarial services and that “further definitions may be needed because of the vast differences in classification systems that may be used by some insurers.” The commenter states that it is not clear why this information is needed to evaluate each rate filing. The commenter states that while TDI routinely requests policyholder impact information of some insurers, it should not require it for all filings.

Response: The adopted rules do not require policyholder impact information for “every homeowners and personal automobile rate filing.” Section 5.9334(f)(7) requires this information as part of the filing only for certain filings, namely “owner-occupied homeowner and personal automobile filings that include changes that will result in a difference between the minimum and maximum policyholder impact that is greater than 5 percent.” TDI staff may ask for policyholder impact information for other filings as part of a request for additional information. Policyholder impact information is useful because it enables TDI staff to see the distribution of the rate changes that a filing will create over the insurer’s book of business. This can help TDI prepare for future

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policyholder complaints or legislative requests for information. Other states also require policyholder impact information.

While Insurance Code Chapter 2251 does not explicitly require that policyholder impact information be included in certain rate filings, the chapter requires the commissioner to determine information to be included in rate filings, including categories of supporting information and supplementary rating information. Policyholder impact information is one of the categories of supporting information that the commissioner has identified as necessary to better understand certain owner-occupied homeowners and personal automobile rate filings.

It is not clear to TDI how differences in insurers' classification systems affect the cost of complying with this requirement.

Comment on §5.9332(6): A commenter writes that this subsection would require the average rate change by county in every rate filing and that the necessity of this is unclear. The commenter states that Insurance Code Chapter 2251 does not require the average rate change by county. The commenter states that requiring the average rate change by county would cause insurers to duplicate calculations they have already made for filings under Chapter 2253.

In addition, the commenter states that this requirement raises confidentiality concerns, especially where a large number of insurers seek rate information by ZIP code within a county.

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Response: The adopted rules do not require that every rate filing include the average rate change by county. Section 5.9334(f)(8) requires the “average rate change by county for owner-occupied homeowners rate filings.” Information on average rate change by county is not required of insurers making short track filings under §5.9334(g). It is unclear how the requirement for information on the average rate change by county would duplicate information insurers would provide on rating territories for subdivided counties under Insurance Code Chapter 2253. In contrast with Insurance Code Chapter 2253, this requirement calls for the average rate change at the county level.

While Insurance Code Chapter 2251 does not explicitly require that average rate change by county be included in certain rate filings, the chapter requires the commissioner to determine information to be included in rate filings, including categories of supporting information and supplementary rating information. Average rate change by county is one of the categories of supporting information that the commissioner has identified as necessary to better understand owner-occupied homeowners rate filings; therefore, this rule requires it.

If an insurer believes that information filed under §5.9332(6) is confidential, the insurer may mark it confidential as described in §5.9334(i).

Comment on §5.9332(9)(E): A commenter writes that §5.9332(9)(E) does not require sufficient information to evaluate the net cost of reinsurance. The commenter suggests requiring gross reinsurance premiums, expected recoverables, a description of the

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layers of reinsurance in force and related attachment points, allocation of reinsurance costs by line and state, a financial or solvency-based justification for the level of reinsurance coverage, a description of changes in reinsurance coverage since the last filing, and the disclosure of all reinsurance purchased from any affiliate of the insurer or the insurer's holding company.

Response: TDI declines to accept the suggestion. Adopted §5.9332(9)(E) states that support for provisions for the net cost of reinsurance may include reinsurance premiums, expected reinsurance recoverables, and a description of reinsurance coverage including attachment points and limits. TDI may obtain the information on reinsurance that the commenter suggests adding to the rule, and other information, if necessary, through a request for additional information. The list of support for provisions for the net cost of reinsurance in §5.9332(9)(E) is nonexclusive. The information the commenter lists is not necessary for every filing.

Comment on §5.9332(11): A commenter writes that §5.9332(11) should be more specific in its description of profit provision information and should include support for the assumptions used to arrive at the profit provisions underlying the proposed rates.

Response: TDI agrees with the suggestion. Adopted §5.9332(11) is changed so that the description of profit provision information reads: "This information consists of a description of the methodology, assumptions, and support for the assumptions used to arrive at the profit provisions underlying the proposed rates." This change makes

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§5.9332(11) consistent with §5.9332(3), which describes actuarial support and requires sufficient information to allow a qualified actuary to understand the appropriateness of each material assumption used in developing the rates. Profit provisions are required under §5.9332(3)(A)(x) and (xi).

Comment on §5.9332(12) and (13): A commenter writes that §5.9332(12), describing a side-by-side comparison of the new filing with a previous filing, duplicates §5.9332(13), describing a mark up of the previous filing.

Response: Both the side-by-side comparison and the mark up are categories of supporting information, neither of which is required under any filing but which staff may request under §5.9335. The two categories are similar, but provide a different way of looking at the proposed changes to a previous filing. It is at the discretion of TDI staff to decide whether to request neither, both, or one of the two categories, based on the best manner to review a particular file. For example, a mark up would likely not be useful in reviewing a rate table, but would be useful in reviewing a rating rule.

Comment on §5.9332(14): A commenter writes that this paragraph requires sample premiums and premium changes “for certain specified policy types and ZIP codes,” but does not actually specify the policy types or ZIP codes. This requirement would apply to all rate filings and is unnecessary. Most insurers would consider ZIP code-specific premium information confidential.

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Response: Section 5.9332(14) does not require sample premiums and premium changes for any filing; the information is one of the categories of supporting information listed under §5.9332. TDI staff may request the information under §5.9335 and would specify the policy types and ZIP codes in the request. The premiums and premium changes that would result for specified ZIP codes and policy types if a particular rate filing were put into effect are basic pieces of information that help TDI reviewers understand the filing. This information is much the same as what insurers provide for sample rates under Insurance Code §32.102 for posting on HelpInsure.com, a service through which TDI and the Office of Public Insurance Counsel provide information that helps the public compare sample rates and policy provisions.

If an insurer believes that information filed under §5.9332(14) is confidential, the insurer may mark it confidential as described in §5.9334(i).

Comment on §5.9333: A commenter writes that insurers may consider several of the categories of supplementary rating information defined in the proposed rule to be confidential and suggests the rule alert insurers of this.

Response: It is not practical for a TDI rule to make assumptions as to what information insurers may consider confidential. Section 5.9334(i) of the adopted rule alerts insurers of the relevant Insurance Code statutes that govern the extent to which rate-filing information and supporting documents are subject to public inspection and informs insurers how TDI will treat filings submitted under different chapters with regard to

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public inspection. Filings submitted under Chapter 2053 and 3502, and any supporting information filed, will be open for public inspection as of the date of the filing. Because filings submitted under Chapter 2251 are subject to Government Code Chapter 552, §5.9334(i) alerts insurers how they must mark information filed under Chapter 2251 that they consider confidential under the Government Code and states that TDI will request an attorney general decision before making filings under Insurance Code Chapter 2251 open for public inspection. Adopted §5.9334(i)(3) alerts insurers as to what information TDI does not consider excepted from disclosure under Government Code Chapter 552, while making clear that TDI will request an attorney general decision. Insurers are in the best position to make their own decisions as to what information to mark confidential based on the statutes and adopted rules.

Comment on §5.9334(b): A commenter writes that §5.9334(b) should be modified to be more consistent with Insurance Code §2251.101(a) by adding a phrase referencing other required information to the list of information that must be filed. Insurance Code §2251.101(a) requires the filing of “all rates, applicable rating materials, supplementary rating information, and additional information as required by the commissioner.” The commenter suggests that the first sentence of §5.9334(b) should read: “For rates governed by Insurance Code Chapter 2251, insurers must file any new rates, rating manuals, rating rules, all other supplementary rating information, and fees, or revisions to these items as well as all other information required by this section.”

