

SUBCHAPTER M. FILING REQUIREMENTS

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

28 TAC §§5.9310 – 5.9312

~~[DIVISION 5. FILINGS MADE EASY – REQUIREMENTS FOR PROPERTY AND CASUALTY POLICY FORM, ENDORSEMENT, AND MANUAL RULE FILINGS]~~

~~[28 TAC §§5.9320 – 5.9323]~~

DIVISION 5. FILINGS MADE EASY – REQUIREMENTS FOR PROPERTY AND CASUALTY POLICY FORM AND ENDORSEMENT FILINGS

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28 TAC §5.9360 and §5.9361

**DIVISION 11. FILINGS MADE EASY – CERTIFICATES OF PROPERTY AND
CASUALTY INSURANCE
28 TAC §§5.9370 – 5.9374 and 5.9376**

INTRODUCTION. The Texas Department of Insurance proposes amendments to 28 TAC Chapter 5, Subchapter M, Division 4, §5.9310; Division 6, §§5.9330 – 5.9335; Division 7, §§5.9340 – 5.9342; Division 8, §5.9351 – §5.9352; Division 9, §5.9355 – §5.9357; Division 10, §5.9360 and §5.9361; Division 11, §§5.9370 – 5.9374 and §5.9376; and new §5.9311 and §5.9312 in Division 4. TDI also proposes to repeal and replace the current Division 5, §§5.9320 – 5.9323 with new Division 5, §§5.9320 – 5.9328. These amendments, new sections, and repeal relate to requirements for property and casualty filings for forms, rates, rules, underwriting guidelines, credit scoring models, and certificates of insurance. The proposed amendments, new sections, and repeal implement Senate Bill 978, 84th Legislature, Regular Session (2015); SB 1554, 84th Legislature, Regular Session (2015); and House Bill 1298, 85th Legislature, Regular Session (2017). These bills revised Insurance Code Chapters 2053, 2251, and 2301. The amendments and repeal also reorganize and update the rules to make them clearer and more user-friendly, and they promote more efficient processing of filings by making the use of the System for Electronic Rate and Form Filing (SERFF) mandatory.

EXPLANATION. The following section-by-section summary provides detailed descriptions of the proposed changes to Divisions 4 through 11 of 28 TAC Chapter 5, which are commonly referred to as the "Filings Made Easy rules."

Division 4. Transmittal Information and General Filing Requirements for Property and Casualty Form, Rate and Rule, Underwriting Guideline, and Credit Scoring Model Filings.

Section 5.9310. Property and Casualty Transmittal Information and General Filing Requirements. The amendments to §5.9310 alphabetize the definitions, revise the definitions of "interline filing" and "multi-peril insurance," add definitions for the terms "NAIC" and "SERFF," and make minor editorial revisions to the definition of a "reference filing."

The definition of multi-peril insurance in §5.9310(b)(3) incorporates the new definition of "commercial property insurance" in HB 1298. HB 1298 amended Insurance Code §2251.002 and §2301.002 by defining "commercial property insurance" as "insurance coverage against loss caused by or resulting from loss, damage, or destruction of real or personal property provided through a commercial property insurance policy. The term includes any combination of commercial fire or allied lines; commercial inland marine insurance; commercial crime coverage; boiler and machinery insurance other than explosion; glass insurance provided as part of other coverage; and, as authorized by Commissioner rule, insurance covering other perils or providing other coverages or other lines of first party property insurance."

The updated definition of an "interline filing" better describes the forms that can be filed together and used for more than one line of insurance.

The amendments also clarify that the company name provided by a filer must be the name used for financial reporting to NAIC. New language requires filers to include the TDI file number for the previously approved policy that a proposed form will be attached to. A new subsection requires third-party filers to submit a letter of authorization.

Current language in §5.9310 about information marked "copyright" or confidential information is deleted from the section, and similar language is proposed in new §5.9311.

Amendments to §5.9310 also update the instructions on how insurers may submit filings. The proposed rule requires that filings under Divisions 5, 6, 7, 8, and 9 must be submitted through SERFF.

SERFF is TDI's system of record for all filings subject to the Filings Made Easy rules. Currently, when filers deliver or mail paper filings to TDI, staff must organize, scan, and upload the filings into SERFF. In addition, when filers do not use SERFF, TDI must communicate with those filers through email, fax, mail, or by phone. There have been times when filers did not receive these communications from TDI, or vice versa, because of incorrect contact information. Using SERFF eliminates these communication problems and improves efficiency.

TDI has amended rule text regarding public disclosure of contact information so that it conforms to the mandatory use of SERFF. This text has been deleted from Divisions 5, 6, 8, and 9 and similar text has been proposed in §5.9310(g), since that section will apply to all filings for property and casualty forms, rates and rules, underwriting guidelines, and credit scoring model filings.

Section 5.9311. Copyright, Public Inspection, and Confidential Filings.

Proposed new §5.9311 organizes the rule to put similar items together. The proposed amendments delete text about copyright and public inspection in current §5.9310(e) and include similar provisions in proposed §5.9311(a) and (b). The proposed text in §5.9311 does not include the reference to Insurance Code Chapter 2251 that is in the current §5.9310(e), as §5.9311(a) applies generally to all filings. Section 5.9311(b) provides information on public inspection of filings under Insurance Code Chapters 2053, 2251, and 2301 and restates the statutory language about public inspection in those chapters.

New §5.9311(c) addresses filings marked confidential. A function in SERFF allows filers to mark entire filings as confidential. When filers do this, the public does not know that a filing was made, but the public has a right to know that a filing exists. The fact that a filing was made is not confidential. TDI will reject filings that are marked wholly confidential and filers will need to resubmit their filings correctly.

Section 5.9312. Personally Identifiable Information. Proposed new §5.9312 states that TDI may reject filings that include personally identifiable information. This kind of information must remain confidential and should not be included in filings.

New Division 5. Requirements for Property and Casualty Policy Form and Endorsement Filings.

Section 5.9320. Purpose and Definitions. Proposed new §5.9320 provides the purpose and definitions for Division 5, which is similar to §5.9320(a) and (b) in the current rule.

Section 5.9321. General Filing Requirements. Proposed new §5.9321 provides the general filing requirements for policy forms and endorsements. Many of these requirements are the same as in current §5.9320(c) and (h). The new information required in this proposed section includes the requirements that filings contain the form number and edition date for each proposed form, the TDI file number for the previously approved policy that a proposed form will attach to, and a form usage table. TDI staff often request this information from filers. Requiring this information with the filing will help reduce the time for staff to review the filing. Section 5.9321 requires that filers provide a separate marked up copy of each amended policy form and endorsement. Many filers already do this; making it a requirement will also help expedite staff's review of filings.

Proposed §5.9321 also requires filings to include the readability score from the Flesch Reading Ease Test for each filed form or endorsement for personal automobile and residential property. This requirement is in Insurance Code §2301.053 and is included in Commissioner's Order Number 92-0573. It is included in the new rule for efficiency.

Section 5.9322. Additional Information. Proposed new §5.9322 includes filing requirements similar to those in current §5.9320(c)(2), along with new language clarifying

that TDI may request related forms or information to support the filing. Filers already provide supporting information at TDI's request.

Section 5.9323. Requirements for Reference Filings. Proposed new §5.9323 is similar to §5.9320(e) in the current rule. The new section adds a requirement for reference filings for personal automobile, residential property, and personal multi-peril insurance by requiring the filer to include a list of each form and endorsement that the insurer will use from each referenced filing and a form usage table. Filers are accustomed to providing this information already.

As proposed, §5.9323 also adds clarifying language that if a filer amends a form or endorsement that was previously approved for another insurer or advisory organization, then it is not a reference filing.

Section 5.9324. Incomplete Filings. Proposed new §5.9324 is similar to §5.9320(g) in the current rule. The only differences are for nonsubstantive editorial and formatting to conform the section to the agency's current style and to provide better clarity.

Section 5.9325. Request for Deemer Period Waiver. The text in proposed new §5.9325 replaces §5.9321 of the current rule. The only differences are for nonsubstantive formatting to conform the section to the agency's current style.

Section 5.9326. Insurers Providing Coverage through a Purchasing Group. The text in new §5.9326 duplicates §5.9322(a) of the current rule.

Section 5.9327. Residential Property Declarations Pages Forms. This proposed new §5.9327 is similar to §5.9323 under the current rule. The proposal includes updated references and nonsubstantive differences in formatting to conform the section to the agency's current style and to provide better clarity.

