

2019-5884

TITLE 28. INSURANCE
Part I. Texas Department of Insurance
Chapter 5. Property and Casualty Insurance

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SUBCHAPTER E. TEXAS WINDSTORM INSURANCE ASSOCIATION 28 TAC §5.4021

INTRODUCTION. The Commissioner of Insurance adopts new 28 TAC §5.4021, relating to Texas Windstorm Insurance Association (TWIA) agent requirements.

The new section is adopted without changes to the proposed text published in the January 4, 2019, issue of the *Texas Register* (44 TexReg 58).

REASONED JUSTIFICATION. The new section is necessary to implement House Bill 3018, 85th Legislature, Regular Session (2017). HB 3018 added Insurance Code §2210.152(a)(2)(G), mandating that TWIA's plan of operation include "a requirement that a nonresident agent... may not offer or sell a Texas windstorm and hail insurance policy under Chapter 2210 unless the nonresident agent's state of residence authorizes a resident agent licensed in Texas to act in the nonresident agent's state as an agent for that state's residual insurer of last resort for windstorm and hail insurance."

SUMMARY OF COMMENTS. The Texas Department of Insurance (TDI) did not receive any comments on the new section, nor any requests for a public hearing.

STATUTORY AUTHORITY. The Commissioner adopts new §5.4021 under Insurance Code §§2210.008, 2210.151, and 36.001.

Section 2210.008(b) authorizes the Commissioner to adopt reasonable and necessary rules to implement Chapter 2210.

Section 2210.151 authorizes the Commissioner to adopt TWIA's plan of operation.

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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.

TEXT.

SUBCHAPTER E. TEXAS WINDSTORM INSURANCE ASSOCIATION 28 TAC §5.4021. Agent Requirements.

§5.4021. Agent Requirements.

A nonresident agent may not offer or sell a TWIA policy if the agent's state of residence does not authorize Texas residents to be agents for that state's windstorm and hail insurer of last resort. TWIA must implement a process to prevent unauthorized nonresident agents from offering or selling TWIA policies.

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

Issued at Austin, Texas, on February 22, 2109.

/s/ Norma Garcia
Norma Garcia
General Counsel
Texas Department of Insurance

The Commissioner adopts new 28 TAC §5.4021.

/s/ Kent C. Sullivan
Kent C. Sullivan
Commissioner of Insurance

COMMISSIONER'S ORDER NO. **2019-5884**