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Response: TDI agrees with the suggestion. As proposed, the first sentence of §5.9334(b) did not reference all the categories of supporting information that §5.9334 may require for insurers filing rates governed by Insurance Code Chapter 2251. The first sentence of adopted §5.9334(b) reads: “For rates governed by Insurance Code Chapter 2251, insurers must file any new rates, rating manuals, rating rules, all other supplementary rating information, and fees, or revisions to these items as well as all other information as required by this section.” This change does not add any requirement that was not in the rule proposal. Insurers should read all of §5.9334 to be sure which filing requirements in the section apply to their filing.

Comment on §5.9334(f)(6)(C): A commenter writes that §5.9334(f)(6)(C) should state: “Filings must include other actuarial support when neither relativity analyses nor rate indications are required.” As proposed, subparagraph (C) referenced subparagraphs (A) and (B), which require relativity analyses and rate indications, respectively, for specified filings.

Response: As a result of the comment, adopted §5.9334(f)(6)(C) is changed to read: “Filings must include other actuarial support when neither the relativity analysis in subparagraph (A) nor the rate indications in subparagraph (B) of §5.9334(f)(6) apply.”

Comment on §5.9334(f)(5) and (6): A commenter writes that §5.9334(f)(5) and (6) should not require all filings to contain an actuarial memorandum and actuarial support.

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The commenter writes that Chapter 2251 does not require this and that this information “does not go directly to the rating standards.”

Response: The proposed and adopted rules do not require all filings to contain an actuarial memorandum and actuarial support. Short track filings under §5.9334(g) do not require an actuarial memorandum and actuarial support. Insurers who qualify for the reduced rate filing requirements under Insurance Code Chapter 2251, Subchapters E or F and who file under §5.9357 do not have to provide an actuarial memorandum and actuarial support. Insurers who must submit an actuarial memorandum and actuarial support, but for whom §5.9334(f)(6)(A) or (B) do not apply, must submit other actuarial support, defined in §5.9332.

TDI requires some form of support for a rate change to evaluate it. While Insurance Code Chapter 2251 does not explicitly require that certain rate filings include an actuarial memorandum and actuarial support, the chapter does require the commissioner to determine the information to be included in rate filings, including categories of supporting information and supplementary rating information. The actuarial memorandum and actuarial support are two of the categories of supporting information that the commissioner has identified as necessary to better understand certain rate filings; therefore, this rule requires it.

Comment on §5.9334(f)(7): A commenter writes that the requirement for policyholder impact information for owner-occupied homeowner and personal automobile filings that

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will result in a difference between the minimum and maximum policyholder impact that is greater than 5 percent is not required by statute and “does not go directly to the rating standards.”

Response: Policyholder impact information is useful because it enables TDI staff to see the distribution of the rate changes a filing will create over the insurer’s book of business. This can help TDI prepare for future policyholder complaints or legislative requests for information. Other states also require policyholder impact information.

While Insurance Code Chapter 2251 does not explicitly require that policyholder impact information be included in certain rate filings, the chapter requires the commissioner to determine information to be included in rate filings, including categories of supporting information and supplementary rating information. Policyholder impact information is one of the categories of supporting information that the commissioner has identified as necessary to better understand certain owner-occupied homeowners and personal automobile rate filings.

Insurers making short track filings under §5.9334(g) do not need to provide policyholder impact information. Insurers submitting owner-occupied homeowner and personal automobile filings that will result in a difference between the minimum and maximum policyholder impact that *is not* greater than 5 percent do not need to provide policyholder impact information.

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Comment on §5.9334(j): A commenter requests that §5.9334(i) permit insurers filing information they have marked confidential to file additional documentation. The commenter suggests §5.9334(i) permit insurers to file statements stating the provisions of Government Code Chapter 552 under which they consider the information excepted from disclosure, and, if applicable, an affidavit establishing the elements of trade secrets. The commenter states that permitting insurers to file such an affidavit with the filing will save insurers from the consequences of not filing the affidavit later when TDI requests a decision on Government Code Chapter 552 from the attorney general.

Response: TDI appreciates the practicality of this request and in principle has no objection to insurers filing statements of Government Code Chapter 552 provisions or trade secret affidavits. However, the affidavit the commenter suggests is not rate information. More importantly, in the event of a request for an attorney general decision on whether rate filing information is excepted from disclosure under Government Code Chapter 552, insurers are in the best position to ensure that their communications reach the attorney general. Filing statements on Government Code provisions or trade secret affidavits with TDI along with rate filings would not necessarily protect insurers from the consequences of not filing the appropriate documentation with the attorney general. TDI would still have to comply with Government Code §552.305 in requesting an attorney general decision and so would still have to provide notice to the insurer of the request for the decision. The form the attorney general prescribes for communicating

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reasons to support withholding information could change between the time an insurer submits a filing to TDI and the time TDI requests an attorney general decision.

Comment on §5.9334(i)(5): A commenter writes that the rule should not state that TDI does not consider sample premium impacts by selected ZIP codes excepted from disclosure under Government Code Chapter 552. The commenter states that this information could be confidential and a trade secret.

Response: The adopted rule states TDI's position for purposes of clarity and transparency. The premiums and premium changes that would result for specified ZIP codes and policy types if a particular rate filing were put into effect are basic pieces of information that help TDI reviewers and members of the public understand the filing. This information is much the same as what insurers provide for approved rates under Insurance Code §32.102 for posting on HelpInsure.com, a service through which TDI and the Office of Public Insurance Counsel provide information that helps the public compare sample rates and policy provisions.

If an insurer believes that information filed under §5.9332(14) is confidential, the insurer may mark it confidential as described in §5.9334(i). For filings submitted under Insurance Code Chapter 2251 and that are marked confidential, TDI will request an attorney general decision under Government Code Chapter 552 before making the filings open to public inspection.

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Comment on §5.9334(l): A commenter writes that §5.9334(l) should not prohibit filings under Division 6 from being combined with any other filings submitted under Subchapter M. The commenter writes that manual rules and rating rules are traditionally intermingled in the same document and submitted as one filing. The commenter expresses concern that prohibiting the combination of rating rules and manual rules in a single filing will either require the creation of a Texas-specific manual separating the two groups of rules, or require the submission of an identical filing more than once. The commenter states that it would be inefficient for TDI and filers to track and reference the same filing under different TDI reference numbers.

Response: TDI is sympathetic to the commenter's concerns, but anticipates that the transition to SERFF will improve overall efficiency. Requiring separate filings is not a new policy. Historically, TDI has not accepted filings submitted under Divisions 5 and 6 with filings submitted under Divisions 7 or 8. TDI has allowed combined filings under Divisions 5 and 6. SERFF is now TDI's system of record. Separate filings will enable TDI to track filings and the timeliness of reviews in SERFF, as it is currently structured. If SERFF were changed to allow two parts of a combined filing to be tracked separately, with separate stages and dispositions, TDI would consider allowing combined filings again. At present, filers have the option of either submitting separate filings or two identical filings.

A second major advantage to separate filings is that finding information in SERFF is easier with separate filings. As SERFF is currently structured, it is not

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possible to give filings more than one designation. This makes locating a rate filing that is combined with a form filing challenging if the combined filing has been designated a form filing, and vice versa. With a combined filing it is more difficult to find information specific to rates, forms, or manual rules, depending on how the combined filing is designated.

Comment on §5.9335(e): A commenter writes that §5.9335(e), which concerns requests for information that TDI must make to complete a filing, should include a statement that TDI will provide notice to an insurer when TDI is requesting information that the rules required in the original filing. The commenter writes that the statement in the rule should say that the notice will specify the missing information. The commenter states that this will help TDI to document the requests it makes.

Response: TDI declines to accept the suggestion because the proposed additional language is unnecessary. The information requested in the proposed language should be apparent in a request for information necessary to make a filing complete. TDI's written request for information that should have been included in the filing constitutes TDI's documentation of the information that was missing from the filing.

