

**SUBCHAPTER FF. CREDIT LIFE AND CREDIT ACCIDENT AND HEALTH INSURANCE**  
**DIVISION 7. EXPERIENCE CALL**  
**REPEAL OF 28 TAC §3.5702**  
**28 TAC §3.5701**

**INTRODUCTION.** The Commissioner of Insurance adopts the repeal of 28 TAC §3.5702, relating to instructions for preparing forms, and adopts amendments to 28 TAC §3.5701, relating to statistical data and annual experience calls. In response to public comment, the amendments are adopted with changes to the proposed text published in the April 23, 2021, issue of the *Texas Register* (46 TexReg 2692).

**REASONED JUSTIFICATION.** The current credit call rules found in 28 TAC §3.5701 and §3.5702 require insurers writing credit life insurance and accident and health insurance in Texas to send statistical and experience data to the Texas Department of Insurance (TDI) Life and Health Actuarial Office (LHAO) on an annual basis. However, there is no further administrative or statutory requirement that LHAO use the data.

The repeal of §3.5702 and amendments to §3.5701 will require that credit call data instead be kept by each company and simply be made available upon TDI's request. So, rather than imposing an annual data reporting requirement, TDI will request the data only if the Commissioner needs it to determine whether rates are reasonable in relation to benefits afforded by a given policy contract together with appropriate expenses.

The repeal and amendments (1) streamline TDI resources and data management and (2) remove a reporting burden on companies, while still providing a process to preserve relevant data.

The following paragraphs describe the adopted repeal and amendments.

**Section 3.5701.** The amendments to §3.5701 add language to specify that insurers writing credit life insurance and accident and health insurance in Texas must keep statistical data for no less than five years and provide it to TDI upon request in a format specified by the Commissioner when requested, remove references to TDI's mailing address and required forms, and remove the word "annual" when describing calls for credit call reports. The amendments add a new subsection (c), regarding calculations and work papers, stating that calculations and work papers will now be retained and made available upon the Commissioner's request in the same manner as other credit life and accident and health insurance experience data. New subsection (c) is similar to text from repealed §3.5702(b). The amendments also capitalize "Commissioner" and change "if" to "whether," to adhere to current agency style.

In response to public comment, TDI adds language to §3.5701(a) stating that insurers must keep statistical data only "related to credit life insurance, credit life experience, and credit disability insurance." TDI adds this language to indicate to any future insurers what data the Commissioner may request, and to mirror the credit life insurance, credit life experience, and credit disability insurance categories that were required reporting data in the form that this rule repeals in §3.5702. In addition, to clarify the scope of data that must be maintained for copies of all calculations, work papers, and other data in new subsection (c), the phrase "under this subsection" is added after "used in documenting the credit insurance experience" to clarify that any data that could be requested is limited to calculations, work papers, and other data applicable under §3.5701.

**Section 3.5702.** The repeal of §3.5702 removes a section made obsolete by the amendments in §3.5701. The forms, filing instructions, and calculations that §3.5702(a) and (b) described are unnecessary because any data will now be retained and made

available upon the Commissioner's request in the same manner as other credit life and accident and health insurance experience data. Figure: 28 TAC §3.5702(a) is unnecessary because it lists the reporting forms, which will no longer be used. Finally, subsection (c) is unnecessary because it details requirements to submit experience data that will be addressed under amendments to §3.5701.

**SUMMARY OF COMMENTS AND AGENCY RESPONSE.**

**Commenter:** TDI received one comment in response to the rule proposal. The Consumer Credit Industry Association stated its support of the proposal with changes.

**Comment.** The commenter states that the proposal as written may lead insurers to believe that they are required to retain more data than had been previously required under §3.5701 and §3.5702. The commenter recommends that §3.5701(a) and (c) be amended to clarify that any data requested by the Commissioner be consistent with the data "historically provided" to the Commissioner. To that end, the commenter offers suggested regulatory text.

**Agency Response.** TDI declines to adopt the commenter's suggested text, but does agree to amend §3.5701(a) and (c) to clarify the scope of data the Commissioner may request under this section. TDI adds language to §3.5701(a) stating that insurers must only keep statistical data "related to credit life insurance, credit life experience, and credit disability insurance." TDI adds this language to indicate to any future insurers what data the Commissioner may request, and to mirror the credit life insurance, credit life experience,

and credit disability insurance categories that were required reporting data in the form that this rule repeals in §3.5702.

TDI also amends §3.5701(c) to further clarify the scope of data that must be maintained for copies of all calculations, work papers, and other data. The phrase "under this subsection" was added after "used in documenting the credit insurance experience" to indicate that any data that could be requested by the Commissioner is limited to calculations, work papers, and other data required to be maintained under §3.5701(a).

**SUBCHAPTER FF. CREDIT LIFE AND CREDIT ACCIDENT AND HEALTH INSURANCE.  
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28 TAC §3.5701.**

**STATUTORY AUTHORITY.** The Commissioner adopts the amendments to 28 TAC §3.5701 under Insurance Code §1153.005 and §36.001.

Insurance Code §1153.005 authorizes the Commissioner to adopt rules to implement Insurance Code Chapter 1153, regarding credit life insurance and credit accident and health 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.**

**§3.5701. Statistical Data.**

(a) Insurers writing credit life insurance and accident and health insurance in Texas must keep statistical data related to credit life insurance, credit life experience, and credit disability insurance for a period of no less than five years to enable the Commissioner to determine whether rates are reasonable in relation to the benefits afforded by the various policy contracts together with appropriate expenses. Each such insurer must retain the statistical data relevant to their credit insurance business and provide it to the Commissioner upon request in a format specified by the Commissioner.

(b) The retention of data required by subsection (a) of this section does not replace other annual reports of credit insurance experience. That data is separate and distinct from the NAIC annual statement and from the deviation request permitted by §3.5601 of this title (relating to Deviation by Case Allowed) and is not used in any manner to determine the financial condition of the company.

(c) Copies of all calculations, work papers, and other data used in documenting the credit insurance experience under this section must also be maintained for no less than five years at the home office of the company and be available for examination by the Commissioner.

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**Repeal of 28 TAC §3.5702.**

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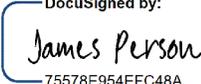
Insurance Code §36.001 provides that the Commissioner may adopt any rules necessary and appropriate to implement the powers and duties of TDI under the Insurance Code and other laws of this state.

**TEXT.**

**§3.5702. Instructions for Preparing Forms.**

**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 August 12, 2021.

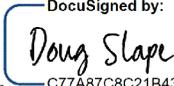
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James Person, General Counsel  
Texas Department of Insurance

The Commissioner adopts the repeal of 28 TAC §3.5702 and amendments to 28 TAC §3.5701.

Commissioner of Insurance

TITLE 28. INSURANCE  
Part I. Texas Department of Insurance  
Chapter 3. Life, Accident, and Health Insurance and Annuities

Adopted Section and Repeal  
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Doug Slape  
Chief Deputy Commissioner  
Tex. Gov't Code §601.002  
Commissioner's Order No. 2018-5528