Section 5.9328. Insurers Writing Commercial Group Property Insurance. Proposed new §5.9328 replaces §5.9322(b). In the current rule, this subsection was inadvertently placed in the rule about purchasing groups.

Division 6. Requirements for Rate and Rule Filings.

Section 5.9330. Purpose. Under the current Filings Made Easy rules, manual rules are filed under Division 5 in §5.9320(d). The proposed rule deletes the language in Division 5 and, as amended, §5.9330 requires filers to file rules under Division 6. Amended §5.9330 also includes language that mirrors Division 5 by requiring all insurer and advisory organization filings to comply with the filing requirements of Division 6 and any other applicable rules adopted by the Commissioner.

Section 5.9331. Definitions. Amended §5.9331 makes minor grammatical corrections, updates a reference to the Insurance Code, and adds clarifying language to the definition of "short track filing."

Section 5.9332. Categories of Supporting Information. Amended §5.9332 deletes the opening language, which is not necessary to describe the section since the section title is clear. The amendments also update the description for several categories of supporting information, make minor grammatical corrections, and make nonsubstantive editorial and formatting changes to conform the section to the agency's current style and to improve the rule's clarity.

In the category of "actuarial support" in §5.9332(3), the term "data" is replaced with "loss experience." Data is a generic term used to describe many things. Insurance Code §2251.052(a) states that in setting rates, an insurer must use loss experience. An insurer can also use other information. The category of "actuarial support" was revised to remind filers that the actuarial support must demonstrate why the proposed rates are not excessive, inadequate, or unfairly discriminatory.

The category titled "SERFF rate data" in §5.9332(4) is amended to delete language that was relevant to filers that did not use SERFF. Under the proposed rules, SERFF is mandatory, so this language is not needed.

The category titled "policyholder impact information" in §5.9332(5) is amended to clarify that insurers must use information reflecting the changes for all policyholders to determine the policyholder impact. TDI became aware that some filers were only using a subset of their policyholders to compute this information, which could lead to inaccurate estimates of the expected impact to policyholders. In addition, the description for this category eliminates references to specific lines of insurance. Under §5.9334, policyholder impact information is required in filings for owner-occupied homeowner and personal automobile insurance. This requirement does not change with this proposed rule. If this information is necessary for other lines of insurance, TDI can ask for it in a request for information under §5.9335.

A similar change is proposed to the category titled "average rate change by county" in §5.9332(6). The description deletes the term "homeowners" and adds that the average rate change by county may be provided separately by coverage. Similar to policyholder impact information, filers must submit the average rate change by county in filings for owner-occupied homeowners insurance, as required by §5.9334. However, TDI could ask for this category of supporting information for other lines of insurance in a request for information under §5.9335.

The category titled "rate change information" in §5.9332(7) is also amended to clarify that insurers must use information reflecting the changes for all policyholders to determine rate change information.

The title of the "historical and projected expense information" category in §5.9332(9) is amended to be "expense information."

Section 5.9333. Categories of Supplementary Rating Information. Amended §5.9333 deletes the opening language, which is not necessary to describe the section since the section title is clear.

Section 5.9334. Requirements for Rate and Rule Filing Submissions. Amended §5.9334 includes clarifying language, reflects that rules are filed under Division 6, and makes nonsubstantive editorial and formatting changes to conform the section to the agency's current style and to improve the rule's clarity. Subsection (e) has been split into two subsections, without changing the requirements of the rule, to make the requirements easier to read. The subsequent subsections in this section are redesignated because of this change.

Amendments to redesignated §5.9334(h)(10) reflect the change in the name for expense information in §5.9332(9). In the current rule, expense information is required in filings that change or replace current rates. However, expense information is needed for all filings, including those introducing new rates. A similar revision is made to redesignated subsection (h)(11), as profit provision information is also needed in filings introducing new rates.

Redesignated §5.9334(i) adds a requirement to include a side-by-side comparison or a mark up, if applicable, for short track filings. This requirement will help TDI quickly identify the proposed revisions in the filing.

The text of current §5.9334(i)(1), regarding disclosure of contact information in filings submitted through SERFF is deleted, and similar text has been proposed in §5.9310(g) in Division 4. The provision is more appropriate there because Division 4 includes general filing requirements that apply to filings made under Divisions 5, 6, 7, 8, and 9. The remaining paragraphs in the subsection have been renumbered as appropriate.

Current §5.9334(i), now redesignated as §5.9334(k), implements the amendments made by SB 978 to Insurance Code §2053.004, which require that filings for workers' compensation rates and supplementary rating information, including any supporting information, is public information subject to Government Code Chapter 552, including any applicable exception from required disclosure under that chapter.

Section 5.9335. Requests for Information. Amendments to §5.9335 include nonsubstantive changes for consistency with the agency's current style, and they reflect that rules are filed under Division 6.

Division 7. Requirements for Underwriting Guideline Filings.

Section 5.9340. Purpose. TDI made nonsubstantive editorial and formatting changes to §5.9340 to improve readability and conform the sections to the agency's current style and to improve the rule's clarity.

Section 5.9341. Definitions. TDI made nonsubstantive editorial and formatting changes to §5.9341 to improve readability and conform the sections to the agency's current style and to improve the rule's clarity.

Section 5.9342. Filing Requirements. Amended §5.9342, regarding filing requirements for underwriting guideline filings, clarifies the lines of insurance for which insurers must file their underwriting guidelines. New subsection (h) reminds insurers that information used to classify risks to determine a rate must be filed in a rate and rule filing under Division 6. This information is supplementary rating information. This information may be filed in an underwriting guideline filing, as it is included in the definition of underwriting guideline in Insurance Code §38.002, but it must also be in the filer's rate and rule filing. Information used to decide whether to accept or reject an application for coverage must be included in the filer's underwriting guideline filings, but not its rate and rule filings.

Division 8. Requirements for Credit Scoring Model Filings for Personal Insurance.

Section 5.9351. Definitions. TDI made a nonsubstantive editorial change to improve readability.

Section 5.9352. Filing Requirements. In addition to clarifying language, amended §5.9352, which addresses the filing requirements for credit scoring models, adds two additional pieces of information—information about which insured's credit score is used for policies with more than one named insured, and how often the credit score is updated. This information will help TDI respond to inquiries from consumers, legislative offices, and other stakeholders.

Current §5.9352(c), which addresses disclosure of contact information in filings submitted through SERFF, has been deleted, and similar text has been proposed in §5.9310(g) of Division 4. The provision is more appropriate there because Division 4 includes general filing requirements that apply to filings made under Divisions 5, 6, 7, 8, and 9. However, the proposed amendment to §5.9310(g) does not include the text of the first sentence of current §5.9352(c), because Insurance Code §559.152 states that a credit scoring model "is public information; is not subject to any exceptions to disclosure under Government Code Chapter 552; and cannot be withheld from disclosure under any other law."

Current §5.9352(d) is redesignated as §5.9352(c), and the last sentence of the subsection is separated from the rest of the subsection and included as new subsection (d).

Division 9. Reduced Filing Requirements for Certain Insurers.

Section 5.9355. Purpose. Amended §5.9355 implements changes made by SB 1554. SB 1554 repealed Insurance Code Chapter 2251, Subchapter E, regarding the standard rate index for personal automobile insurance. The repeal was effective September 1, 2015.

Section 5.9356. Definitions. TDI made a nonsubstantive editorial change to §5.9356 to improve readability.

Section 5.9357. Filing Requirements. Amendments to §5.9357 are necessary to implement the repeal of Insurance Code Chapter 2251, Subchapter E, by SB 1554, regarding the standard rate index for personal automobile insurance. The amendments remove current Subsection (b), which references criteria in repealed Insurance Code §2251.205, regarding personal automobile insurers that issue personal automobile liability insurance policies only below 101 percent of the minimum limits required by Chapter 601, Transportation Code. The repealed text in Insurance Code §2251.205 was moved to Insurance Code §2251.1025. The remaining subsections are redesignated as appropriate.

In addition, as amended §5.9357 includes added language to clarify that insurers that qualify for reduced filing requirements under Division 9 do not have to provide supporting information, as described in the rule, unless it is requested. This does not change the current rule requirements, which are that requests for additional information, as outlined in §5.9335, apply to rate and rule filings under Division 9.