Comment on §5.9335(b): A commenter writes that §5.9335(b) should not require that an insurer's responses be of sufficient detail to allow a qualified actuary to understand

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them for the responses to be considered fully responsive. The commenter writes that certain requests for information may not require this level of detail.

Response: The question of whether a filing produces rates that are not excessive, inadequate, unreasonable, or unfairly discriminatory for the risks to which they apply is an actuarial one and responses to requests for information require the level of detail a qualified actuary can understand and evaluate. The actuaries at TDI who review the filing need to understand the filing and responses to requests for information on the filing. The rule does not require a qualified actuary to provide the response.

Comment on §5.9335(d): A commenter writes that the rules should limit the time period during which TDI may request additional supplementary rating information and additional supporting information. The commenter also asks why it is necessary for TDI to have the opportunity to make additional requests for supplementary rating information and supporting information five times each. The commenter suggests limiting the number to one or two times each.

Response: Insurance Code §2251.101 requires the commissioner to adopt rules on the number of times TDI may request supplementary rating information and supporting information on a rate filing. TDI does not expect to make five requests for additional supplementary rating information and five requests for additional supporting information for every filing. The number is an upper bound of what TDI has found necessary to evaluate previous filings. The number of requests necessary is contingent on filers

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providing the required information with the initial filing or providing a fully responsive response to a request for information.

The Insurance Code does not limit the time during which TDI may request the information. The Insurance Code does limit the time the commissioner has to disapprove a rate before it goes into effect. After a rate has gone into effect, the commissioner may still disapprove a rate after notice and hearing.

Comment on §5.9336: A commenter states that the rule should not contain a provision allowing an insurer to waive the number of times TDI may request additional supplementary rating information and supporting information. The commenter expresses concern that an insurer that does not waive this number may be perceived as not cooperating with TDI.

Response: TDI declines to accept the suggestion. Insurers that do not waive the number of times that TDI may request additional supplementary rating information and supporting information will not be perceived as uncooperative. The rule provides for the waiver as an option for insurers. This option gives insurers a means of avoiding having a filing disapproved if the filing does not contain all the required information. This option would allow TDI to continue working with a company to resolve any issues.

An insurer must send written notice to make use of this option.

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Comment on §5.9337: A commenter re-urges comments made on the requirement that insurers providing coverage through a purchasing group comply with the filing requirements of Division 5.

Response: For the reasons discussed in TDI's responses to comments on §5.9322, TDI declines to remove the requirement, but the adopted rule applies it to policies effective on and after September 1, 2015.

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

For with changes: Office of Public Insurance Counsel, Texas Medical Liability Trust, and Insurance Services Office, Inc.

Against: Insurance Council of Texas

6. STATUTORY AUTHORITY. The amendments and new sections are adopted under Insurance Code §§38.002, 38.003, 559.004, 912.056, 2052.002, 2053.003, 2053.034, 2251.101, 2251.201, 2251.204, 2251.252, 2301.006, 2301.055, 3502.108, and 36.001. Section 38.002 provides that each insurer writing personal automobile insurance or residential property insurance must file its underwriting guidelines with TDI. Section 38.003 provides that TDI may obtain a copy of the underwriting guidelines of an insurer for lines other than personal automobile insurance or residential property insurance. Section 559.004 provides that the commissioner may adopt rules implementing Chapter 559 (relating to Credit Scoring and Credit Information). Section 912.056 provides that

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certain county mutual insurance companies that have appointed managing general agents, created districts, or organized local chapters to manage a portion of their business must, for each managing general agent, district, or local chapter program, file the rating information that the commissioner by rule requires. Section 2052.002 provides that before an insurance company may use a workers' compensation form that the commissioner has not prescribed, the insurance company must submit it to and receive approval from TDI. Section 2053.003 provides that each insurance company writing workers' compensation insurance must file with TDI all rates, supplementary rating information, and reasonable and pertinent supporting information for risks written in Texas. Section 2053.034 provides that each insurer writing workers' compensation insurance must file with TDI a copy of its underwriting guidelines. Section 2251.101 provides that the commissioner must adopt rules on the information to be included in rate filings and prescribe the process by which TDI may request supplementary rating information and supporting information. Section 2251.201 provides that the commissioner may by rule designate types of insurers, in addition to county mutual insurance companies, that will be subject to Chapter 2251, subchapter E (relating to Standard Rate Index for Personal Automobile Insurance). Section 2251.204 provides that the commissioner by rule must determine filing requirements for certain county mutual insurance companies subject to Chapter 2251, subchapter E. Section 2251.252 provides that an insurer is exempt from the filing requirements of Chapter 2251 if it or the rate it is filing meets certain criteria. Section 2301.006 provides that an insurer may

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not use policy forms, other than the standard forms adopted by the commissioner, until the insurer files the forms with and receives approval by the commissioner. Section 2301.055 provides that the commissioner may adopt reasonable and necessary rules to implement Chapter 2301, subchapter B (relating to Policy Forms for Personal Automobile Insurance Coverage and Residential Property Insurance Coverage). Section 3502.108 provides that the commissioner may adopt rules establishing guidelines by which the forms and documents submitted to TDI under Chapter 3502 are to be reviewed and acted on by TDI. Section 3502.108 also provides that TDI may establish requirements for data and information filed under Chapter 3502. Section 36.001 provides that the commissioner 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.

7. TEXT.

DIVISION 4. FILINGS MADE EASY - TRANSMITTAL INFORMATION AND GENERAL FILING REQUIREMENTS FOR PROPERTY AND CASUALTY FORM, RATE, UNDERWRITING GUIDELINE, AND CREDIT SCORING MODEL FILINGS

§5.9310. Property and Casualty Transmittal Information and General Filing Requirements.

(a) Purpose. The purpose of this division is to specify the transmittal information and general filing requirements for property and casualty form, endorsement, rate, underwriting guideline, and credit scoring model filings.

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(b) Definitions. Terms not defined in this division may be defined in Insurance Code Chapters 2053, 2251, and 2301, and have the same meaning when used in this division. The following terms when used in this division have the following meanings unless the context indicates otherwise:

(1) TDI--Texas Department of Insurance.

(2) TDI file number--The number TDI assigns to a filing.

(3) Interline filing--A filing that may be used for more than one line of insurance submitted for:

(A) an endorsement, provided the endorsement does not have an impact on rates; or

(B) policy fees, service fees, and other fees that are charged or collected by the insurer under Insurance Code §550.001 or §4005.003.

(4) Reference filing--A filing that references the use of policy forms, endorsements, manual rules, loss costs, rating manuals, other supplementary rating information, or credit scoring models that TDI has adopted, approved, or accepted.

(5) Dual filing--A filing submitted for one line of insurance that may also be used in multi-peril insurance.

(6) Multi-peril insurance--Policies and rates for two or more lines of insurance that are subject to regulation under Insurance Code Chapters 2251 and 2301.

(c) Transmittal information. Each filing must contain the following transmittal information:

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- (1) company name and company number assigned by the National Association of Insurance Commissioners (NAIC);
- (2) company group name and group NAIC number;
- (3) whether the filing is new, or revises or replaces an existing filing;
- (4) TDI file number of the revised or replaced filing;
- (5) TDI file number of associated or companion filings of other filing types;
- (6) line of insurance:
 - (A) all filings must specify the line of insurance to which the filing applies using either the appropriate type of insurance and subtype of insurance listed in the NAIC Uniform Property and Casualty Product Coding Matrix, or, in the case of filings not submitted through SERFF, the appropriate line of insurance listed in the Filings Made Easy Guide;
 - (B) interline filings must specify all lines of insurance to which the filing applies;
 - (C) dual filings must indicate multi-peril insurance and the line of insurance to which the filing applies;
- (7) type of filing;
- (8) proposed effective date; and
- (9) contact person, including name, telephone number, mailing address, and fax number.

