

**SUBCHAPTER B. INSURANCE CODE, CHAPTER 5, SUBCHAPTER B
DIVISION 2. REGULATION OF EXCESS LIABILITY INSURANCE
28 TAC §5.1201**

INTRODUCTION. The Commissioner of Insurance adopts the repeal of Division 2 of 28 TAC Chapter 5, Subchapter B, consisting of §5.1201. This section relates to the regulation of umbrella liability insurance. The repeal is adopted without changes to the proposed text published in the April 16, 2021, issue of the *Texas Register* (46 TexReg 2554).

REASONED JUSTIFICATION. Section 5.1201 was adopted to ensure that umbrella liability insurance requirements aligned with promulgated forms. However, under changes made to the Insurance Code by Senate Bill 14, 78th Legislature, 2003, insurers are no longer restricted to promulgated forms for the underlying policies. Therefore, it is not necessary to have a rule that aligns the requirements for umbrella policies with promulgated forms.

In addition, §5.1201 required each insurer writing personal or commercial umbrella liability insurance to file rates and rules on a prior-approval basis, and file policy forms and statistical data. However, SB 14 repealed the prior-approval requirements in Insurance Code art. 5.15, which applied to personal umbrella liability insurance. SB 14 also repealed Insurance Code art. 5.13-2, which applied to commercial liability insurance. Rates and rules for both types of umbrella liability insurance must be filed under Insurance Code §2251.101, policy forms must be filed under Insurance Code §2301.006, and statistical data must be filed under Insurance Code §38.205. Considering these statutory requirements, §5.1201 is no longer necessary.

SUMMARY OF COMMENTS. The Texas Department of Insurance (TDI) did not receive any comments on the proposed repeal.

SUBCHAPTER B. INSURANCE CODE, CHAPTER 5, SUBCHAPTER B.

Repeal of Division 2, §5.1201.

STATUTORY AUTHORITY. The Commissioner adopts the repeal of Division 2 of 28 TAC Chapter 5, Subchapter B, consisting of §5.1201, under Insurance Code §§2251.003, 2301.003, and 36.001.

Insurance Code §2251.003 provides that Insurance Code Chapter 2251, Subchapters B, C, and D, concerning Rate Standards, Rate Filings, and Prior Approval of Rates Under Certain Circumstances, apply to personal umbrella insurance and general liability insurance, which includes commercial umbrella insurance.

Insurance Code §2301.003 provides that Insurance Code Chapter 2301, Subchapter A, concerning Policy Forms Generally, applies to personal umbrella insurance and general liability insurance, which includes commercial umbrella insurance.

Insurance Code §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.

Division 2. Regulation of Excess Liability Insurance.

§5.1201. Regulation of Umbrella Liability Insurance.

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 July 1, 2021.

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Allison Eberhart
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Allison Eberhart, Deputy General Counsel
Texas Department of Insurance

The Commissioner adopts the repeal of 28 TAC §5.1201.

Commissioner of Insurance

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Doug Slape
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By: _____
Doug Slape
Chief Deputy Commissioner
Tex. Gov't Code §601.002
Commissioner's Order No. 2018-5528