

SUBCHAPTER G. Workers' Compensation Insurance.
28 TAC §5.6302

INTRODUCTION. The Texas Department of Insurance (TDI) proposes to repeal 28 TAC §5.6302, concerning the sale of substitutes to workers' compensation insurance.

EXPLANATION. The repeal is necessary because House Bill 3769, 87th Legislature, 2021, added Insurance Code Chapter 564, which requires disclosures similar to §5.6302, making the rule redundant and obsolete. Section 5.6302 is no longer needed because each provision in it is now superseded or addressed by statute. Insurance Code §541.051, which prohibits misrepresenting the terms, benefits, or advantages of a policy, addresses the requirements in §5.6302(a). New Insurance Code §564.005 supersedes the disclosures required by §5.6302(b) and (d). In addition, the disclosure required by §5.6302(c) is redundant because Labor Code §406.005 requires a similar notice to employees.

FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT. Marianne Baker, director, Property and Casualty Lines Office, has determined that during each year of the first five years the proposed repeal is in effect, there will be no measurable fiscal impact on state and local governments as a result of repealing this section. Ms. Baker made this determination because the proposed repeal does not add to or decrease state revenues or expenditures, and because local governments are not involved in enforcing or complying with the proposed repeal.

Ms. Baker does not anticipate any 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 repeal is in effect, Ms. Baker expects that the proposed repeal will have the public benefits of eliminating an obsolete and redundant regulation and ensuring that TDI's rules conform to Insurance Code Chapter 564.

Ms. Baker expects that the proposed repeal will not increase the cost of compliance for insurers because the repeal does not create or impose any requirements.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS FOR SMALL AND MICRO BUSINESSES. TDI has determined that the proposed repeal will not have an adverse economic effect on small or micro businesses, or on rural communities. There are no additional costs as a result of this proposal because it only repeals an existing regulation made obsolete by statute. 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 the proposed repeal does not impose a possible cost on 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 rule repeal is in effect, the proposed repeal:

- 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 repeal an existing regulation;
- will decrease the number of individuals subject to the rule's applicability; and
- will positively 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 November 29, 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 must be received by TDI no later than 5:00 p.m., central time, on November 29, 2021. If TDI holds a public hearing, TDI will consider written comments and those presented at the hearing.

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STATUTORY AUTHORITY. TDI proposes the repeal of §5.6302 under Insurance Code §564.006 and §36.001.

Insurance Code Chapter 564.006, as added by HB 3769, provides that the Commissioner adopt rules necessary to implement Chapter 564.

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 repeal of §5.6302 implements Insurance Code Chapter 564, added by HB 3769.

TEXT.

§5.6302. Sale of Substitutes to Workers' Compensation Insurance.

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 October 12, 2021.

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Allison Eberhart, Deputy General Counsel
Texas Department of Insurance