(d) Filings Made Easy Guide. TDI maintains the Filings Made Easy Guide to assist insurers in submitting filings and complying with statutory requirements. Insurers may obtain this guide from TDI's website at www.tdi.texas.gov.

(e) Copyright. Information included in rate filings under Insurance Code Chapter 2251 that is marked "copyright" may be made available for public disclosure in the same manner as information filed under Chapter 2251 that is not marked "copyright."

Information that is marked "copyright" and that is included in rate filings under Insurance Code Chapter 2053 and Chapter 3502 and in form filings is not confidential and will be open for public inspection in the same manner as information not marked "copyright."

Public disclosure methods may include posting filings on TDI's website.

(f) Submission of Filing. Filings under Divisions 5, 6, 7, 8, and 9 of this subchapter (relating to Filings Made Easy - Requirements for Property and Casualty Policy Form, Endorsement, and Manual Rule Filings; Filings Made Easy - Requirements for Rate Filings; Filings Made Easy - Requirements for Underwriting Guideline Filings; Filings Made Easy - Requirements for Credit Scoring Model Filings for Personal Insurance; and Filings Made Easy - Reduced Filing Requirements for Certain Insurers, respectively) must be submitted either through the System for Electronic Rate and Form Filing (SERFF); delivered to the Texas Department of Insurance, Property and Casualty Intake Unit, William P. Hobby Jr. State Office Building, 333 Guadalupe St., Austin, Texas 78701, Mail Code 104-3B; or mailed to the Texas Department of Insurance,

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Property and Casualty Intake Unit, Mail Code 104-3B, P.O. Box 149104, Austin, Texas
78714-9104.

DIVISION 5. FILINGS MADE EASY - REQUIREMENTS FOR PROPERTY AND CASUALTY POLICY FORM, ENDORSEMENT, AND MANUAL RULE FILINGS

§5.9320. Required Information for the Preparation and Submission of Policy Form, Endorsement, and Manual Rule (Other than Rating Manual) Filings.

(a) Purpose. The purpose of this section is to specify the filing requirements for property and casualty policy form, endorsement, and manual rule filings that are submitted under Insurance Code Chapter 2052, 2251, 2301, or 3502.

(b) Definitions. The definitions set forth in §5.9310 of this title (relating to Property and Casualty Transmittal Information and General Filing Requirements) apply to this division.

(c) Filing requirements for policy forms and endorsements. All insurer and advisory organization policy form and endorsement filings submitted under Insurance Code Chapter 2052, 2301, or 3502 must comply with the filing requirements in paragraphs (1)-(3) of this subsection, and any other applicable rules adopted by the commissioner.

(1) General filing requirements.

(A) All filings for new and amended policy forms or endorsements must relate to only one line of insurance except for multi-peril and interline filings.

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(B) All filings for new and amended policy forms or endorsements must contain the following:

- (i) the transmittal information required in §5.9310 of this title;
- (ii) a copy of the proposed policy forms or endorsements;

and

(iii) a memorandum that contains a detailed explanation of the reasons for the filing and a description of the policy forms or endorsements and their use; for example, the type of risk or risks for which the forms or endorsements will be used.

(2) Additional filing requirements.

(A) Additional filing requirements specific to new policy forms or endorsements for use with new products. If the memorandum required under paragraph (1)(B)(iii) of this subsection does not fully explain or describe the filed policy forms or endorsements, TDI may request either:

- (i) a summary of all policy provisions that includes a detailed description and explanation of the coverages, limitations, exclusions, and conditions; or
- (ii) a coverage comparison to a similar policy form or endorsement that the commissioner has previously approved or adopted containing a detailed explanation of all the differences including any restrictions in coverage, enhancements in coverage, or clarifications to the previously approved policy forms or endorsements.

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(B) Additional filing requirements specific to amending previously approved or adopted policy forms or endorsements. In addition to the general requirements outlined in paragraph (1) of this subsection, the filing must include a coverage evaluation that contains a detailed explanation of the proposed changes including any restrictions in coverage, enhancements in coverage, or clarifications to the previously approved or adopted policy forms or endorsements. The additional requirements under this subsection may be provided in the memorandum required under paragraph (1)(B)(iii) of this subsection or in:

(i) a side-by-side comparison showing any differences between the previously approved or adopted policy forms or endorsements and the proposed policy forms or endorsements; or

(ii) a copy of the previously approved or adopted policy forms or endorsements indicating the differences between the approved or adopted policy forms or endorsements and the filed policy forms or endorsements, with the new language underlined and the deleted language in brackets with a strikethrough, or other clearly identified or highlighted editorial notations referencing the new and replaced language.

(3) Statutory and regulatory filing requirements.

(A) Filings for new and amended policy forms or endorsements must include all provisions required by statute, administrative rule, or commissioner's order. Filers may add the required provisions to a policy form by a Texas amendatory

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endorsement. The filing must include the amendatory endorsement, or the filing may reference an approved amendatory endorsement that is applicable to the policy forms contained in the filing.

(B) All policy forms and endorsements contained in personal automobile and residential property insurance filings must meet the statutory requirements for plain language in policies as set forth by Commissioner's Order No. 92-0573, or any superseding commissioner's order.

(d) Filing requirements for manual rules. Manual rules are rules other than rating rules that relate to policy forms or endorsements. A manual rule filing must include the transmittal information required in §5.9310 of this title, relate to only one line of insurance except for multi-peril and interline filings, and include a memorandum as described in subsection (c)(1)(B)(iii) of this section.

(e) Filing requirements for reference filings. An insurer may make a filing referencing approved or accepted policy forms, endorsements, or manual rules without including a copy of the referenced material. All reference filings must relate to only one line of insurance except for multi-peril and interline filings. In addition to the transmittal information, a reference filing must include the following:

(1) the name of the insurance company or advisory organization whose filing is being referenced; and

(2) the TDI file number of the filing being referenced.

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(f) Public information. To the extent that a filing submitted through SERFF includes contact information, the filer affirmatively consents to the release and disclosure of the contact information, including any email addresses. The filer also certifies that each person associated with an email address that appears in the filing has affirmatively consented to the release and disclosure of that email address.

(g) Incomplete filings.

(1) TDI will consider a filing incomplete if the filing does not comply with the filing requirements contained in subsections (c), (d), and (e) of this section.

(2) If TDI determines that a filing is incomplete, TDI will provide a notice that states the filing is incomplete and identifies the additional information required to complete the filing. A filing that is not completed before the date specified in the notice will be rejected. A rejected filing:

(A) is not considered filed with TDI for the purposes of this division;

(B) will not be reopened for purposes of resubmission; and

(C) must be resubmitted as a new filing.

(3) The deemer period does not commence until a complete filing is received by TDI.

(h) Filings under this division may not be combined with any other filings submitted under this subchapter.

(i) Manual rule filings submitted under this division may not be combined with any other filings submitted under this division.

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§5.9321. Request for Deemer Period Waiver. An insurer may, by sending written notice to TDI, waive the deadlines by which the commissioner, under Insurance Code §2301.006, must approve or disapprove a form before it is deemed approved.

§5.9322. Insurers Providing Coverage through a Purchasing Group.

(a) For policies effective on and after September 1, 2015, insurers that provide coverage to participants through a purchasing group must comply with the filing requirements of this division.

(b) As Insurance Code §2171.003 requires, insurers writing commercial group property insurance under Insurance Code §2171.002 must file a policy form with the commissioner before using the form for a group of businesses or an association described by §2171.002 in which each member of the group or association is not a large risk.

DIVISION 6. FILINGS MADE EASY - REQUIREMENTS FOR RATE FILINGS

§5.9330. Purpose. The purpose of this division is to specify requirements for rate filings under Insurance Code Chapters 2053, 2251, and 3502. Rate filings may include rates, prospective loss costs, loss cost multipliers, rating manuals, and other supplementary rating information. Rate filings may also include information concerning

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policy fees, service fees, and other fees that are charged or collected by the insurer under Insurance Code §550.001 or §4005.003, or any other amounts collected by the insurer in connection with a policy.

