

Chapter 5. Property and Casualty
Subchapter M. Filings Requirements
Division 5. Filings Made Easy – Requirements for Property and Casualty
Policy Form, Endorsement, and Manual Rule Filings
28 TAC §5.9323

Chapter 5. Property and Casualty
Subchapter Q. General Property and Casualty Rules
Division 1. Residential Property
28 TAC §5.9700

INTRODUCTION. The Texas Department of Insurance proposes new 28 TAC Chapter 5, Subchapter M, Division 5, §5.9323 and new Subchapter Q, Division 1, §5.9700. The new sections are necessary to implement Insurance Code §2301.056, added by Senate Bill 112, 83rd Legislature, Regular Session (2013).

For residential property insurance policy forms, Insurance Code §2301.056 requires that

1. the declarations page state the exact dollar amount of each deductible under the policy, and
2. the declarations page or a page separate from the declarations page
 - a. list and identify each type of deductible under the residential property policy, and
 - b. identify or disclose any policy provision or endorsement that may cause the exact dollar amount of a deductible to change.

The proposed new sections are necessary to clarify that for residential property policy insurance forms

1. insurers must file declarations pages with TDI for review and approval under Insurance Code §2301.006,
2. insurers must file renewal and amended declarations pages, and renewal certificates used as declarations pages,
3. no deductibles are exempt, including subdeductibles and endorsement deductibles,
4. insurers must issue updated declarations pages at renewal if a deductible changes,
5. if using a separate disclosure page under §2301.056(c), that page must follow

immediately after the declarations page, and

6. insurers must include the separate disclosure page each time they provide a declarations page to a policyholder.

EXPLANATION. Before SB 112, no statute specifically required insurers to file declarations pages, although some insurers did so. Declarations pages are typically blank forms, which insurers complete with information specific to each policy. Filed declarations pages contained little information, and TDI had nothing substantive to review. With the enactment of SB 112, Insurance Code §2301.056 provides specific requirements for declarations pages, and TDI must now review them for compliance.

TDI is implementing Insurance Code §2301.056 in two separate rule sections. Section 5.9323 contains the filing requirements and will be part of the Filings Made Easy rules. Section 5.9700 contains the substantive requirements related to disclosing deductibles.

To ensure all declarations pages comply, §5.9323 specifies that insurers must file residential property insurance policy declarations pages, including renewal and amended declarations pages and renewal certificates. Section 5.9323(b) specifies that insurers must file forms completed with sample information, so TDI can verify that the required deductible information will be listed.

For ease of use, §5.9700 includes the statutory requirements for disclosing deductibles. Insurance Code §2301.056 does not exempt any deductibles, so §5.9700(a) specifies that deductibles includes subdeductibles and endorsement deductibles. To ensure that policyholders have the most current information, if a deductible changes §5.9700(d) requires insurers at renewal to issue an updated declarations page or renewal certificate.

Insurance Code §2301.056 also allows insurers to provide the required disclosures on a page separate from the declarations page. To ensure that policyholders can easily find the disclosures, §5.9700(c) requires that the separate disclosure page follow immediately after the declarations page. Section 5.9700(e) requires that insurers and agents must include the separate disclosure page each time they provide a declarations page or renewal certificate to a policyholder, to further ensure that the policyholder has access to the most current deductible information.

FISCAL NOTE. Marilyn Hamilton, director of the Personal and Commercial Lines Office of the Regulatory Policy Division, has determined that for each year of the first five years the proposed sections will be in

effect, there will be no fiscal impact to state and local governments as a result of the enforcement or administration of the proposal. Ms. Hamilton does not anticipate any measurable effect on local employment or the local economy as a result of the proposal.

PUBLIC BENEFIT/COST NOTE. Ms. Hamilton also has determined that for each year of the first five years the proposed sections are in effect, the public benefit anticipated as a result of the proposal is that policyholders will easily find all deductibles under their residential property policies and be aware of out-of-pocket expenses.

