

SUBCHAPTER M. FILING REQUIREMENTS

DIVISION 6. FILINGS MADE EASY - REQUIREMENTS FOR RATE AND RULE FILINGS 28 TAC §5.9332

INTRODUCTION. The Texas Department of Insurance proposes to amend 28 TAC §5.9332, relating to workers' compensation classification relativities. The amendment is necessary because Senate Bill 1336, 86th Legislature, Regular Session (2019), eliminated the department's statutory requirement to develop workers' compensation classification relativities, which made paragraph (7)(B) of 28 TAC §5.9332 obsolete.

EXPLANATION. Section 5.9323(7)(B) provides a list of rate change information that must be included in workers' compensation filings using classification relativities established under Insurance Code §2053.051. Amending §5.9332 to delete (7)(B) makes the section consistent with the amendments to Insurance Code §2053.051 made under SB 1336, which eliminate the department's requirement to develop workers' compensation classification relativities. This change to Insurance Code §2053.051 becomes effective on July 1, 2020, therefore, this rule amendment is proposed to be effective July 1, 2020.

Section 5.9332 is amended by deleting paragraph (7)(B) and all the subparts of it. Existing paragraph (7)(C) is redesignated as new paragraph (7)(B). In addition to that amendment, paragraph (3)(A)(viii) is amended to insert a comma following the word "licenses," for consistency with the department's style for punctuation.

FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT. Nicole Elliott, actuary in the Property and Casualty Actuarial Office, has determined that, for each year of the first five years the proposed amendment is in effect, there will be no measurable fiscal

impact on state and local governments as a result of the enforcement or administration of the amendment.

Ms. Elliott does not anticipate a measurable effect on local employment or the local economy as a result of this proposal.

PUBLIC BENEFIT AND COST NOTE. For each year of the first five years the proposed amendment is in effect, Ms. Elliott expects that it will have the public benefit of ensuring that the department's rules conform to Insurance Code §2053.051.

Ms. Elliott expects that the proposed amendment will not increase the cost of compliance with Insurance Code §2053.051 because it does not impose requirements beyond those in the statute. SB 1336 removed the requirement under Insurance Code §2053.051 for the department to develop workers' compensation classification relativities. As a result, there are no costs associated with this proposed amendment.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS FOR SMALL AND MICRO BUSINESSES. The department has determined that the proposed amendment will not have an adverse economic effect or a disproportionate economic impact on small or micro-businesses, or on rural communities. The proposed amendment removes a provision made obsolete due to a statutory change. Also, this proposal does not impose any new requirements on insurers. As a result, and in accordance with Government Code §2006.002(c), the department is not required to prepare a regulatory flexibility analysis.

EXAMINATION OF COSTS UNDER GOVERNMENT CODE §2001.0045. The department has determined that this proposal does not impose a possible cost on regulated persons and thus no additional rule amendments are required under Government Code

§2001.0045. Even if the proposal did impose a cost, no additional rule amendments are required because the proposed amendment is necessary to implement legislation. The proposed amendment implements SB 1336, which eliminated the department's statutory requirement to develop workers' compensation classification relativities and made 28 TAC §5.9332(7)(B) obsolete.

GOVERNMENT GROWTH IMPACT STATEMENT. The department has determined that for each year of the first five years that the proposed amendment is in effect, the proposed rule:

- will not create or eliminate a government program;
- will not require the creation of new employee positions or the elimination of existing employee positions;
- will not require an increase or decrease in future legislative appropriations to the agency;
- will not require an increase or decrease in fees paid to the agency;
- will not create a new regulation;
- will not expand, limit, or repeal an existing regulation;
- will not increase or decrease the number of individuals subject to the rule's applicability; and
- will not positively or adversely affect the Texas economy.

TAKINGS IMPACT ASSESSMENT. The department has determined that no private real property interests are affected by this proposal, and that this proposal does not restrict or limit an owner's right to property that would otherwise exist in the absence of government action. 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 OR PUBLIC HEARING. The department will consider any written comments on the proposal that are received by the department no later than 5 p.m. Central time, on March 23, 2020. Send your comments to ChiefClerk@tdi.texas.gov; or to the Office of the Chief Clerk, MC 112-2A, Texas Department of Insurance, P.O. Box 149104, Austin, Texas 78714-9104.

To request a public hearing on the proposal, submit a request before the end of the comment period, and separate from any comments, to ChiefClerk@tdi.texas.gov; or to the Office of the Chief Clerk, MC 112-2A, 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 the department no later than 5 p.m. Central time, on March 23, 2020. If the department holds a public hearing, the department will consider written and oral comments presented at the hearing.

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STATUTORY AUTHORITY. The department proposes amending §5.9332 under Insurance Code §2053.051 as amended by SB 1336 and Insurance Code §36.001.

SB 1336 amended Insurance Code §2053.051 to eliminate the statutory requirement for the department to develop workers' compensation classification relativities.

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

CROSS-REFERENCE TO STATUTE. The proposal to amend 28 TAC §5.9332 implements Insurance Code §2053.051 as amended by SB 1336.

TEXT.

§5.9332. Categories of Supporting Information.

The categories of supporting information addressed in this section describe the different items that may be required or requested in a rate and rule filing. Section 5.9334 of this title (relating to Requirements for Rate and Rule Filing Submissions) lists the categories of supporting information that different rate and rule filings require. Categories of supporting information include:

(1) and (2) (No change.)

(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) - (vii) (No change.)

(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) - (xiii) (No change.)

(B) and (C) (No change.)

(4) - (6) (No change.)

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

(A) (No change.)

~~[(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.]~~

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

(i) - (iv) (No change.)

(8) - (16) (No change.)

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

Issued in Austin, Texas, on February 4, 2020.

/s/ James Person

James Person, General Counsel
Texas Department of Insurance