

SUBCHAPTER E. TEXAS WINDSTORM INSURANCE ASSOCIATION
DIVISION 10. ELIGIBILITY AND FORMS
28 TAC §5.4906

INTRODUCTION. The Texas Department of Insurance (TDI) proposes new 28 TAC §5.4906, concerning the renewal premium grace period of the Texas Windstorm Insurance Association (TWIA). Section 5.4906 implements House Bill 2920, 87th Legislature, 2021.

EXPLANATION. HB 2920 requires TDI to adopt rules to establish a grace period of not more than 10 days after the due date for the receipt of payment of premium for the renewal of a policy.

Section 5.4906. Section 5.4906(a) establishes a premium payment grace period for TWIA policy renewals. Section 5.4906(b) provides that the grace period applies to certain premium surcharge payments made by TWIA policyholders under Insurance Code §2210.259 or §2210.6132. The surcharges are included to give effect to the grace period required by HB 2920 because these surcharges are part of the payment a policyholder must make to TWIA at renewal.

FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT. David Muckerheide, assistant director, Property and Casualty Lines Office, has determined that during each year of the first five years the proposed new section is in effect, there will be no measurable fiscal impact on state and local governments as a result of enforcing or administering the section, other than that imposed by the statute. Mr. Muckerheide made this determination because the proposed new section does not add to or decrease state revenues or expenditures, and because local governments are not involved in enforcing or complying with the proposed new section.

Mr. Muckerheide 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 new section is in effect, Mr. Muckerheide expects that administering the proposed new section will have the public benefits of ensuring that TDI's rules conform to Insurance Code §2210.203 and helping TWIA policyholders renew their policies without a lapse in coverage if payment is no more than 10 calendar days late.

Mr. Muckerheide expects that the proposed new section will not increase the cost of compliance with Insurance Code §2210.203 because it does not impose requirements beyond those in the statute. Insurance Code §2210.203(c-1) requires the Commissioner to establish a grace period of not more than 10 days after the due date for the receipt of payment of premium for the renewal of a policy. To the extent there is a cost associated with administering the rule, the cost results from the statutory requirements.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS. TDI has determined that the proposed new section will not have an adverse economic effect on small or micro businesses, or on rural communities. The proposed new section will help ensure that any TWIA policyholders that are small or micro businesses, or who reside in rural communities, can avoid a lapse in coverage if the renewal premium payment is made within 10 calendar days after the due date. 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 impose a possible cost on regulated persons. However, even if there was a cost, no additional rule amendments are required under

Government Code §2001.0045 because proposed §5.4906 is necessary to implement legislation. The proposed rule implements Insurance Code §2210.203(c-1), as added by HB 2920.

GOVERNMENT GROWTH IMPACT STATEMENT. TDI has determined that for each year of the first five years that the proposed new section 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 create a new regulation;
- will not expand, limit, or repeal an existing regulation;
- will increase the number of individuals subject to the rule's applicability; and
- will positively affect the Texas economy by giving TWIA policyholders a 10-day grace period when paying their renewal premium.

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

February 28, 2022. 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 TDI no later than 5:00 p.m., central time, on February 28, 2022. If TDI holds a public hearing, TDI will consider written and oral comments presented at the hearing.

SUBCHAPTER E. TEXAS WINDSTORM INSURANCE ASSOCIATION 28 TAC §5.4906

STATUTORY AUTHORITY. TDI proposes new §5.4906 under Insurance Code §§2210.008, 2210.203(c-1), and 36.001.

Insurance Code §2210.008 provides that the Commissioner may adopt rules as reasonable and necessary to implement Chapter 2210.

Insurance Code §2210.203(c-1) requires TDI to adopt rules establishing a grace period of not more than 10 days after the due date for the receipt of payment of premium for the renewal of a policy.

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 §5.4906 implements Insurance Code §2210.203(c-1).

TEXT.

§5.4906. Renewal Premium Grace Period.

(a) Grace period. The premium payment for policy renewal is considered timely if the Association receives it within 10 calendar days after the due date.

(b) Applicability of the grace period to certain premium surcharges. The grace period described in subsection (a) of this section applies to a premium surcharge payment by an Association policyholder under Insurance Code §2210.259, concerning Surcharge for Certain Noncompliant Structures, or §2210.6132, concerning Contingent Source of Payment for Class 2 and Class 3 Public Securities.

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 January 13, 2022.

DocuSigned by:

75578E954EFC48A... _____
James Person, General Counsel
Texas Department of Insurance