Current §5.9357(e), which addresses disclosure of contact information in filings submitted through SERFF, is deleted, and similar text has been proposed in §5.9310(g) in Division 4. The provision is more appropriate there because Division 4 includes general filing requirements that apply to filings made under Divisions 5, 6, 7, 8, and 9.

Division 10. Additional Filing Requirements for Certain County Mutual Insurance Companies

Section 5.9360. Purpose. Amendments to §5.9360 reflect that rules are filed under Division 6, and make nonsubstantive editorial and formatting changes to conform the section to the agency's current style and to improve the rule's clarity.

Section 5.9361. Additional Requirements. Amendments to §5.9361 reflect that rules are filed under Division 6, update references to earlier rules, and make

nonsubstantive editorial and formatting changes to conform the section to the agency's current style and to improve the rule's clarity.

Division 11. Certificates of Property and Casualty Insurance

Section 5.9370. Purpose and Scope. Amended §5.9370 makes nonsubstantive editorial and formatting changes to conform the section to the agency's current style and to improve the rule's clarity.

Section 5.9371. Definitions. Amended §5.9371 alphabetizes the definitions and makes nonsubstantive editorial and formatting changes to conform the section to the agency's current style and to improve the rule's clarity.

Section 5.9372. Preparation and Submission of Certificate of Insurance Form Filings. TDI made nonsubstantive editorial and formatting changes to §5.9372 to conform to the agency's current style and to improve the rule's clarity.

Section 5.9373. Certificate of Insurance Form Filing Transmittal Information. Amended §5.9373 adds clarifying language to improve readability and understanding of the rule.

Section 5.9374. Incomplete Filings. Amended §5.9374 provides that TDI will inform a filer of why a filing is incomplete, rather than return the filing to the filer.

Section 5.9376. Restrictions on the Content of Certificates of Insurance. TDI made nonsubstantive editorial and formatting changes to §5.9376 to conform to the agency's current style and to improve the rule's clarity.

FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT. J'ne Byckovski, chief actuary and director of the Property and Casualty Actuarial Office of the Regulatory Policy Division, has determined that during each year of the first five years that the amendments, new sections, and the repeal are in effect, there will be no fiscal impact on state or local

government because of enforcing or administering the sections. The proposal will have no measurable effect on local employment or the local economy.

PUBLIC BENEFIT AND COST NOTE. For each year of the first five years the proposed amendments, repeals, and new sections are in effect, Ms. Byckovski expects the proposed amendments, repeals, and new sections will have the public benefit of increased compliance with filing requirements from filers, which will reduce their costs, improve government efficiency, and provide rules that are easier to understand and administer consistently.

Ms. Byckovski anticipates that the requirement for all filers to use SERFF is not likely to result in additional costs to the few filers who do not currently use it. Over 99 percent of filers currently use SERFF. Because most filers use SERFF, the cost to persons required to comply with the mandatory use of SERFF in the proposal are consistent with the costs filers currently bear in complying with the Filings Made Easy rules. The proposal requires information that filers should already be assembling to comply with current filing requirements. The cost to use SERFF, if any, should be minimal for the few filers that do not currently use the service.

Five insurers in Texas do not currently use SERFF. In early 2018, the renewals for one of these companies were purchased by a group whose companies currently make SERFF filings, and the largest non-SERFF user is currently making business plans to start using SERFF. Of the other three insurers, two submitted a total of six paper filings and the third submitted 15 paper filings (a total of 21 filings to TDI in 2017). This is a very small number of filings relative to the thousands of filings TDI receives annually through SERFF.

There is no licensing fee or set-up costs to use SERFF. NAIC provides a free, two-hour training tutorial, and additional online training by webinar is available for \$495.00. This webinar is optional and, according to SERFF administrators, most users do not

participate in it. The cost per filing in SERFF is \$13.50. Block rates are available for filers who frequently use SERFF to submit their filings, depending on the number of filings transmitted through SERFF. The block rate for 500 filings is \$9.50 each; 1,000 filings is \$8.00 each; and 1,500 filings is \$6.50 each.

The use of SERFF will adequately offset the cost of paper filings. Electronic filing through SERFF is more cost effective and efficient than paper filing. Paper filings require more employee time and participation and postage costs and they increase error rates, filing errors, or omissions that cannot be easily corrected. Submitting paper filings by email or fax does not always result in the transmission of all documents and submissions, which results in incomplete filings. The mandatory use of SERFF is not likely to be more expensive than paper filings for the companies that are not currently using it or have no immediate plans to do so.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS FOR SMALL AND MICRO BUSINESSES.

TDI has determined that the proposed amendments to §§5.9310; 5.9330 – 5.9335, 5.9340 – 5.9342, 5.9351, 5.9352, 5.9355 – 5.9357, 5.9360, 5.9361, 5.9370 – 5.9374, 5.9376; and new §5.9311 and §5.9312 will not have an adverse economic effect or a disproportionate economic impact on small or micro businesses, or on rural communities. The proposed amendments and new sections are based on underlying statutes and it is not feasible to waive or modify the requirements for small or micro businesses or rural communities. As a result, and in accordance with Government Code §2006.002(c), TDI is not required to prepare a regulatory flexibility analysis for these sections.

Section 5.9310(f) requires all filings under Divisions 5, 6, 7, 8, and 9 to be submitted through SERFF. The mandatory use of SERFF will affect less than 1 percent of insurers in Texas. Five insurers currently do not use SERFF to submit their Texas filings. However, as

previously discussed, TDI expects that the use of SERFF is likely for two of the five insurers in the absence of this proposed rule. The remaining three insurers in Texas that do not currently use SERFF will be required to begin using it to submit filings under the proposed rules. These three companies submitted a total of 21 filings to TDI in 2017, which is a very small number of filings relative to the thousands of submissions TDI receives annually through SERFF. Electronic filing through SERFF is more cost effective and efficient than mailing, emailing, faxing, or hand-delivering paper filings to TDI. The use of SERFF will adequately offset the cost of submitting paper filings.

TDI has also determined that the proposed repeal and replacement of §§5.9320 – 5.9323, with new §§5.9320 – 5.9328, will not have an adverse economic effect or a disproportionate economic impact on small or micro businesses, or on rural communities. The proposed repeal and replacement with new sections in Division 5 is based on underlying statutes and it is not feasible to waive or modify the requirements for small or micro businesses or rural communities. The reorganization of §§5.9320 – 5.9328 to improve readability will not have an adverse economic effect or a disproportionate economic impact on small or micro businesses or on rural communities. As a result, and in accordance with Government Code §2006.002(c), TDI is not required to prepare a regulatory flexibility analysis for these sections except as indicated below.

EXAMINATION OF COSTS UNDER GOVERNMENT CODE §2001.0045. TDI has determined that this proposal does not impose a cost on regulated persons. Therefore, an examination of cost under Government Code §2001.0045(b) is not required.

GOVERNMENT GROWTH IMPACT STATEMENT. Ms. Byckovski has determined that each year of the first five years the proposed amendments and repeals are in effect, the rules will not positively or adversely affect this state's economy. The rules:

- will not create or eliminate a government program;
- will not require the creation of new employee positions or elimination of existing employee positions;
- will not require an increase or decrease in future legislative appropriations to TDI;
- will not require an increase or decrease in fees paid to TDI;
- will not increase or decrease the number of individuals subject to the rule's applicability;
- will not positively or adversely affect this state's economy;
- will create a new regulation in §5.9310(f); and
- will expand existing regulations regarding the filing requirements for insurers.

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

REQUEST FOR PUBLIC COMMENT. TDI will consider any written comments on the proposal received by TDI no later than 5:00 p.m., central time, on February 11, 2019. Send your comment by email to ChiefClerk@tdi.texas.gov; or by mail to the Office of the Chief Clerk, MC 113-2A, Texas Department of Insurance, P.O. Box 149104, Austin, TX 78714-9104. To request a public hearing, submit a written request before the end of the comment period by email to chiefclerk@tdi.texas.gov or by mail to the Office of the Chief Clerk, MC 113-2A, Texas Department of Insurance, P.O. Box 149104, Austin, Texas 78714-

9104. The request for public hearing must be separate from any comments and received by TDI no later than 5:00 p.m., central time, on February 11, 2019. If TDI holds a public hearing, TDI will consider all written and oral comments presented at the hearing.