§5.9331. Definitions.

(a) Terms not defined in this section, but which are defined in Insurance Code Chapter 2053, 2251, or 3502, or §5.9310 of this title (relating to Property and Casualty Transmittal Information and General Filing Requirements), have the same meaning when used in this division unless the context indicates otherwise.

(b) The following terms when used in this division have the following meanings, unless the context indicates otherwise:

(1) Disallowed expenses--Applies only to filings submitted under Insurance Code Chapter 2251. Disallowed expenses include the expenses in Insurance Code §2251.002(1). Payments anticipated to be made to advisory organizations that are licensed to do business in Texas for services authorized by Insurance Code Chapter 1805, subchapter B, are not disallowed expenses.

(2) Fees--Information concerning all policy fees, service fees, and other fees that are charged or collected by an insurer under Insurance Code §550.001 or §4005.003, or any other amounts collected by the insurer in connection with a policy, other than the premium. This information includes both the amount of the fees and the rules governing when the fees are charged and how they are earned.

(3) Insurer--An insurer authorized to write property and casualty insurance in Texas, including an insurance company, reciprocal or interinsurance exchange, mutual insurance company, capital stock company, county mutual insurance company, association, Lloyd's plan, or other entity writing insurance in this state. The term includes an affiliate, as described by Insurance Code §823.003, if that affiliate is authorized to write insurance in Texas. The term includes an appointed managing general agent, district, or local chapter program of a county mutual insurance company described by Insurance Code §912.056(d) that manages a portion of that county mutual insurance company's business, independent of all other business of that county mutual insurance company, and that is to be treated as a separate insurer for the purposes of Insurance Code Chapters 544, 2251, 2253, and 2254, as provided in Insurance Code §912.056(e). The term does not include a farm mutual insurance company, an eligible surplus lines insurer under the Insurance Code, the Texas Windstorm Insurance Association, the Texas FAIR Plan Association, or the Texas Automobile Insurance Plan Association.

(4) Short track filing--A filing requiring limited supporting information to determine compliance with Texas statutes and rules. For example, a filing making an editorial change to a rating rule that does not result in the use of rates that are not on file or a filing referring to certain advisory organization filings may qualify as a short track filing. TDI will maintain a list of qualifying types of filings on the TDI website.

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§5.9332. Categories of Supporting Information. Supporting information is the documentation needed to verify compliance with Texas statutes and rules. Not every filing requires every category of supporting information defined in this section. Section 5.9334 of this title (relating to Requirements for Rate Filing Submissions) lists the categories of supporting information that different rate filings require. The categories of supporting information include:

(1) Rate filing checklists. These are found in the Filings Made Easy Guide and show the information filers need to include with the filing.

(2) Actuarial memorandum. This memorandum describes the methodologies for determining each component used in developing the actuarial support, as well as a qualitative discussion on the selections for each component. It includes an explanation for any changes in methodologies or any changes to the component selections from the previous analysis.

(3) Actuarial support. This type of support consists of sufficient documentation and analysis to allow a qualified actuary to understand and evaluate the rates, each component used in developing the rates, and the appropriateness of each material assumption. Actuarial support is divided into the following subcategories:

(A) Rate indications consist of the analyses the insurer relies on to support its filed rates, each component used to develop the rate indications, and support for each of these components, including the data and methodologies used by the insurer. Rate indications may be on an overall basis or by coverage, class, form, or

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peril when appropriate. Rate indications must include each of the following with documentation in support of each, to the extent applicable:

- (i) premiums, on-level factors, and premiums at current rate level;
- (ii) incurred and paid losses;
- (iii) loss and claim development factors;
- (iv) premium and loss trend factors;
- (v) hurricane and nonhurricane catastrophe factors or loss provisions including the definition of a catastrophe and how the definition has changed over the experience period used to calculate the provisions;
- (vi) off-balance factors if there are changes in relativities, for example, discounts, surcharges, or territorial definitions;
- (vii) the measure of credibility, the complement of credibility, the criteria for full credibility, and the method for determining partial credibility;
- (viii) expenses including general expenses; other acquisition expenses; commissions and brokerage expenses; taxes, licenses and fees; loss adjustment expenses; and expense offsets from fee income;
- (ix) the net cost of reinsurance;
- (x) for rates filed under Insurance Code Chapter 2251, profit provisions, including risk loads;

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(xi) for rates filed under Insurance Code Chapters 2053 and 3502, profit and contingency provisions, including risk loads;

(xii) the effect on premiums of individual risk variations based on loss or expense considerations; and

(xiii) any other component used in developing a rate indication.

(B) Relativity analysis consists of both the analysis and support for the selected rating factors, including the data and methodologies used by the insurer to derive the indicated rating factors. Supporting information must include:

(i) the current relativity;

(ii) the indicated relativity;

(iii) support for the indicated relativities, including the data and methodologies used by the insurer to derive such indications;

(iv) the selected relativity;

(v) support for the selected relativities if they differ from the indicated relativities; and

(vi) the percent change from current to selected relativity.

(C) Other actuarial support consists of both the analysis and support for the selected rates, including the data and methodologies used by the insurer to derive them. Examples include:

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- (i) description and support for new discounts and surcharges;
- (ii) description and support for rates for new endorsements; and
- (iii) competitive analysis.

(4) SERFF rate data. This data consists of all information necessary to complete the company rate information fields in SERFF. For filers not using SERFF, this information includes the company name, the overall percentage and effective date of the last rate revision, the overall indicated change as a percent, the overall rate impact as a percent, the written premium change for the program, the number of policyholders affected for the program, the written premium for the program, and the maximum and minimum percentage change for the filing.

(5) Policyholder impact information. This information consists of the following provided separately by homeowners form and personal automobile coverage:

- (A) a histogram which graphically depicts the impact of the filed changes to policyholders in 5 percentage point intervals;
- (B) the policy counts in each interval displayed in either the histogram or a separate table;
- (C) the minimum and maximum policyholder impact; and
- (D) a description of the changes that contributed to the minimum and maximum policyholder impact.

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(6) Average rate change by county. This is the average impact of all changes included in a filing by county, provided separately by homeowners form.

(7) Rate change information.

(A) For loss cost reference filings, rate change information consists of:

(i) the proposed percentage change in the underlying loss costs;

(ii) the change in the insurer's loss cost multiplier;

(iii) the combined change in the loss costs and the loss cost multipliers;

(iv) a six-year rate change history; and

(v) the effect that changes in fee income have on the total average rate change for all coverages and forms combined.

(B) For workers' compensation filings using classification relativities established under Insurance Code §2053.051, rate change information consists of:

(i) the percentage change in the underlying classification relativities;

(ii) the change in the insurer's deviation;

(iii) the combined change in the classification relativities and the insurer's deviation;

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(iv) a six-year rate change history; and

(v) the effect that changes in fee income have on the total average rate change.

(C) For all other filings, rate change information consists of:

(i) the average proposed rate change for each applicable coverage or form;

(ii) the total average rate change for all applicable coverages and forms combined;

(iii) a six-year rate change history; and

(iv) the effect that changes in fee income have on the total average rate change for all applicable coverages and forms combined.

(8) Historical premium and loss information. This information consists of an insurer's most recent five-year experience, for both Texas and countrywide, of direct premiums written, direct premiums earned, direct losses and defense and cost containment expenses paid, direct losses and defense and cost containment expenses incurred, and the ratio of the direct losses and defense and cost containment expenses incurred to direct earned premiums. The Texas experience is the amounts, or a subset of the amounts, pertinent to the line of business reported on the Exhibit of Premiums and Losses (Statutory Page 14 Data) in the insurer's Annual Statement. The countrywide experience is the amounts, or a subset of the amounts, pertinent to the line

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reported on the insurer's Insurance Expense Exhibit (IEE), Part III in the insurer's Annual Statement.