The costs of the rules are largely statutory, and will not increase the cost of compliance with Insurance Code §2301.056 because the rules do not impose costs beyond those required by the statute. The only potential cost the rules could impose is the cost of including the separate disclosure page with the declarations page when sent to a policyholder. Insurers can avoid this cost by including the required disclosures on the declarations page, rather than a separate disclosure page. If an insurer chooses a separate disclosure page, the additional cost would be printing the separate disclosure page and including it with the disclosure sent to the policyholder. This cost should be less than \$1.00 each time the insurer provides the disclosure page.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS FOR SMALL AND MICRO BUSINESSES. As required by Government Code §2006.002(c), TDI has determined the proposal will not have an adverse economic effect or a disproportionate impact on small or micro businesses. Insurance Code §2301.056 mandates the disclosures, and the rules do not specify any additional requirements. Section 2301.056 applies equally to all insurance companies writing residential property policies. Filing declarations pages and providing separate disclosure pages to policyholders are necessary to comply with the statute, and are no more onerous for small and micro businesses than for larger insurers. As a result, under Government Code §2006.002(c), TDI has determined that a regulatory flexibility analysis is not required.

TAKINGS IMPACT ASSESSMENT. TDI has determined that no private real property interests are affected by this proposal, and 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. Submit written comments on the proposal no later than 5 p.m., Central time on September 28, 2015. TDI requires two copies of your comments. Send one copy to the chief clerk by email at chiefclerk@tdi.texas.gov, or by mail to the Texas Department of Insurance, Office of the Chief Clerk, MC 113-2A, P.O. Box 149104, Austin, Texas 78714-9104. Send the other copy to Mark Worman by email at mark.worman@tdi.texas.gov, or by mail to the Texas Department of Insurance, Personal and Commercial Lines Office, MC 104-PC, P.O. Box 149104, Austin, Texas 78714-9104. If you wish to request a public hearing, submit a request separately to the chief clerk by email at chiefclerk@tdi.texas.gov, or by mail to the Texas Department of Insurance, Office of the Chief Clerk, MC 113-2A, P.O. Box 149104, Austin, Texas 78714-9104 before the close of the public comment period. If TDI holds a hearing, the commissioner will consider written comments and testimony presented at the hearing.

STATUTORY AUTHORITY. The new sections are proposed under Insurance Code §§2301.056, 2301.055, and 36.001. Section 2301.056 requires that declarations pages for residential property insurance policy forms fully disclose all deductibles. Section 2301.055 provides that the commissioner may adopt reasonable and necessary rules to implement Chapter 2301, Subchapter B. Section 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. Sections 5.9323 and 5.9700 implement Insurance Code §2301.056, enacted by Senate Bill 112, 83rd Legislature, 2013 Regular Session 2013.

TEXT

§5.9323. Residential Property Deductible Disclosures.

(a) Insurers must file residential property insurance policy declarations pages for approval under §5.9320 of this title (relating to Required Information for the Preparation and Submission of Policy Form, Endorsement, and Manual Rule (Other than Rating Manual) Filings). Declarations pages include renewal declaration pages, renewal certificates, amended declaration pages, and separate

disclosure pages allowed under §5.9700 of this title (relating to Residential Property Deductible Disclosures).

(b) Filed declarations pages must be completed with sample policyholder information sufficient to demonstrate how the insurer will comply with this rule and Insurance Code §2301.056.

§5.9700. Residential Property Deductible Disclosures.

(a) All residential property insurance policy declarations pages must list and identify each type of deductible and state the exact dollar amount of each deductible, including subdeductibles and endorsement deductibles.

(b) If a residential property insurance policy or endorsement contains a provision that may cause the exact dollar amount of a deductible under the policy to change, the declarations page or a separate disclosure page must identify or include a written disclosure that clearly identifies the applicable policy provision or endorsement. The policy provision or endorsement must explain how any change in the applicable deductible amount is determined.

(c) Insurers may provide disclosures under this section on a separate disclosure page. The separate disclosure page must follow immediately after the declarations page.

(d) Insurers must issue an updated declarations page at renewal if the dollar amount of a deductible changes. Alternatively, insurers may issue a renewal certificate that meets the requirements of this rule and Insurance Code §2301.056.

(e) Insurers and agents must include the separate disclosure page with the declarations page each time they provide a declarations page or renewal certificate to a policyholder.

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 at Austin, Texas, on the 4th day of August, 2015.



Sara Waitt
General Counsel
Texas Department of Insurance