

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

INTRODUCTION. The Texas Department of Insurance (TDI) proposes to amend 28 TAC §3.5701, concerning statistical data and annual experience calls, and to repeal 28 TAC §3.2702, concerning instructions for preparing forms.

EXPLANATION. 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 TDI Life & Health Actuarial Office (LHAO) on an annual basis. However, there is no further administrative or statutory requirement that LHAO use the data.

The amendments to §3.5701 and the repeal of §3.5702 would change the requirement to provide 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 only request the data 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 amendments and repeal would (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 proposed amendments and repeal.

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. Proposed new subsection (c) is similar to current §3.5702(b), which is proposed for repeal. The amendments also capitalize "Commissioner" and change "if" to "whether" to adhere to current agency style.

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 described in §3.5702(a) and (b) 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 proposed amendments to §3.5701.

FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT. Barbara Snyder, chief actuary of the Life & Health Division, has determined that during each year of the first five years the proposed amendments and repeal are in effect, there will be no measurable fiscal impact on state and local governments as a result of enforcing or administering the sections, other than that imposed by the statute. Ms. Snyder made this determination because the proposed amendments do not add to or decrease state revenues or expenditures, and because local governments are not involved in enforcing or complying with the proposed amendments.

Ms. Snyder does not anticipate 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 amendments and repeal are in effect, Ms. Snyder expects that administering the proposed amendments and repeal will have the public benefit of conserving agency resources and alleviating the regulatory burden on companies of aggregating and submitting data to TDI.

Ms. Snyder expects that the proposed amendments and repeal will impose a cost on stakeholders to implement the retention responsibility for this data. The cost could involve some small data storage expenses associated with the proposed record retention requirement. However, those costs are expected to be minimal and, overall, they will be offset by companies' savings from no longer being required to annually aggregate and send TDI credit call data.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS. TDI has determined that the proposed amendments and repeal will not have an adverse economic effect on small or micro businesses, or on rural communities, because the amendments result in a net savings for stakeholders. As a result, and in accordance with Government Code §2006.002(c), TDI is not required to prepare a regulatory flexibility analysis.

EXAMINATION OF COSTS UNDER GOVERNMENT CODE §2001.0045. TDI has determined that this proposal does not result in costs for regulated persons. No additional rule amendments are required under Government Code §2001.0045.

GOVERNMENT GROWTH IMPACT STATEMENT. TDI has determined that for each year of the first five years that the proposed amendments and repeal are in effect, the proposal:

- 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 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. 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 that are received by TDI no later than 5:00 p.m., central time, on May 24, 2021. Send your comments to ChiefClerk@tdi.texas.gov or to the Office of the Chief Clerk, MC GC-CCO, Texas Department of Insurance, P.O. Box 12030, Austin, Texas 78711-2030.

To request a public hearing on the proposal, submit a request before the end of the comment period to ChiefClerk@tdi.texas.gov or to the Office of the Chief Clerk, MC GC-CCO, Texas Department of Insurance, P.O. Box 12030, Austin, Texas 78711-2030. The request for public hearing must be separate from any comments and received by the department no later than 5:00 p.m., central time, on May 24, 2021. If TDI holds a public hearing, TDI will consider comments presented at the hearing.

SUBCHAPTER FF. CREDIT LIFE AND CREDIT ACCIDENT AND HEALTH INSURANCE.

DIVISION 7. EXPERIENCE CALL.

28 TAC §3.5701.

STATUTORY AUTHORITY. TDI proposes §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.

CROSS-REFERENCE TO STATUTE. Section 3.5701 implements Insurance Code Chapter 1153, which authorizes the Commissioner to adopt premium presumptive rates for various classes of business and terms of coverage.

TEXT.

§3.5701. Statistical Data [~~and Annual Experience Calls~~].

(a) Insurers writing credit life insurance and accident and health insurance in Texas must [~~shall~~] keep statistical data for a period of no less than five years [~~in such form and manner as necessary~~] to enable the Commissioner [~~commissioner~~] to determine whether [~~if~~] 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. [~~shall submit experience reports as shall be required by specific annual call of the commissioner upon reporting forms~~]

~~supplied by such call. Each insurer shall complete each of the forms in accordance with the instructions that the department provides with the forms. Additional copies of the forms can be obtained from the Texas Department of Insurance, Filings Intake Division, MC 106-1E, P.O. Box 149104, Austin, Texas 78714-9104. The forms can also be obtained from the department's internet web site at <http://www.tdi.state.tx.us>.]~~

(b) The retention of data ~~[experience reports]~~ required by subsection (a) of this section ~~does~~ ~~[shall]~~ not replace other annual reports of credit insurance experience. That data is ~~[and are]~~ 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~~ ~~[are]~~ 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 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.

SUBCHAPTER FF. CREDIT LIFE AND CREDIT ACCIDENT AND HEALTH INSURANCE.

DIVISION 7. EXPERIENCE CALL.

Repeal of 28 TAC §3.5702.

STATUTORY AUTHORITY. TDI proposes the repeal of §3.5702 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.

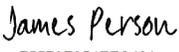
CROSS-REFERENCE TO STATUTE. The proposed repeal of §3.5702 implements Insurance Code Chapter 1153, which authorizes the Commissioner to adopt rules regarding credit life insurance and credit health insurance and to adopt premium presumptive rates for various classes of business and terms of coverage

TEXT.

§3.5702. Instructions for Preparing Forms.

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

Issued in Austin, Texas, on April 5, 2021.

DocuSigned by:

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James Person, General Counsel
Texas Department of Insurance