

2020-6196

TITLE 28. INSURANCE
Part I. Texas Department of Insurance
Chapter 5. Property and Casualty Insurance

Adopted Section
Page 1 of 4

SUBCHAPTER E Texas Windstorm Insurance Association 28 TAC §5.4307

INTRODUCTION. The Commissioner of Insurance adopts amended 28 TAC §5.4307, relating to the Assumption Reinsurance Program for policies issued by the Texas Windstorm Insurance Association (TWIA). The amendments to §5.4307 are adopted without changes to the proposed text published in the October 25, 2019, issue of the *Texas Register* (44 TexReg 43).

REASONED JUSTIFICATION. The amended section is necessary to implement changes to Insurance Code §2210.705 enacted by Senate Bill 615, 86th Legislature, Regular Session (2019). SB 615 necessitates amending §5.4307, because the section conflicted with the new provisions of Insurance Code §2210.705.

Insurance Code §2210.705 requires the adoption of rules establishing the procedure for the transfer of reinsured policies. SB 615 deleted a provision that required those rules to include an offer commencement date of December 1. It also changed the required deadline for a policyholder to opt out of a reinsurance agreement from "on or before May 31" to "not more than 60 days after the policyholder receives notice of the reinsurance agreement." Consistent with these changes, TDI has amended §5.4307 to delete the subsection that required an offer commencement date of December 1. TDI has also updated the policyholder opt-out deadline and adjusted the numbering for the paragraphs under subsection (b).

SB 615 requires TDI to adopt or amend rules as needed due to its changes to Insurance Code §2210.705 by March 31, 2020.

2020-6196

TITLE 28. INSURANCE
Part I. Texas Department of Insurance
Chapter 5. Property and Casualty Insurance

Adopted Section
Page 2 of 4

SUMMARY OF COMMENTS. TDI did not receive any comments on the proposed amendments.

SUBCHAPTER E.

28 TAC §5.4307.

STATUTORY AUTHORITY. The Commissioner adopts amended 28 TAC §5.4307 under Insurance Code §2210.705 and §36.001.

Section 2210.705 requires TDI to adopt rules addressing the procedure for the transfer of reinsured policies under the TWIA depopulation program.

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.

TEXT.

§5.4307. Assumption Reinsurance Program.

(a) An insurer and the association must submit to the department the written assumption reinsurance program, including the assumption reinsurance agreement and all necessary documents, including notices and policy forms evidencing generally comparable coverage and premiums, to allow the department to determine that policyholders and the policyholders' agents have the necessary protections.

(b) The assumption reinsurance program and assumption reinsurance agreement must comply with Insurance Code Chapter 2210, Subchapter O. The assumption reinsurance agreement must include:

2020-6196

TITLE 28. INSURANCE
Part I. Texas Department of Insurance
Chapter 5. Property and Casualty Insurance

Adopted Section
Page 3 of 4

(1) the opportunity for the policyholder to opt out of the assumption reinsurance agreement not more than 60 days after the policyholder receives notice of the reinsurance agreement;

(2) a transfer of the earned premium on a reinsured policy to a trust account to be held until the expiration of the policyholder opt-out period when the earned premium for the final reinsured policy will be transferred to the insurer;

(3) a period of not less than 60 days for the agent of record to accept an appointment or other written agreement with the insurer; and

(4) the effective date of the assumption.

(c) The insurer and the association must not proceed with the assumption reinsurance program, and it is not effective unless the Commissioner approves the assumption reinsurance program in writing.

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

Issued at Austin, Texas, on January 17, 2020.

/s/ James Person
James Person, General Counsel
Texas Department of Insurance

The Commissioner adopts amended 28 TAC §5.4307.

/s/ Kent C. Sullivan
Kent C. Sullivan
Commissioner of Insurance

2020-6196

TITLE 28. INSURANCE

Part I. Texas Department of Insurance

Chapter 5. Property and Casualty Insurance

Adopted Section

Page 4 of 4

Commissioner's Order No. **2020-6196**