

SUBCHAPTER A. RULES OF PRACTICE AND PROCEDURE
Division 2. Rule Making Procedures.
28 TAC §1.207 and §1.208

SUBCHAPTER C. ASSESSMENT OF MAINTENANCE TAXES AND FEES
28 TAC §1.415

**SUBCHAPTER L. RULES OF PRACTICE AND PROCEDURE FOR INDUSTRY-WIDE
BENCHMARK RATE PROCEEDINGS**
28 TAC §§1.1301 – 1.1306

1. INTRODUCTION. The Texas Department of Insurance (Department) proposes repeal of §1.207 and §1.208, concerning rule making procedures; §1.415, concerning assessment of maintenance taxes and fees; and §§1.1301 – 1.1306, concerning rules of practice and procedure for industry-wide benchmark rate proceedings.

The repeal of §1.207 is necessary because the Department does not receive public petitions to initiate rulemaking with enough frequency to merit weekly updating and posting of a list of such petitions. The public may instead obtain information regarding petitions and arrange to view such petitions by contacting the Office of the Chief Clerk.

The repeal of §1.208 is necessary because the public has multiple ways of contacting the Commissioner without a need for bi-weekly public meetings solely to allow persons to speak to the Commissioner on issues within the Commissioner's jurisdiction. The public regularly uses mail and e-mail to bring issues to the attention of the Commissioner or the Commissioner's Ombudsman. Additionally, the repeal of §1.207 and §1.208 will free the Department's staff and facility resources for more efficient use.

The repeal of §1.415 is necessary because the maintenance tax surcharge levied under this section only applies for 1999 and supports bonds that have been paid. Also, §1.415 implements Insurance Code art. 5.76-5, which was repealed under House Bill 2017, SECTION 18, 79th Regular Legislative Session, effective April 1, 2007. Currently applicable maintenance taxes are addressed in other sections of the Insurance Code.

The repeal of §§1.1301 – 1.1306 is necessary because these sections implement Insurance Code art. 5.101(a) and (d), but art. 5.101 expired on December 1, 2004, pursuant to §7 of the article.

2. FISCAL NOTE. Stanton Strickland, Associate Commissioner, Legal Section, has determined that during each year of the first five years that the proposed repeal is in effect, there will be no fiscal impact on state or local government as a result of enforcing or administering the sections. There will be no measurable effect on local employment or the local economy as a result of the proposal.

3. PUBLIC BENEFIT/COST NOTE. Mr. Strickland also has determined that for each year of the first five years the repeal of the sections is in effect, the public benefit expected as a result of administration and enforcement of the repealed sections will be the deletion of unnecessary and outdated rules from Title 28 Texas Administrative Code. There is no expected economic cost to persons who are required to comply with

the proposed repeal. There is no expected difference in cost of compliance between small and large businesses as a result of the proposed repeal.

4. ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS

FOR SMALL AND MICRO BUSINESSES. In accordance with Government Code §2006.002(c), the Department has determined that this proposed repeal will not have an adverse economic effect on small or micro businesses because it is simply a repeal of obsolete and unnecessary rules. Therefore, in accordance with Government Code §2006.002(c), the Department is not required to prepare a regulatory flexibility analysis.

5. TAKINGS IMPACT ASSESSMENT. The Department 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 and, therefore, does not constitute a taking or require a takings impact assessment under Government Code §2007.043.

6. REQUEST FOR PUBLIC COMMENT. To be considered, written comments on the proposal must be submitted no later than 5:00 p.m. on March 26, 2012, to Sara Waitt, General Counsel, Mail Code 113-1C, Texas Department of Insurance, P.O. Box 149104, Austin, Texas 78714-9104. An additional copy of the comment must be simultaneously submitted to Stanton Strickland, Associate Commissioner, Legal Section, Mail Code 110-1A, Texas Department of Insurance, P.O. Box 149104, Austin,

Texas 78714-9104. Any request for a public hearing must be submitted separately to the Office of Chief Clerk, Mail Code 113-1C, Texas Department of Insurance, P.O. Box 149104, Austin, Texas 78714-9104, before the close of the public comment period. If a hearing is held, written and oral comments presented at the hearing will be considered.

7. STATUTORY AUTHORITY. The repeal of §§1.207, 1.208, 1.415, and 1.1301 – 1.1306 is proposed pursuant to Insurance Code §2054.006 and §36.001, and Government Code §2001.004(1).

Section 2054.006 authorizes the commissioner to regulate the Texas Mutual Insurance Company, previously referred to as the Texas Workers' Compensation Insurance Fund, to the same extent that the commissioner may regulate a mutual insurance company.

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

Government Code §2001.004(1) specifies that, in addition to other requirements under law, a state agency shall adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

8. CROSS REFERENCE TO STATUTE. The proposed repeal affects regulation pursuant to the following statutes:

Rule

Statute

§1.207 and §1.208	Government Code §2001.004(1) and Insurance Code §36.001
§§1.415 and 1.1301 – 1.1306	Insurance Code §36.001

9. TEXT.

**SUBCHAPTER A. RULES OF PRACTICE AND PROCEDURE
Division 2. Rule Making Procedures.**

§1.207. List and Copies of Pending Petitions for Rule Proposals.

§1.208. Regular Commissioner Meetings.

SUBCHAPTER C. ASSESSMENT OF MAINTENANCE TAXES AND FEES

§1.415. Maintenance Tax Surcharge for the Texas Workers' Compensation Insurance Fund, 1999.

**SUBCHAPTER L. RULES OF PRACTICE AND PROCEDURE FOR
INDUSTRY-WIDE BENCHMARK RATE PROCEEDINGS**

§1.1301. Scope.

§1.1302. Definitions.

§1.1303. Recommendations for Benchmark Rate Changes.

§1.1304. Proposed Rule to Change the Benchmark Rates.

§1.1305. Procedures for Hearing on the Departments Proposed Rule.

§1.1306. Adoption of Benchmark Rates.