(9) Historical and projected expense information. This information consists of Texas experience, and, if applicable, countrywide experience. The loss adjustment expenses must be shown as a dollar amount as well as a ratio-to-incurred losses. All other expenses must be shown as a dollar amount as well as a ratio to premium. All expense items must be on a direct basis.

(A) Three years of historical Texas experience must be included for commissions and brokerage expenses incurred; taxes, licenses, and fees incurred; losses incurred; and defense and cost containment expenses incurred. These must be the amounts, or a subset of the amounts, reported on the Exhibit of Premiums and Losses (Statutory Page 14 Data) in the insurer's Annual Statement.

(B) Three years of historical countrywide experience must be included for commissions and brokerage expenses incurred, other acquisition expenses incurred, general expenses incurred, losses incurred, defense and cost containment expenses incurred, and adjusting and other loss adjustment expenses incurred. These must be the amounts reported in the insurer's IEE, Part III in the insurer's Annual Statement.

(C) Three years of historical countrywide experience must be included for each category of disallowed expenses. These must be the amounts reported in the insurer's response to the annual TDI Disallowed Expense Call. Other

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acquisition and general expenses, each adjusted to remove disallowed expenses, must be listed separately. The total adjusted general expense percentage must reflect any necessary adjustment due to the capping of general expenses at 110 percent of the industry median for the line of insurance.

(D) To the extent that the expense provisions differ from the historical expenses, the filing must provide additional support for the expense provisions underlying the rates. Provisions for commissions and brokerage expenses; other acquisition expenses; general expenses; taxes, licenses, and fees; and profit and contingencies must be displayed and a sum computed. For filings submitted under Insurance Code Chapter 2251, the expense provisions must exclude disallowed expenses.

(E) When additional expense provisions are included, such as the net cost of reinsurance or an expense offset from fee income, the filing must include expected or historical experience. Support for provisions for the net cost of reinsurance may include reinsurance premiums, expected reinsurance recoverables, and a description of reinsurance coverage including attachment points and limits.

(10) Loss cost information for reference filings. This information consists of the following:

(A) the TDI file number of the loss costs being referenced;

(B) the derivation of the proposed loss cost multiplier including any

loss cost modification factor and the following expense and profit provisions:

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- (i) commissions and brokerage expenses;
 - (ii) other acquisition expenses, adjusted to remove disallowed expenses;
 - (iii) general expenses, adjusted to remove disallowed expenses;
 - (iv) taxes, licenses, and fees; and
 - (v) underwriting profit and contingencies;
- (C) supporting documentation for loss cost modification factors other than 1.00;
- (D) the loss cost multiplier to be used as of the effective date of the filing;
- (E) the loss cost multiplier used immediately prior to the effective date of the filing; and
- (F) the effective rate-level change due to any change in the loss cost multiplier.

(11) Profit provision information. This information consists of a description of the methodology, assumptions, and support for the assumptions used to arrive at the profit provisions underlying the proposed rates.

(12) A side-by-side comparison. This comparison must show any differences between the previously filed and the proposed rates, rating manual, rating rules, or other supplementary rating information.

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(13) A mark up. This is a copy of the previously filed rates, rating manuals, rating rules, or other supplementary rating information indicating the differences between it and the revised version, with any new language or factors underlined and the deleted language or factors in brackets with a strikethrough, or other clearly identified or highlighted editorial notations referencing the new and replaced language or factors.

(14) Sample premium impacts by selected ZIP codes. These are sample premiums and premium changes based on all changes included in a filing for certain specified policy types and ZIP codes.

(15) Rate filing templates. These are found in the Filings Made Easy Guide and provide insurers with an optional means of providing certain supporting information and supplementary rating information.

(16) Other information. This includes any other information required by the commissioner necessary to determine that the rates meet the rate standards.

§5.9333. Categories of Supplementary Rating Information. Section 5.9334 of this title (relating to Requirements for Rate Filing Submissions) lists the categories of supplementary rating information that different rate filings require. The categories of supplementary rating information include:

(1) Rating manual. This type of manual consists of any rating schedule, plan of rules, and rating rules. A rating manual may contain factors and relativities,

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including increased limits factors, classification relativities, deductible relativities, territory relativities, premium discounts, and other similar factors. A rating manual may also include some or all information in the remaining categories of supplementary rating information.

(2) Rating algorithm.

(3) Rating plan.

(4) Territory codes and descriptions.

(5) Classification system. This consists of any other criteria, guidelines, models, and methods that place individual risks into rating classifications, such as tiers, categories, or similar groupings, regardless of the name used.

(6) Factors and relativities, including increased limits factors, classification relativities, deductible relativities, territory relativities, premium discounts or surcharges, and other similar factors.

(7) Other information. This is any other information used by the insurer to determine the applicable premium for an insured.

§5.9334. Requirements for Rate Filing Submissions.

(a) Insurers must file any new rates or revisions to previously filed rates governed by Insurance Code Chapter 2053 at least 30 days before they become effective. The insurer must file any supplementary rating information not prescribed under Insurance Code Article 5.96.

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(b) For rates governed by Insurance Code Chapter 2251, insurers must file any new rates, rating manuals, rating rules, all other supplementary rating information, and fees, or revisions to these items as well as all other information required by this section. An insurer may use the information filed under this division on and after the date of the filing.

(c) Insurers must file any new rates and supplementary rating information or revisions to previously filed rates and supplementary rating information governed by Insurance Code Chapter 3502 at least 15 days before they become effective.

(d) Each filing must include the transmittal information required in §5.9310 of this title (relating to Property and Casualty Transmittal Information and General Filing Requirements). If the proposed effective date in the filing transmittal information changes, insurers must inform TDI of the new proposed effective date prior to the original proposed effective date.

(e) Each filing must include a filing memorandum that explains the purpose of the filing and provides all material background details relating to the filing, including a statement on the overall impact of the filing. The filing memorandum must briefly describe each change to the rates, rating manuals, rating rules, any other supplementary rating information and fees used by the insurer, and briefly describe the supporting information provided for each change. A brief summary of any related policy form or endorsement filings, including the coverages, limitations, and exclusions, must be included.

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(f) Except as provided in Division 9 of this subchapter (relating to Filings Made Easy - Reduced Filing Requirements for Certain Insurers), or subsection (g) of this section, each filing must include supporting information. Sufficient supporting information is necessary for TDI to establish that a filing produces rates that are not excessive, inadequate, unreasonable, or unfairly discriminatory for the risks to which they apply. Insurers must provide sufficient documentation to justify specific rates or revisions they are proposing. To the extent the information originally submitted in a rate filing is insufficient, TDI may request additional information as deemed necessary by TDI or the commissioner. Each filing must contain the following items:

- (1) a completed rate filing checklist;
- (2) rate change information;
- (3) SERFF rate data;
- (4) loss cost information, if the filing references an advisory organization loss cost filing;
- (5) an actuarial memorandum;
- (6) actuarial support appropriate to the rating information being filed, as specified in subparagraphs (A)-(C) of this paragraph:

(A) All filings that propose changes to relativities, such as territory or class, as well as those applied through discounts, surcharges, or tiers, must include relativity analyses. The related territory codes and descriptions, classification systems and descriptions, or rules must also be included.

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(B) All except the following filings must include rate indications:

(i) filings for new rates that will not replace, modify, or supersede any existing rates, unless the rates are derived from the experience of an affiliate, including an eligible surplus lines insurer;

(ii) fee filings; or

(iii) filings containing changes only to supplementary rating information with no overall rate impact. Examples include filings with no overall rate impact that contain only items such as relativity changes or rates for endorsements.