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

28 TAC §§5.9310 – 5.9312

STATUTORY AUTHORITY. The amendments to §5.9310 and new §5.9311 and §5.9312 are proposed under Insurance Code §§38.002, 38.003, 559.004, 559.151, 912.056, 2052.002, 2053.003, 2053.004, 2053.034, 2171.003, 2251.101, 2251.1025, 2251.107, 2251.252, 2301.001, 2301.006, 2301.009, 2301.053, 2301.055, 2301.056, 3502.101, 3502.104, 3502.108, and 36.001.

Section 38.002 requires each insurer writing personal automobile insurance or residential property insurance to file its underwriting guidelines with TDI and to ensure that the underwriting guidelines are sound, actuarially justified, substantially commensurate with the contemplated risk, and not unfairly discriminatory.

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 "adopt rules that prescribe the allowable differences in rates charged by insurers due solely to the difference in credit scores."

Section 559.151 provides that an insurer that uses credit scores to underwrite and rate risks must file its credit scoring model or other credit scoring processes with TDI.

Section 912.056 provides that 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 requires by rule.

Section 2052.002 provides that in writing workers' compensation insurance, an insurance company may not use a form other than one prescribed by the Commissioner, and 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 2053.004 provides that each filing, including any supporting information, for workers' compensation insurance is public information subject to Government Code Chapter 552.

Section 2053.034 provides that each insurer writing workers' compensation insurance must file with TDI a copy of its underwriting guidelines.

Section 2171.003 provides that an insurer must file a policy form for use with commercial group property insurance with the Commissioner before using the form.

Section 2251.101 provides that each insurer must file its rates, rating manuals, supplementary rating information, and additional information with TDI. It also provides that the Commissioner 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 2251.1025 provides that the Commissioner adopt rules regarding filing requirements for certain personal automobile insurers with less than 3.5 percent of the market share of the personal automobile insurance market in this state.

Section 2251.107 provides that each filing, including any supporting information, under Chapter 2251 is public information subject to Government Code Chapter 552.

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 2301.001 states that the purpose of Chapter 2301, Subchapter A, includes regulating insurance forms to ensure that they are not unjust, unfair, inequitable, misleading, or deceptive.

Section 2301.006 provides that an insurer may 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 2301.009 provides that filings under Chapter 2301, Subchapter A, are open to public inspection as of the date of filing.

Section 2301.053 provides that a form may not be used unless the form is written in plain language. A form is considered written in plain language if it achieves a minimum score established by the Commissioner on the Flesch reading ease test.

Section 2301.055 provides that the Commissioner may adopt reasonable and necessary rules to implement Chapter 2301, Subchapter B.

Section 2301.056 requires that declaration pages for residential property insurance policy forms list each type of deductible under the policy and state the exact dollar amount of each deductible.

Section 3502.101(a) provides that a mortgage guaranty insurer must file rate and supplementary rate information, and any changes to the rate or supplementary rate information with the Commissioner not later than 15 days before it uses the rate or

supplementary rate information in this state. Section 3502.101(b) provides that the rate filing must include adequate supporting data; an explanation of the insurer's interpretation of any statistical data on which the insurer relied; an explanation and description of the methods used in making the rates; and certification of the appropriateness of the charges, rates, or rating plans based on reasonable assumptions and accompanied by adequate supporting information.

Section 3502.104 provides that a mortgage guaranty insurer must file forms, classifications, and rules with TDI.

Section 3502.108(a) provides that the Commissioner may adopt reasonable rules relating to the minimum standards for coverage under policy forms consistent with the purpose of Chapter 3502, relating to Mortgage Guaranty Insurance, and the public policy of this state. Section 3502.108(b) provides that TDI "may establish requirements for data and information filed under this chapter."

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

CROSS REFERENCE TO STATUTE. The proposed amendments to §5.9310 and new §5.9311 and §5.9312 implement Insurance Code §§38.002, 38.003, 559.004, 559.151, 912.056, 2052.002, 2053.003, 2053.004, 2053.034, 2171.003, 2251.101, 2251.1025, 2251.107, 2251.252, 2301.001, 2301.006, 2301.009, 2301.053, 2301.055, 2301.056, 3502.101, 3502.104, 3502.108, and 36.001.

TEXT.

DIVISION 4. FILINGS MADE EASY – TRANSMITTAL INFORMATION AND GENERAL FILING REQUIREMENTS FOR PROPERTY AND CASUALTY FORM, RATE AND RULE, 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 and rule, underwriting guideline, and credit scoring model filings.

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

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

(A) a policy jacket, declarations page, signature page, notice of cancellation, disclosure, schedule, general change form, company name change, or policyholder notice filed under Division 5 of this subchapter; 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 filed under Division 6 of this subchapter.

(3) 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. This definition does not include a combination of coverages described in Insurance Code §2251.002 and §2301.002 and filed as commercial property insurance.

(4) NAIC--The National Association of Insurance Commissioners.

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

(6) SERFF--The NAIC System for Electronic Rate and Form Filing.

(7) TDI--Texas Department of Insurance.

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

~~[(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:

(1) company name as used for financial reporting to the NAIC and company number assigned by the NAIC [~~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 for the previously approved policy that the proposed form will be attached to;

(6)[~~(5)~~] TDI file number of associated or companion filings of other filing types;

(7)[~~(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; and

(C) dual filings must indicate [~~multi-peril insurance and~~] the line of insurance to which the filing applies and the TDI file numbers for the applicable monoline and multi-peril filings;

(8)[~~(7)~~] type of filing;

(9)[~~(8)~~] proposed effective date; and

(10)[~~(9)~~] contact person, including name, telephone number, and mailing address. [~~and fax number.~~]

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

(e) Letter of authorization. A third-party representing an insurer on a filing must provide a letter of authorization signed by the insurer on the insurer's letterhead. A letter of authorization applies only to the filing with which it is submitted. ~~[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. ~~[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 and ~~[,]~~ Endorsement ~~[-and Manual Rule]~~ Filings; Filings Made Easy ~~[-]~~ Requirements for Rate and Rule 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 SERFF. ~~[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, Property and Casualty Intake Unit, Mail Code 104-3B, P.O. Box 149104, Austin, Texas 78714-9104.]~~

(g) Public disclosure of contact information. To the extent that a filing includes company contact information, by submitting a filing the company affirmatively consents to the release and disclosure of its company 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.

§5.9311. Copyright, Public Inspection, and Confidential Filings.

(a) Copyright. Information included in filings that is marked "copyright" may be made available for public disclosure in the same manner as information that is not marked "copyright." Public disclosure methods may include posting filings on TDI's website or making them available for viewing through SERFF.

(b) Public inspection. Each filing submitted under Insurance Code Chapter 2301 or 3502, including any supporting information filed, will be open for public inspection as of the date of the filing. Each filing submitted under Insurance Code Chapter 2053 and 2251, including any supporting information filed, is public information subject to Government Code Chapter 552, including any applicable exception from required disclosure under that chapter.

(c) Confidential filings. If a filer marks its entire filing as confidential, TDI will reject the filing.

§5.9312. Personally Identifiable Information.

Filings must not include any policyholders' personally identifiable information. Filings that include this type of information may be rejected. As used in this subchapter, personally identifiable information means information that can be used either alone or in

combination to distinguish an individual's identity. Examples of personally identifiable information include:

(1) any individual policyholder identification, including name, address, phone, or email;

(2) social security numbers;

(3) insurance policy numbers;

(4) drivers' license, identification card, vehicle identification, and license plate numbers;

(5) debit card, credit card, bank account, and routing numbers; and

(6) health information about a specific individual.

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

28 TAC §§5.9320 – 5.9323

STATUTORY AUTHORITY. The repeal of 28 TAC Chapter 5, Subchapter M, Division 5 §§5.9320 – 5.9323 is proposed under Insurance Code §§2052.002, 2171.003, 2301.001, 2301.006, 2301.053, 2301.055, 2301.056, 3502.104, 3502.108, and 36.001.

Section 2052.002 provides that in writing workers' compensation insurance, an insurance company may not use a form other than one prescribed by the Commissioner, and 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 2171.003 provides that an insurer must file a policy form for use with commercial group property insurance with the Commissioner before using the form.

Section 2301.001 states that the purpose of Chapter 2301, Subchapter A, includes regulating insurance forms to ensure that they are not unjust, unfair, inequitable, misleading, or deceptive.

Section 2301.006 provides that an insurer may 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 2301.053 provides that a form may not be used unless the form is written in plain language. A form is considered written in plain language if it achieves a minimum score established by the Commissioner on the Flesch reading ease test.

