

Subchapter H. Cancellation, Denial, and Nonrenewal of Certain Property and Casualty Insurance

Division 1. Miscellaneous

28 TAC §§5.7005, 5.7007, 5.7011, 5.7012, and 5.7013

Division 2. Mandatory Nonrenewal of Private Passenger Automobile Insurance Policies

28 TAC §§5.7101 - 5.7110

INTRODUCTION. The Texas Department of Insurance (TDI) proposes to amend 28 TAC Chapter 5, Subchapter H, §§5.7005, 5.7007, 5.7011, 5.7012, and 5.7013, and adopt new §§5.7101 - 5.7110. As part of this proposal, TDI will divide Subchapter H into two new divisions. New Division 1 will contain §§5.7001 - 5.7018. New Division 2 will contain new §§5.7101 - 5.7110. The amendments and new sections implement:

- Senate Bill 1602, 87th Legislature, 2021, which requires insurers to nonrenew private passenger automobile policies if an insured fails or refuses to cooperate;
- House Bill 1900, 88th Legislature, 2023, which updates notice requirements for nonrenewal and cancellation of private passenger automobile policies; and
- House Bill 2065, 88th Legislature, 2023, which specifies that mandatory nonrenewal applies to third-party liability claims and removes a reference to named insured.

EXPLANATION. Proposed amendments to §§5.7005, 5.7007, 5.7011, 5.7012, and 5.7013 implement Insurance Code §551.104(f) and §551.105, as amended by HB 1900. Insurance Code §551.104(f) requires insurers to send notice of cancellation of a personal automobile insurance policy not later than 60 days before the effective date of cancellation, rather than the 30th day, as required by the previous version of the statute. Likewise, amended Insurance Code §551.105 requires insurers to send notice of nonrenewal of a personal

automobile insurance policy not later than the 60th before a policy expires, rather than the 30th day.

Amended §5.7005 also includes a change to implement HB 2065, which amended Insurance Code §551.1053 to address mandatory nonrenewal of a private automobile insurance policy when an insured fails to cooperate in--or cannot be contacted regarding--the investigation, settlement, or defense of a third-party liability claim or action.

SB 1602 amended Insurance Code §551.1053 effective September 1, 2021. However, most personal automobile insurance policy forms filed for review and approval since that effective date have not initially complied with §551.1053. Therefore, new §§5.7101 - 5.7110 are proposed to specify requirements to make it easier for insurers and TDI staff to ensure that forms and claim handling practices comply with Insurance Code §551.1053. In addition, to assist consumers, the new sections offer sample plain language notices and require that insurers give insureds at least 10 days from the date the notice is sent to cooperate in a claim.

Insurance Code §551.1053 gives rise to some complex situations for insurers when noncooperation occurs near the end of the policy period. Insurers may have already developed methods to deal with these issues, but the new sections will promote consistency in handling these complex situations.

To provide clarity and structure to the requirements in Subchapter H, TDI proposes to divide the subchapter into two new divisions. Division 1, titled "Miscellaneous," will include the current sections in Subchapter H, consisting of §§5.7001 - 5.7018. Division 2, titled "Mandatory Nonrenewal of Private Passenger Automobile Insurance Policies," will include new §§5.7101 - 5.7110.

The proposed amendments to §§5.7005, 5.7007, 5.7011, 5.7012, and 5.7013 and new §§5.7101 - 5.7110 are described in the following paragraphs, organized by division.

Division 1. Miscellaneous.

Sections 5.7005 and 5.7007. Amendments to §5.7005 and §5.7007 conform the sections to Insurance Code §551.104(f) and §551.105 by extending the deadline by which an insurer must give written notice of cancellation from 30 days to 60 days. The amendments also revise text to simplify language, address nonrenewal, and note that exceptions to the sections are provided in new §§5.7101 - 5.7110.

Section 5.7011. Amendments to §5.7011 simplify language and change the word "subchapter" to "division" to account for new Division 2, clarifying that the scope of the section is unchanged.

Section 5.7012. Amendments to §5.7012 remove redundant and outdated statutory references. The current versions of statutes listed in §5.7012 are included in 28 TAC §5.7001(c), which provides the general applicability for Subchapter H. An amendment also changes "Board of Insurance" to "Texas Department of Insurance."

Section 5.7013. To conform to Insurance Code Chapter 35, for general liability and certain commercial automobile insurance policies, amendments to §5.7013(a) and (b) remove the requirement that notices must be mailed. Section 5.7013(a) is also amended to remove the specific number of days for notice of cancellation and add a reference to Insurance Code §551.053. Similarly, amendments to §5.7013(b) remove the specific number of days for notice of nonrenewal and add references to Insurance Code §551.054 and §551.1053. New §5.7013(c) is added to replace text removed from §5.7013(a) and (b). New §5.7013(c) provides that an insurer may comply with the section by requiring or permitting its agent to notify the policyholder, but that it is the insurer's responsibility to give notice to the policyholder if the agent fails to notify the policyholder.

Amendments to the sections also reorganize some text and include nonsubstantive plain language revisions to conform the text to current agency drafting style.

Division 2. Mandatory Nonrenewal of Private Passenger Automobile Insurance Policies.

Section 5.7101. New §5.7101 states the purpose and applicability of new Division 2. Division 2 does not apply to policies written through the Texas Automobile Insurance Plan Association (TAIPA) because Insurance Code §551.102 specifically excludes TAIPA from the applicability of Insurance Code Chapter 551, Subchapter C.