(C) Filings must include other actuarial support when neither the relativity analysis in subparagraph (A) nor the rate indications in subparagraph (B) of §5.9334(f)(6) apply;

(7) policyholder impact information for owner-occupied homeowner and personal automobile filings that include changes that will result in a difference between the minimum and maximum policyholder impact that is greater than 5 percent;

(8) the average rate change by county for owner-occupied homeowners rate filings;

(9) historical premium and loss information, if the filing changes or replaces existing rates;

(10) historical and projected expense information, if the filing changes or replaces existing rates; and

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(11) profit provision information, if the filing changes or replaces existing rates.

(g) Instead of the items in subsection (f) of this section, short track filings must include:

- (1) a completed rate filing checklist;
- (2) rate change information; and
- (3) SERFF rate data.

(h) Each filing submitted must be legible, accurate, internally consistent, complete, and contain all required documents. In each filing:

(1) each table must be clearly labeled, including titles and column and row headings, so as to clearly identify the contents;

(2) row and column headings must be repeated on each page of tables displayed on multiple pages;

(3) all pages must print to at least 10-point font;

(4) text shading, with the exception of yellow highlighting, may not be used; and

(5) each page should include a page number or other unique identifier.

(i) Paragraphs (1)-(4) of this subsection address public information.

(1) To the extent that a filing submitted through SERFF includes contact information, the filer affirmatively consents to the release and disclosure of the contact information, including any email addresses. The filer also certifies that each person

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associated with an email address that appears in the filing has affirmatively consented to the release and disclosure of that email address.

(2) If an insurer believes a portion of the information required to be filed under Insurance Code Chapter 2251 is confidential and excepted from disclosure under Government Code Chapter 552, the insurer must mark each page excepted.

(3) For filings submitted under Insurance Code Chapter 2251 and that are marked confidential, TDI will request an attorney general decision under Government Code Chapter 552 before making the filings open for public inspection. TDI does not consider the following excepted from disclosure under Government Code Chapter 552: loss cost multipliers, rates, rating factors and relativities, rating manuals, fees, and summary information about the rate filing, including date filed, rate impact, effective dates, and a summary of the changes. TDI does not consider the following categories of supporting information excepted from disclosure under Government Code Chapter 552: rate change information, SERFF rate data, average rate change by county, sample premium impacts by selected ZIP codes, historical premium and loss information, and historical expense information.

(4) Each filing submitted under Insurance Code Chapters 2053 and 3502, including any supporting information filed, will be open for public inspection as of the date of the filing.

(j) The insurer is responsible for ensuring that its filing complies with Texas statutes and rules.

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(k) TDI maintains the Filings Made Easy Guide to assist insurers in complying with Texas statutes and rules. Insurers may refer to the Filings Made Easy Guide for rate filing templates or exhibits that insurers can use to display necessary supporting information required in subsection (f) of this section. Insurers may obtain this guide from TDI's website at www.tdi.texas.gov.

(l) Filings under this division may not be combined with any other filings submitted under this subchapter.

§5.9335. Requests for Information.

(a) When reviewing each filing under this division, TDI may request additional supplementary rating information and supporting information.

(b) To be considered fully responsive to a request for information, an insurer's responses must:

(1) fully address all of the requests and questions in a manner that is clear and in sufficient detail to allow a qualified actuary to understand and evaluate the material and any explanations provided;

(2) contain appropriate supporting data and calculations, including material assumptions, with sufficient narrative to clearly explain the methodology used, the nature and source of the data, as well as any conclusions drawn; and

(3) provide an explanation of any apparent anomalies in the data and how the insurer mitigated or accounted for them in arriving at the proposed rates.

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(c) TDI may request that an insurer file a comprehensive set of rates, rating manuals, rating rules, fees, and all other supplementary rating information when filing a revision to previously filed rates, rating manuals, rating rules, fees, and all other supplementary rating information.

(d) For each filing under Insurance Code Chapter 2251, TDI may request additional supplementary rating information and supporting information five times each. The insurer must respond by the date specified in the request. Correspondence requesting information that should have been included in the response, or clarifications of the information included in the response, will not constitute a new request for information.

(e) Requests that are necessary to make the filing complete are not a request for information under subsection (d) of this section. Examples of this type of request include:

(1) requests for information required by §5.9310 of this title (relating to Property and Casualty Transmittal Information and General Filing Requirements);

(2) requests for information required by §5.9334 of this title (relating to Requirements for Rate Filing Submissions); and

(3) requests arising from discrepancies in the filing.

§5.9336. Request for Information Limit Waiver. An insurer may, by sending written notice to TDI, waive the limits that §5.9335(d) of this title (relating to Requests for

Information) imposes on the number of times TDI may request additional supplementary rating information and supporting information.

§5.9337. Insurers Providing Coverage Through a Purchasing Group. For policies effective on and after September 1, 2015, insurers that provide coverage to participants through a purchasing group must comply with the filing requirements of this division.

DIVISION 7. FILINGS MADE EASY - REQUIREMENTS FOR UNDERWRITING GUIDELINE FILINGS

§5.9340. Purpose. The purpose of this division is to specify underwriting guideline filing requirements under Insurance Code §38.002 and §38.003, and Chapter 2053.

§5.9341. Definitions. The definitions set forth in §5.9310 of this title (relating to Property and Casualty Transmittal Information and General Filing Requirements) apply to this division. The definitions set forth in Insurance Code §38.002 apply to insurers filing underwriting guidelines for personal automobile or residential property insurance. The definitions set forth in Insurance Code Chapter 2053 apply to insurers filing underwriting guidelines for workers' compensation insurance. The definitions set forth in Insurance Code §38.003 apply to insurers filing underwriting guidelines for lines of property and casualty insurance not subject to Insurance Code §38.002.

§5.9342. Filing Requirements.

- (a) An insurer must file with TDI:

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(1) at least once every three calendar years on or before March 1, beginning March 1, 2004, a written, comprehensive set of each underwriting guideline used by the insurer or the insurer's agent; and

(2) not later than the 10th day after the underwriting guideline has changed, a written update to the underwriting guideline clearly identifying each section of the previously filed underwriting guideline that has changed.

(b) For purposes of compliance with this section, an oral or electronic underwriting guideline must be converted to written form.

(c) An insurer group or group of affiliated insurers may file one set of underwriting guidelines or update to underwriting guidelines on behalf of individual insurers in the group under the requirements of this section if the group clearly identifies which underwriting guidelines apply to each insurer within the group.

(d) An insurer that files underwriting guidelines or updates to underwriting guidelines under this section must submit the filing transmittal information required in §5.9310 of this title (relating to Property and Casualty Transmittal Information and General Filing Requirements) with the filing for each underwriting guideline and update.

(e) All filings for underwriting guidelines must relate to only one line of insurance.

(f) Underwriting guidelines contemplated by Insurance Code §38.003 are required only if requested. Underwriting guidelines submitted in response to a request under Insurance Code §38.003 must be filed in compliance with subsections (b), (c), and (d) of this section.

(g) Filings under this division may not be combined with any other filings submitted under this subchapter.

DIVISION 8. FILINGS MADE EASY - REQUIREMENTS FOR CREDIT SCORING MODEL FILINGS FOR PERSONAL INSURANCE

§5.9350. Purpose. The purpose of this division is to specify filing requirements for credit scoring models and to specify other regulatory requirements under Insurance Code Chapter 559 for those insurers that use credit scoring in writing personal insurance in this state.

§5.9351. Definitions.

(a) The definitions set forth in §5.9310 of this title (relating to Property and Casualty Transmittal Information and General Filing Requirements) apply to this division. Words and terms not defined in this division may be defined in Insurance Code Chapter 559 and will have the same meaning when used in this division.

(b) Credit scoring model--The algorithm, computer application, model, or other process that is based on credit information used to derive a credit score or insurance score.

§5.9352. Filing Requirements.

(a) All models must be filed before they can be used. Insurers referencing models that have been filed with TDI by another entity on behalf of an insurer in this state must specify the exact name of the model being referenced instead of filing the model itself. Insurers making independent credit scoring model filings must file the entire model, including definitions.