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 2301.056 requires that declaration pages for residential property insurance policy forms list each type of deductible under the policy and state the exact dollar amount of each deductible.

Section 3502.104 provides that a mortgage guaranty insurer must file forms, classifications, and rules with TDI.

Section 3502.108(a) provides that the Commissioner may adopt reasonable rules relating to the minimum standards for coverage under policy forms consistent with the purpose of Chapter 3502, relating to Mortgage Guaranty Insurance, and the public policy of this state.

Section 3502.108(b) provides that TDI "may establish requirements for data and information filed under this chapter."

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

CROSS REFERENCE TO STATUTE. The repeal of 28 TAC Chapter 5, Division 5, §§5.9320 – 5.9323 implements Insurance Code §§2052.002, 2171.003, 2301.001, 2301.006, 2301.053, 2301.055, 2301.056, 3502.104, 3502.108, and 36.001.

TEXT.

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.

§5.9321. Request for Deemer Period Waiver.

§5.9322. Insurers Providing Coverage through a Purchasing Group.

§5.9323. Residential Property Declarations Page Forms.

DIVISION 5. FILINGS MADE EASY – REQUIREMENTS FOR PROPERTY AND CASUALTY POLICY FORM AND ENDORSEMENT FILINGS.

28 TAC §§5.9320 – 5.9328

STATUTORY AUTHORITY. New Division 5, §§5.9320 – 5.9328 is proposed under Insurance Code §§2052.002, 2171.003, 2301.001, 2301.006, 2301.053, 2301.055, 2301.056, 3502.104, 3502.108, and 36.001.

Section 2052.002 provides that in writing workers' compensation insurance, an insurance company may not use a form other than one prescribed by the Commissioner, and 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 2171.003 provides that an insurer must file a policy form for use with commercial group property insurance with the Commissioner before using the form.

Section 2301.001 states that the purpose of Chapter 2301, Subchapter A, includes regulating insurance forms to ensure that they are not unjust, unfair, inequitable, misleading, or deceptive.

Section 2301.006 provides that an insurer may 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 2301.053 provides that a form may not be used unless the form is written in plain language. A form is considered written in plain language if it achieves a minimum score established by the Commissioner on the Flesch reading ease test.

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 2301.056 requires that declaration pages for residential property insurance policy forms list each type of deductible under the policy and state the exact dollar amount of each deductible.

Section 3502.104 provides that a mortgage guaranty insurer must file forms, classifications, and rules with TDI.

Section 3502.108(a) provides that the Commissioner may adopt reasonable rules relating to the minimum standards for coverage under policy forms consistent with the purpose of Chapter 3502, relating to Mortgage Guaranty Insurance, and the public policy of this state.

Section 3502.108(b) provides that TDI "may establish requirements for data and information filed under this chapter."

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

CROSS REFERENCE TO STATUTE. The proposed new Division 5, §§5.9320 – 5.9328 implement Insurance Code §§2052.002, 2171.003, 2301.001, 2301.006, 2301.053, 2301.055, 2301.056, 3502.104, 3502.108, and 36.001.

TEXT.

DIVISION 5. FILINGS MADE EASY – REQUIREMENTS FOR PROPERTY AND CASUALTY POLICY FORM AND ENDORSEMENT FILINGS.

§5.9320. Purpose and Definitions.

(a) Purpose. The purpose of this division is to specify the filing requirements for property and casualty policy form and endorsement filings submitted under Insurance Code Chapters 2052, 2301, or 3502. All insurer and advisory organization filings must comply with the filing requirements of this division and any other applicable rules.

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

§5.9321. General Filing Requirements.

(a) Filings must be submitted for only one line of insurance except for multi-peril and interline filings.

(b) Filings submitted under this division may not be combined with any other filing types submitted under this subchapter.

(c) Filings must contain the following:

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

(2) a copy of the proposed policy forms or endorsements;

(3) a form number for each proposed form;

(4) an edition date for each proposed form, if applicable;

(5) the TDI file number for the previously approved policy to which the proposed form will be attached, if applicable;

(6) a form usage table that includes:

(A) the form name and form number for each proposed form; and

(B) information indicating whether each proposed form is optional, mandatory, or conditional mandatory. For conditional mandatory forms, the filer must submit an addendum that describes the conditions that make each form mandatory. For filings other than personal automobile, residential property, or personal multi-peril, the filer may describe the conditions elsewhere in the filing;

(7) a memorandum that contains:

(A) a detailed explanation of the reasons for the filing;

(B) a description of the proposed policy forms or endorsements; and

(C) an explanation of each policy form and endorsement's use, which may include for example, the type of risk or risks for which the forms or endorsements will be used.

(8) All provisions required by statute, administrative rule, or Commissioner's order. Filers may add the required provisions to a policy form by including a Texas amendatory endorsement. The filing must include the amendatory endorsement, or the

filing may reference an approved amendatory endorsement that applies to the policy forms in the filing.

(9) For amended policy forms or endorsements, copies 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. New text must be underlined, and deleted text must be in brackets with a strikethrough. Alternatively, the changes can be indicated by other clearly identified or highlighted editorial notations referencing new and replaced text. The marked changes must be in a separate single document for each filed form.

(10) For personal automobile and residential property insurance, a filing must meet the statutory requirements for plain language in policies required by Commissioner's Order No. 92-0573, or any superseding Commissioner's order. The filing must also include the Flesch Reading Ease Test readability score for the filed forms or endorsements.

§5.9322. Additional Information.

(a) When reviewing each filing under this division, TDI may request additional information specific to the filing. This information may include:

(1) related forms or information;

(2) a summary of all policy provisions, including a detailed description and explanation of the coverages, limitations, exclusions, and conditions;

(3) a coverage comparison to a similar policy form or endorsement that the Commissioner has 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; or

(4) a coverage evaluation that contains a detailed explanation of the proposed changes including any restrictions in coverage, enhancements in coverage, or clarifications to approved or adopted policy forms or endorsements. The coverage evaluation may be provided in 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.

(b) Filers must provide information requested by TDI under this section.

§5.9323. Requirements for Reference Filings.

(a) Reference filings for policy forms and endorsements should not include a copy of the referenced material.

(b) In addition to the transmittal information, a reference filing must include:

(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.

(c) For personal automobile, residential property, and personal multi-peril insurance, the filing must also include:

(1) a list of each form and endorsement that the insurer will use from each referenced filing; and

(2) a form usage table, as described in §5.9321(c)(6) of this title (relating to General Filing Requirements), that includes each form and endorsement that the insurer will use from each referenced filing.

(d) If a filer wants to change a form or endorsement approved for another insurer or an advisory organization, the filer may not submit the form as a reference filing. The filer must submit the amended form for approval with the information required by

§§5.9321 – 5.9322 of this title (relating to General Filing Requirements and Additional Information).

§5.9324. Incomplete Filings.

(a) TDI will consider a filing incomplete if the filing does not comply with the filing requirements in §§5.9321 – 5.9323 of this title (relating to General Filing Requirements, Additional Information, and Requirements for Reference Filings).

(b) If TDI determines that a filing is incomplete, TDI will notify the filer and describe deficiencies in the filing and the additional information required to complete the filing. TDI may reject a filing that still has deficiencies on the date specified in the notice.

(c) A rejected filing:

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

(2) will not be reopened for purposes of resubmission.

(d) The deemer period does not begin until TDI receives a complete filing.

§5.9325. Request for Deemer Period Waiver.

By sending written notice to TDI, an insurer may waive the deadlines by which the Commissioner, under Insurance Code §2301.006, must approve or disapprove a form before it is deemed approved.

§5.9326. 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.

§5.9327. Residential Property Declarations Page Forms.

(a) Insurers must file residential property insurance policy declarations page forms for approval under this division. Declarations pages include renewal declarations pages, renewal certificates, amended declarations pages, and separate disclosure pages allowed under §5.9700 of this title (relating to Residential Property Declarations Pages and Deductible Disclosures).

(b) Filed declarations page forms must be completed with sample—not actual—policyholder information sufficient to demonstrate how the insurer will comply with this rule and Insurance Code §2301.056.

§5.9328. Insurers Writing Commercial Group Property Insurance.

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 AND RULE FILINGS.

28 TAC §§5.9330 – 5.9335

STATUTORY AUTHORITY. The amendments to §§5.9330 – 5.9335 are proposed under Insurance Code §§559.004, 912.056, 2053.003, 2251.101, 2251.1025, 2251.252, 3502.101, 3502.104, 3502.108, and 36.001.

Section 559.004 provides that the Commissioner "adopt rules that prescribe the allowable differences in rates charged by insurers due solely to the difference in credit scores."

Section 912.056 provides that 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 requires by rule.

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 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 2251.1025 provides that the Commissioner adopt rules regarding filing requirements for certain personal automobile insurers with less than 3.5 percent of the market share of the personal automobile insurance market in this state.

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 3502.101(a) provides that a mortgage guaranty insurer must file rate and supplementary rate information, and any changes to the rate or supplementary rate information not later than 15 days before it uses the rate or supplementary rate information in this state. Section 3502.101(b) provides that the rate filing must include adequate supporting data; an explanation of the insurer's interpretation of any statistical data on which the insurer relied; an explanation and description of the methods used in making the rates; and certification of the appropriateness of the charges, rates, or rating plans based on reasonable assumptions and accompanied by adequate supporting information.

Section 3502.104 provides that a mortgage guaranty insurer must file forms, classifications, and rules with TDI.

Section 3502.108(a) provides that the Commissioner may adopt reasonable rules relating to the minimum standards for coverage under policy forms consistent with the

purpose of Chapter 3502, relating to Mortgage Guaranty Insurance, and the public policy of this state. Section 3502.108(b) provides that TDI "may establish requirements for data and information filed under this chapter."

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

CROSS REFERENCE TO STATUTE. The proposed amendments to §§5.9330 – 5.9335 implement Insurance Code §§559.004, 912.056, 2053.003, 2251.101, 2251.1025, 2251.252, 3502.101, 3502.104, 3502.108, and 36.001.

TEXT.

DIVISION 6. FILINGS MADE EASY – REQUIREMENTS FOR RATE AND RULE FILINGS.

§5.9330. Purpose.

The purpose of this division is to specify requirements for rate and rule filings under Insurance Code Chapters 2053, 2251, and 3502. Rate and rule filings may include rates, prospective loss costs, loss cost multipliers, rating manuals, and other supplementary rating information. Rate and rule filings may also include information concerning 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. All insurer and advisory organization filings must comply with the filing requirements of this division and any other applicable rules adopted by the Commissioner.

§5.9331. Definitions.

(a) Terms not defined in this section, but ~~that~~ ~~[which]~~ are defined in Insurance Code Chapters ~~[Chapter]~~ 2053, 2251, or 3502, or in §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-a)~~ ~~[§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 determines whether a filing is eligible to be reviewed as a short track filing. The TDI website lists advisory organization filings that insurers may reference in a short track filing. ~~[will maintain a list of qualifying types of filings on the TDI website.]~~

§5.9332. Categories of Supporting Information.

Categories ~~[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 and ~~[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 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;

(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 loss experience [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 loss experience [data] and methodologies used by the insurer to derive the [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 loss experience [data] and methodologies used by the insurer to derive them. The support must clearly demonstrate why the proposed rates are not excessive, inadequate, or unfairly discriminatory. A rate is reasonable and not excessive, inadequate, or unfairly discriminatory if it is an actuarially sound estimate of the expected value of all future costs associated with an individual risk transfer. These

costs include claims, claim settlement expenses, operational and administrative expenses, and the cost of capital. [~~Examples include:~~

~~[(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. Policyholder impact information must reflect the changes for all policyholders. This information consists of the following provided separately by [~~homeowners~~] form or [~~and personal automobile~~] coverage:

(A) a histogram that [~~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.

(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 or coverage.

(7) Rate change information. Rate change information must reflect the changes for all policyholders.

(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;

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

(9) Expense [~~Historical and projected expense~~] information. This information consists of Texas experience^[7] and, if applicable, countrywide experience. The loss adjustment expenses must be shown as a dollar amount and as [~~well as~~] a ratio to incurred [~~ratio to incurred~~] losses. All other expenses must be shown as a dollar amount and 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, or a subset of 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 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:
 - (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 before [~~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.

(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 [~~commissioner~~] necessary to determine that the rates meet the rate standards.

§5.9333. Categories of Supplementary Rating Information.

Categories [~~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, 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 and Rule 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.

(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 and ~~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, unless the insurer is subject to prior approval under Insurance Code Chapter 2251, Subchapter D.

(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) All rate and rule filings must be submitted for only one line of insurance except for multi-peril and interline filings.

(e)~~(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]~~

(f) Insurers must inform TDI of a change in the ~~[new proposed]~~ effective date of a rate and rule filing on or before ~~[prior to]~~ the ~~[original proposed]~~ effective date in the filing.

(g)~~(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.

(h)~~(f)~~ Except as provided in Division 9 of this subchapter (relating to Filings Made Easy ~~[-]~~ Reduced Filing Requirements for Certain Insurers), or subsection (i)~~(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 and rule filing is insufficient, TDI may request additional information as deemed necessary by TDI or the Commissioner. ~~[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, and [as well as] those implied by [applied through] discounts, surcharges, or tiers, must include relativity analyses. This requirement applies when the proposed rate changes vary across a characteristic, regardless of presentation. The related territory codes and descriptions, classification systems and descriptions, or rules must also be included.

(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 this paragraph ~~§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

(11) profit provision information ~~[-if the filing changes or replaces existing rates]~~.

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

(1) a completed rate filing checklist;

(2) rate change information; ~~and~~

(3) SERFF rate data; and[-]

(4) a side-by-side comparison or a mark up, if applicable.

(j)~~(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 in black ink, unless the pages are a mark up;

(4) text shading, other than ~~[with the exception of]~~ yellow highlighting, may not be used; and

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

(k)~~(i)~~ Paragraphs (1) ~~[-]~~ (3)~~(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 associated with an email address that appears in the filing has affirmatively consented to the release and disclosure of that email address.]~~

~~(1)~~[(2)] If an insurer believes a portion of the information required to be filed under Insurance Code Chapter 2053 or Chapter 2251 is confidential and excepted from disclosure under Government Code Chapter 552, the insurer must mark each page excepted.

~~(2)~~[(3)] For filings submitted under Insurance Code Chapters [~~Chapter~~] 2053 or 2251, that include information that is [~~and that are~~] marked confidential, TDI will request an attorney general decision under Government Code Chapter 552 before making the information [~~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, or [~~and~~] summary information about the [~~rate~~] filing, including date filed, rate impact, effective dates, or [~~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, or [~~and~~] historical expense information.

~~(3)~~[(4)] Each filing submitted under Insurance Code Chapter [~~Chapters 2053~~ ~~and~~] 3502, including any supporting information filed, will be open for public inspection as of the date of the filing.

~~(1)~~[(j)] The insurer is responsible for ensuring that its filing complies with Texas statutes and rules.

(m)~~(k)~~ TDI maintains the Filings Made Easy Guide to help ~~assist~~ insurers comply ~~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 (h)~~(f)~~ of this section. Insurers may obtain this guide from TDI's website at www.tdi.texas.gov.

(n)~~(f)~~ Filings under this division may not be combined with any other filing types ~~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, and ~~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 and rules.

(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 and Rule Filing Submissions); and
- (3) requests arising from discrepancies in the filing.

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

28 TAC §§5.9340 – 5.9342

STATUTORY AUTHORITY. The amendments to §§5.9340 – 5.9342 are proposed under Insurance Code §§38.002, 38.003, 2053.034, and 36.001.

Section 38.002 requires each insurer writing personal automobile insurance or residential property insurance to file its underwriting guidelines with TDI and to ensure that the underwriting guidelines are sound, actuarially justified, substantially commensurate with the contemplated risk, and not unfairly discriminatory.

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 2053.034 provides that each insurer writing workers' compensation insurance must file with TDI a copy of its underwriting guidelines.

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

CROSS REFERENCE TO STATUTE. The proposed amendments to §§5.9340 – 5.9342 implement Insurance Code §§38.002, 38.003, 2053.034, and 36.001.

TEXT.

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 Chapter 38 [~~§38.002 and §38.003,~~] and Chapter 2053.

§5.9341. Definitions.