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(b) An insurer that files a credit scoring model or references a model that has been filed with TDI by another entity on behalf of another insurer in this state must submit the following information with the filing:

(1) the filing transmittal information required in §5.9310 of this title (relating to Property and Casualty Transmittal Information and General Filing Requirements);

(2) whether the insurer uses the score resulting from the model for underwriting, rating, or tiering; and

(3) a completed questionnaire, used to verify compliance with Insurance Code Chapter 559.

(c) Each filing, and any supporting information filed with it, is open to public inspection as of the date of the filing. To the extent that a filing submitted through SERFF includes contact information, the filer affirmatively consents to the release and disclosure of the contact information, including any email addresses. The filer also certifies that each person associated with an email address that appears in the filing has affirmatively consented to the release and disclosure of that email address.

(d) TDI maintains the Filings Made Easy Guide to assist insurers in complying with Texas statutes and rules. Insurers may refer to the Filings Made Easy Guide for the questionnaire described in subsection (b)(3) of this section. Insurers may obtain this guide from TDI's website at www.tdi.texas.gov. Filings under this section may not be combined with any other filings submitted under this subchapter.

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(e) All filings for credit scoring models must relate to only one line of insurance.

(f) An insurer must refile a credit scoring model before the insurer may use the credit scoring model for a line of insurance not identified in the credit scoring model's original filing.

DIVISION 9. FILINGS MADE EASY - REDUCED FILING REQUIREMENTS FOR CERTAIN INSURERS

§5.9355. Purpose. The purpose of this division is to specify requirements for certain insurers who qualify for reduced rate filing requirements under the provisions of Insurance Code Chapter 2251, Subchapter E or F.

§5.9357. Filing Requirements.

(a) County mutual insurers writing nonstandard personal automobile insurance. County mutual insurers required to file under the provisions of Insurance Code Chapter 2251 may make rate filings for personal automobile insurance according to the requirements described in this subsection if they issue policies only at nonstandard rates as defined under Insurance Code §2251.204, and if the insurer and the insurer's affiliated companies or group have a market share of less than 3.5 percent. Insurers that qualify to file under this subsection must file in compliance with Division 6 of this subchapter (relating to Filings Made Easy - Requirements for Rate Filings) with the following modifications:

(1) Insurers must include a Certification of Sections 2251.201 - 2251.204 Exemption Compliance (EC-2), found in the Filings Made Easy Guide, with each filing.

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Instead of submitting the EC-2, an insurer may submit a certification of compliance which certifies that the insurer writes only at nonstandard rates and that the insurer and the insurer's affiliated companies or group have a market share of less than 3.5 percent.

(2) Insurers are not required to comply with §5.9334(f) (5), (6), (9), (10), and (11) of this title (relating to Requirements for Rate Filing Submissions).

(b) Insurers writing personal automobile insurance. An insurer that writes personal automobile insurance and meets the criteria in Insurance Code §2251.205 may make rate filings for personal automobile insurance according to the requirements specified in subsection (a) of this section if:

(1) the insurer, along with the insurer's affiliated companies or group, issues personal automobile liability insurance policies only below 101 percent of the minimum limits required by the Transportation Code Chapter 601; and

(2) the insurer, along with the insurer's affiliated companies or group, has a market share of less than 3.5 percent of the personal automobile insurance market in this state.

(c) Insurers writing residential property in underserved areas. In compliance with Insurance Code §2251.252(c), insurers otherwise exempt from the rate filing requirements of Chapter 2251 must submit rate filings in compliance with this subsection. Insurers who qualify to file under this subsection must file in compliance with Division 6 of this subchapter:

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(1) Insurers must include a Certification of Section 2251.251 and Section 2251.252 Exemption Compliance (EC-1), found in the Filings Made Easy Guide.

(2) Insurers are not required to comply with §5.9334(f) (5), (6), (9), (10), and (11) of this title.

(d) Additional provisions. The following provisions apply to any rate filing submitted under subsection (a), (b), or (c) of this section:

(1) The reduced filing requirements provided under this division do not affect the requirements under §5.9941 and §5.9960 of this title (relating to Differences in Rates Charged Due Solely to Difference in Credit Scores and Exception to Rating Territory Requirements under Insurance Code §2253.001).

(2) Requests for additional information are as outlined in §5.9335 of this title (relating to Requests for Information).

(e) Public information. To the extent that a filing submitted through SERFF includes contact information, the filer affirmatively consents to the release and disclosure of the contact information, including any email addresses. The filer also certifies that each person associated with an email address that appears in the filing has affirmatively consented to the release and disclosure of that email address.

(f) Filings Made Easy Guide. TDI maintains the Filings Made Easy Guide to assist insurers in complying with Texas statutes and rules. Insurers may refer to the Filings Made Easy Guide for the Certification of Section 2251.251 and Section 2251.252 Exemption Compliance (EC-1) form referenced in subsection (c)(1) of this section and

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the Certification of Sections 2251.201 - 2251.204 Exemption Compliance (EC-2) form referenced in subsection (a)(1) of this section. Insurers may obtain this guide from TDI's website at www.tdi.texas.gov.

DIVISION 10. FILINGS MADE EASY - ADDITIONAL FILING REQUIREMENTS FOR CERTAIN COUNTY MUTUAL INSURANCE COMPANIES

§5.9360. Purpose. The purpose of this division is to specify filing requirements in addition to those in Divisions 4 and 6 of this subchapter (relating to Filings Made Easy - Transmittal Information and General Filing Requirements for Property and Casualty Form, Rate, Underwriting Guideline, and Credit Scoring Model Filings and Filings Made Easy - Requirements for Rate Filings, respectively) for:

(1) a county mutual insurance company described by Insurance Code §912.056(d); and

(2) an appointed managing general agent, district, or local chapter program of a county mutual insurance company described by Insurance Code §912.056(d) that manages a portion of that county mutual insurance company's business independent of all other business of that county mutual insurance company, and that is to be treated as a separate insurer for the purposes of Insurance Code Chapters 544, 2251, 2253, and 2254 as provided in Insurance Code §912.056(e).

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§5.9361. Additional Requirements.

(a) Filing transmittal. In addition to the information required by Division 4 of this subchapter (relating to Filings Made Easy - Transmittal Information and General Filing Requirements for Property and Casualty Form, Rate, Underwriting Guideline, and Credit Scoring Model Filings), the following information must be included:

(1) the name and license number of the managing general agent, district, or local chapter of a county mutual insurance company; and

(2) contact information for the county mutual insurance company if the county mutual insurance company's contact information has not already been provided under §5.9310(c)(9) of this title (relating to Property and Casualty Transmittal Information and General Filing Requirements).

(b) Rate filings.

(1) All rate filings must be made directly by the county mutual insurance company on the county mutual insurance company's letterhead unless the county mutual insurance company submits written notice with the filing authorizing the submission of rate filings by the managing general agent, district, or local chapter.

(2) Each rate filing must include:

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(A) all information required under §5.9334 of this title (relating to Requirements for Rate Filing Submissions), which must be specific to the managing general agent, district, or local chapter; and

(B) a list of policy forms and endorsements, including their name, number, and the TDI file number, used by the managing general agent, district, or local chapter. The submission of a list of policy forms and endorsements under this subsection does not constitute a form filing under Insurance Code Chapter 2301.

8. CERTIFICATION. This agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Issued at Austin, Texas, on October 24, 2014.



Sara Waitt
General Counsel
Texas Department of Insurance

The commissioner adopts amendments to 28 TAC §§5.9310, 5.9320, 5.9340 - 5.9342, 5.9350 - 5.9352, 5.9355, 5.9357, 5.9360, and 5.9361 and adopts new §§5.9321, 5.9322, 5.9323, and 5.9330 - 5.9337.

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Julia Rathgeber
Commissioner of Insurance

COMMISSIONER'S ORDER NO. **3604**