The following definitions apply to underwriting guideline filings under this division:

(1) the [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.~~]

(2) the ~~[The]~~ definitions ~~[set forth]~~ in Insurance Code §38.002 apply to insurers filing underwriting guidelines for personal automobile or residential property insurance~~[-]~~;

(3) the ~~[The]~~ definitions ~~[set forth]~~ in Insurance Code Chapter 2053 apply to insurers filing underwriting guidelines for workers' compensation insurance; ~~and~~[-]

(4) the ~~[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 writing personal automobile, residential property, or workers' compensation insurance must file with TDI:

(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 filing[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, other than workers' compensation insurance, 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.

(h) Information used to classify risks for the purpose of determining a rate must be filed under Division 6 of this title (relating to Filings Made Easy – Requirements for Rate and Rule Filings), even if the information is included in an underwriting guideline filing under this division.

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

28 TAC §5.9351 and §5.9352

STATUTORY AUTHORITY. The amendments to §5.9351 and §5.9352 are proposed under Insurance Code §§559.004, 559.151, and 36.001.

Section 559.004 provides that the Commissioner "adopt rules that prescribe the allowable differences in rates charged by insurers due solely to the difference in credit scores."

Section 559.151 provides that an insurer that uses credit scores to underwrite and rate risks must file its credit scoring model or other credit scoring processes with TDI.

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

CROSS REFERENCE TO STATUTE. The proposed amendments to §5.9351 and §5.9352 implement Insurance Code §§559.004, 559.151, and 36.001.

TEXT.

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

§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 credit scoring models must be filed before they can be used. Insurers referencing credit scoring 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 credit scoring model being referenced instead of filing the model itself. Insurers making independent credit scoring model filings must file the entire model, including definitions.

(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 credit score [~~resulting from the model~~] for underwriting, rating, or tiering; [~~and~~]

(3) for policies with more than one named insured, which insured's credit score is used;

(4) how often the credit score is updated; and

(5)[(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.]~~

(c)[(d)] TDI maintains the Filings Made Easy Guide to help [~~assist~~] insurers comply [~~in complying~~] with Texas statutes and rules. Insurers may refer to the Filings Made Easy Guide for the questionnaire described in subsection (b)(5)[~~(3)~~] of this section. Insurers may obtain this guide from TDI's website at www.tdi.texas.gov.

(d) Filings under this section may not be combined with any other filing type [~~filings~~] submitted under this subchapter.

(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.

28 TAC §§5.9355 – 5.9357

STATUTORY AUTHORITY. The amendments to §§5.9355 – 5.9357 are proposed under Insurance Code §§2251.101, 2251.1025, 2251.252, and 36.001.

Section 2251.101 provides that the Commissioner 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 2251.1025 provides that the Commissioner adopt rules regarding filing requirements for certain personal automobile insurers with less than 3.5 percent of the market share of the personal automobile insurance market in this state.

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

CROSS REFERENCE TO STATUTE. The amendments to §§5.9355 – 5.9357 implement Insurance Code §§2251.101, 2251.1025, 2251.252, and 36.001.

TEXT.

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, Subchapters C [~~Subchapter E~~] or F.

§5.9356. Definitions.

The definitions [~~set forth~~] in §5.9331 of this title (relating to Definitions) apply to this division.

§5.9357. Filing Requirements.

(a) Insurers [~~County mutual insurers~~] writing [~~nonstandard~~] personal automobile insurance. Insurers [~~County mutual insurers~~] required to file under the provisions of Insurance Code Chapter 2251 may make rate and rule filings for personal automobile insurance according to the requirements described in this subsection if they meet the criteria under Insurance Code §2251.1025(a). [~~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 and Rule Filings) with the following modifications:

(1) Insurers must include a Certification of §2251.1025 [~~Sections 2251.201–2251.204~~] Exemption Compliance (EC-2), found in the Filings Made Easy Guide, with each filing. [~~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]~~ file supporting information described in §5.9334(h)(f)(5), (6), (9), (10), and (11) of this title (relating to Requirements for Rate and Rule Filing Submissions), unless requested.

~~[(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.]~~

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

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

(2) Insurers are not required to ~~[comply with]~~ file supporting information described in §5.9334(h)(f)(5), (6), (9), (10), and (11) of this title, unless requested.

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

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

(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.]~~

~~(d)~~~~(f)~~ Filings Made Easy Guide. TDI maintains the Filings Made Easy Guide to help ~~assist~~ insurers comply ~~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 ~~(b)~~~~(c)~~(1) of this section and the Certification of §2251.1025 ~~[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.

28 TAC §5.9360 and §5.9361

STATUTORY AUTHORITY. The amendments to §5.9360 and §5.9361 are proposed under Insurance Code §§912.056, 2251.101, and 36.001.

Section 912.056 provides that 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 requires by rule.

Section 2251.101 provides that the Commissioner 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 36.001 provides that the Commissioner may adopt any rules necessary and appropriate to implement the powers and duties of TDI under the Insurance Code and other laws of this state.

CROSS REFERENCE TO STATUTE. The amendments to §5.9360 and §5.9361 implement Insurance Code §§912.056, 2251.101, and 36.001.

TEXT.

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 Division [~~Divisions~~] 4 [~~and 6~~] of this subchapter (relating to Filings Made Easy ~~[-]~~ Transmittal Information and General Filing Requirements for Property and Casualty Form, Rate and Rule, Underwriting Guideline, and Credit Scoring Model Filings) and Division 6

(relating to Filings Made Easy ~~[-]~~ Requirements for Rate and Rule 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).

§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 and Rule, 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)(~~10~~)(~~9~~) of this title (relating to Property and Casualty Transmittal Information and General Filing Requirements).

(b) Rate and rule filings.

(1) All rate and rule 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 and rule filing must include:

(A) all information required under §5.9334 of this title (relating to Requirements for Rate and Rule 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.

DIVISION 11. FILINGS MADE EASY – CERTIFICATES OF PROPERTY AND CASUALTY INSURANCE.

28 TAC §§5.9370 – 5.9374 and 5.9376

STATUTORY AUTHORITY. The amendments to §§5.9370 – 5.9374 and 5.9376 are proposed under Insurance Code §§1811.003, 1811.052, 1811.053, 1811.101, 1811.104, and 36.001.

Section 1811.003 allows the Commissioner to adopt rules necessary or proper to accomplish the purposes of Insurance Code Chapter 1811.

Section 1811.052 states that an insurer or an agent may not issue a certificate of insurance unless the certificate has been filed with and approved by TDI or is a standard form deemed approved by TDI under §1811.103.

Section 1811.053 states that a person may not alter or modify a certificate of insurance form approved under §1811.101 unless the alteration or modification is approved by TDI.

Section 1811.101 states that an insurer or agent may not deliver or issue for delivery in this state a certificate of insurance unless the certificate has been filed with and approved by the Commissioner and contains the phrase "for information purposes only" or similar language.

Section 1811.104 provides that a certificate of insurance form and any supporting information filed with TDI is open to public inspection as of the date of the filing.

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

CROSS REFERENCE TO STATUTE. The amendments to §§5.9370 – 5.9374 and 5.9376 implement Insurance Code §§1811.003, 1811.052, 1811.053, 1811.101, 1811.104, and 36.001.

TEXT.

DIVISION 11. FILINGS MADE EASY – CERTIFICATES OF PROPERTY AND CASUALTY INSURANCE.

§5.9370. Purpose and Scope.

(a) This division specifies the filing requirements for certificates of property and casualty insurance submitted under [~~pursuant to~~] Insurance Code Chapter 1811[~~of the Insurance Code~~]. It also consolidates and explains the restrictions that apply to the content of certificates of insurance.

(b) Nothing in this division prohibits a certificate holder from requesting a copy of the subject policy or endorsements.

(c) Nothing in this division applies to certificates or evidence forms exempted from the filing requirements under [~~pursuant to~~] Insurance Code §1811.002(b), including:

(1) a statement, summary, or evidence of property insurance required by a lender in a lending transaction involving a mortgage, lien, deed of trust, or any other security interest in real or personal property as security for a loan;

(2) a certificate issued under a group or individual policy for life insurance, credit insurance, accident and health insurance, long-term care benefit insurance, or Medicare supplement insurance or an annuity contract; or

(3) standard proof of motor vehicle liability insurance.

(d) Nothing in this division applies to negotiable or transferable certificates or evidence forms pertaining to marine insurance.

(e) Nothing in this division applies to a certificate or evidence form pertaining to a nonadmitted insurance policy sold to, solicited by, or negotiated with an insured whose home state is not Texas. In this subsection, "home state" has the same definition as in Insurance Code §226.051.

§5.9371. Definitions.

(a) Words and terms not defined in this division have the same meaning as in Insurance Code Chapter 1811[~~of the Insurance Code~~].

(b) Unless the context indicates otherwise, this division uses the following definitions:

(1) Certificate holder--A person, other than a policyholder, who is designated on a certificate of insurance as a certificate holder or to whom a certificate of insurance has been issued by an insurer or agent at the request of the policyholder.

(2) Certificate of insurance--A document, instrument, or record, including an electronic record, no matter how titled or described, that is executed by an insurer or agent and issued to a third person not a party to the subject insurance contract, as a statement or summary of property or casualty insurance coverage. The term does not include an insurance binder or policy form, or any document that describes insurance coverage that is merely promised or expected to exist in the future, whether titled as an affidavit, insurance verification form, or otherwise.

(3) Commissioner--The Commissioner of Insurance.

(4) Company--The name of the entity filing the certificate of insurance form. If a third party is filing the certificate of insurance form, the company name is the name of the entity for which the third party is filing the certificate of insurance form, not the name of the third-party filer.

(5) FEIN--Federal Employer Identification Number.

(6) Insurance Code--The Texas Insurance Code.

(7) NAIC--The National Association of Insurance Commissioners.

(8) SERFF--The NAIC System for Electronic Rate and Form Filing.

(9) TDI--The Texas Department of Insurance.

~~[(1) Certificate of insurance--A document, instrument, or record, including an electronic record, no matter how titled or described, that is executed by an insurer or agent and issued to a third person not a party to the subject insurance contract, as a statement or summary of property or casualty insurance coverage. The term does not include an insurance binder or policy form, or any document that describes insurance coverage that is merely promised or expected to exist in the future, whether titled as an affidavit, insurance verification form, or otherwise.]~~

~~[(2) Certificate holder--A person, other than a policyholder, who is designated on a certificate of insurance as a certificate holder or to whom a certificate of insurance has been issued by an insurer or agent at the request of the policyholder.]~~

~~[(3) Company--The name of the entity filing the certificate of insurance form. If a third party is filing the certificate of insurance form, the company name is the name of the entity for which the third party is filing the certificate of insurance form, not the name of the third party filer.]~~

~~[(4) Commissioner--The commissioner of insurance.]~~

~~[(5) TDI--The Texas Department of Insurance.]~~

~~[(6) Insurance Code--The Texas Insurance Code.]~~

~~[(7) FEIN--Federal Employer Identification Number.]~~

~~[(8) NAIC--The National Association of Insurance Commissioners.]~~

~~[(9) SERFF--The NAIC System for Electronic Rate and Form Filing.]~~

§5.9372. Preparation and Submission of Certificate of Insurance Form Filings.

(a) Approval required. A certificate of insurance issued on property or casualty operations or a risk located in Texas ~~[this state]~~, regardless of where the certificate holder, policyholder, insurer, or agent is located, must be on a form that has been filed and approved before ~~[prior to]~~ use.

(b) Filing content. All filings for new or amended certificate of insurance forms submitted under ~~[pursuant to]~~ Insurance Code Chapter 1811 must comply with the filing requirements ~~[set forth]~~ in this division, any other applicable rules the Commissioner ~~[commissioner]~~ has adopted, and any applicable Commissioner's ~~[commissioner's]~~ orders.

(1) All filings must contain transmittal information as required by §5.9373 of this title (relating to Certificate of Insurance Form Filing Transmittal Information).

(2) All filings must contain a copy of the subject certificate of insurance form. For identification purposes, the certificate of insurance must contain a form number and edition date.

(c) Combined filings. Do not combine a certificate of insurance form filing with any other filing types.

(d) Filing submission.

(1) TDI will accept a filing required under this division by mail. Send filings to the Texas Department of Insurance, Property and Casualty Filings Intake, Mail Code 104-3B, P.O. Box 149104, Austin, Texas 78714-9104.

(2) TDI will accept a filing required under this division if it is hand delivered. [~~hand delivered.~~] Bring filings to the Texas Department of Insurance, Customer Service Center, William P. Hobby Jr. State Office Building, 333 Guadalupe St., Tower 1, Room 103, Austin, Texas 78701.

(3) TDI will accept a filing required under this division that is submitted electronically, whether by email to PCFilingsIntake@tdi.texas.gov or through SERFF.

(4) TDI will not collect a filing fee for a certificate of insurance filing.

(e) Public inspection of filing.

(1) A certificate of insurance form and any supporting information filed with TDI under this division is open to public inspection as of the date of the filing.

(2) To the extent that a filing includes company contact information, the company affirmatively consents to the release and disclosure of its company contact information, including any email addresses.

§5.9373. Certificate of Insurance Form Filing Transmittal Information.

(a) Required information. The filing transmittal information must be typed and must contain, at a minimum, the following:

- (1) company name;
- (2) NAIC number if the filing is submitted by an insurer;
- (3) FEIN if the filing is submitted by an entity other than an insurer or agent;

and

(4) contact person, including name, telephone number, mailing address, fax number, and email address (if available).

(b) Transmittal information format.

(1) The Certificate of Insurance Form Filing Transmittal Form is available on TDI's website at www.tdi.texas.gov or by request to the Texas Department of Insurance, Property and Casualty Filings Intake, Mail Code 104-3B, P.O. Box 149104, Austin, Texas 78714-9104.

(2) Filers may submit transmittal information in a format other than the form provided by TDI if the information included in the transmittal form, or in an addendum to the transmittal form, contains all the information required under subsection (a) of this section.

(c) SERFF filings. Persons filing through SERFF must follow existing procedures for SERFF filings.

§5.9374. Incomplete Filings.

(a) A filing is incomplete if the filing does not comply with all of the filing requirements described in this division.

(b) TDI will inform a ~~[return an incomplete filing to the]~~ filer with a letter or electronic notification indicating the reasons why a filing is incomplete. ~~[for the return.]~~

(c) The 60-day period in Insurance Code §1811.101(c) does not commence until TDI receives a complete filing.

§5.9376. Restrictions on the Content of Certificates of Insurance.

(a) Required language. A certificate of insurance must contain the phrase "for information purposes only" or similar language, or state that:

(1) the certificate of insurance does not confer any rights or obligations other than the rights and obligations conveyed by the policy referenced on the form; and

(2) the terms of the policy control over the terms of the certificate of insurance.

(b) Specific limitations.

(1) A certificate of insurance may not amend, extend, or alter the coverage afforded by the referenced insurance policy.

(2) A certificate of insurance may not confer to a certificate holder new or additional rights beyond what the referenced policy or any executed endorsement provides.

(3) A certificate of insurance may not alter or modify a certificate of insurance form approved by TDI unless TDI approves the alteration or modification.

(4) A certificate of insurance may not contain false or misleading information concerning the referenced insurance policy.

(A) Requests for information on the certificate of insurance form must be specific, clear, and reasonable.

(B) Any explanatory information included in a completed certificate of insurance is limited to language in the referenced policy and any executed endorsements.

(5) A certificate of insurance may not contain a reference to a legal or insurance requirement contained in a contract other than the underlying contract of insurance, including a contract for construction or services.

(A) A certificate of insurance may refer to the language in the underlying contract of insurance.

(B) A certificate of insurance may not refer to, describe, explain, or define obligations under a contract other than the underlying contract of insurance.

(6) A certificate of insurance may not alter the terms and conditions of a right to notice of cancellation, nonrenewal, or material change, or any similar notice concerning a policy of insurance required by the insurance policy or Texas law.

(A) A certificate of insurance may not create a new or additional duty to notify.

(B) Any statement on a certificate of insurance regarding an existing duty to notify is limited to language in the referenced policy and any executed endorsements.

(c) Disapproval. The Commissioner [~~commissioner~~] will disapprove a filed certificate of insurance form, or withdraw approval of an approved certificate of insurance form if the form:

(1) contains a provision or has a title or heading that is misleading or deceptive or violates public policy;

(2) violates any state law, including an administrative rule;

(3) requires an agent to certify insurance coverage that is not available in the line or type of insurance coverage referenced on the form; or

(4) directly or indirectly requires the Commissioner [~~commissioner~~] to make a coverage determination under a policy of insurance or insurance transaction.

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

Issued at Austin, Texas, on December 27, 2018.

/s/ Norma Garcia _____

Norma Garcia
General Counsel
Texas Department of Insurance