Section 5.7102. New §5.7102 defines "notice" to mean the notice of nonrenewal and opportunity to cooperate required by Insurance Code §551.1053(a). This will streamline the rule text, making it easier to read.

Section 5.7103. New §5.7103 reiterates the Insurance Code §551.1053(a) requirement that insurers use reasonable efforts to contact and encourage cooperation from an insured who fails or refuses to cooperate in the investigation, settlement, or defense of a claim or action. The section does not define "reasonable efforts" because what is "reasonable" depends on the facts of each claim.

Section 5.7104. New §5.7104 requires an insurer to send a notice to the named insured within five days after determining an insured is uncooperative. Specifying this timing requirement promotes prompt and transparent communication between the parties and consistency in claims handling across insurers. It also keeps the claims process moving.

Section 5.7105. New §5.7105 requires an insurer to give an insured at least 10 days for the insured to cooperate after the insurer sends the notice. Insurance Code §551.1053(b) sets forth a required condition for nonrenewal--that the insured continues to fail or refuse to cooperate. This means the insurer must give the insured an opportunity to cooperate before it may nonrenew.

Because §551.1053 contemplates an opportunity to cooperate, the insurer must give the insured that opportunity, even if it means extending the policy period. A 10-day period beyond the current term is reasonable and consistent with the existing 10-day cancellation notice requirement under Insurance Code §551.104(e).

Specifying a minimum time period that the insurer must give an insured to cooperate recognizes that an insured could cooperate and avoid nonrenewal on that basis. This helps encourage cooperation.

This section also clarifies that the insured has an opportunity to cooperate at any time during the policy term in which the insurer sends the notice. For example, if an insured had an accident on the last day of the policy term, the insurer would not send the notice until the next policy term, and thus the insurer would not be able to determine whether the insured cooperates until sometime within the next policy term.

Section 5.7106. New §5.7106 requires that if an insurer sends a notice less than 10 days before the end of the policy term, it must extend the policy to give the insured at least 10 days to cooperate. The insurer may charge for the coverage extension. This is not a new concept. Some insurers already extend policy periods if they intend to nonrenew or cancel but do not send notice in time.

If insurers extend a policy period to provide the 10-day minimum period to cooperate, the section allows them to charge for the extension on a pro rata basis.

Section 5.7107. New §5.7107 lists the required contents of a notice sent by an insurer under Insurance Code §551.1053. Prescribing specific, required elements for the notice will help prevent inconsistencies and consumer confusion. These required elements are designed to ensure that the named insured gets clear, complete, and correct information about the claim; what they need to do to cooperate; and the consequences if they do not cooperate.

The section requires insurers to provide either (1) the required notice in both English and Spanish, or (2) an English version with information in Spanish about how to get a Spanish version. According to the 2020 U.S. Census, over 7 million Texas households speak Spanish as their primary language. Providing Spanish instructions will help Spanish-speaking consumers understand their obligation to cooperate. Spanish notice

requirements are consistent with other rules intended to alert consumers of important rights or changes in their policies.

Section 5.7108. New §5.7108 provides examples of notices. Providing sample notices encourages clear and consistent communication, saves insurers the time and expense of having to draft language, and helps insurers comply with the law. In addition to English and Spanish notices, TDI is providing a dual-language notice. The notice is in English and contains instructions on how to contact the insurer in Spanish. Plain language examples are consistent with TDI policy and Insurance Code plain language requirements, including §2301.053 regarding plain language form requirements, and §551.056 and §551.1055 regarding cancellation and nonrenewal. Insurers are not required to use a sample notice. If they do use one, they may alter the format, except that §5.7106(a)(2) requires insurers to use at least 10-point font. TDI's website provides plain language resources with guidance on formatting.

Section 5.7109. New §5.7109 reiterates that if the insured does not cooperate after the insurer gives notice, the insurer must nonrenew the policy. However, if an insured does cooperate at any time before policy expiration or the end of the extended term, §5.7109 prohibits the insurer from nonrenewing the policy under Insurance Code §551.1053.

Section 5.7110. New §5.7110 affirms that insurers may nonrenew under other applicable statutes, even if the insured cooperates under Insurance Code §551.1053. When the insurer plans to nonrenew the policy under other applicable law, the insurer must still send a notice of nonrenewal and opportunity to cooperate. Because the notice encourages the insured to cooperate, the insurer must send the notice even when nonrenewal is certain for other reasons.

Date of compliance. Insurance Code §551.1053 became effective on September 1, 2021, and insurers must already comply with it. But to give insurers time to prepare for

the requirements in new §§5.7101 - 5.7110, TDI will begin requiring compliance with those sections starting six months after the effective date of their adoption.

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

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 amended and new sections are in effect, Ms. Baker expects that administering them will have the public benefit of ensuring that TDI's rules conform to Insurance Code §§551.053, 551.054, 551.104, 551.105 and 551.1053. It will also have the benefit of providing consistency among insurers in implementing §551.1053. The public will benefit from consistent implementation because insureds will receive clear notices encouraging them to cooperate in a claim or be nonrenewed, thus increasing the likelihood that injured third parties will be paid. The public will also benefit from having 60 days rather than 30 days to shop for insurance when their insurer provides notice that their coverage will be nonrenewed.

Ms. Baker expects that the proposed amended and new sections may increase the cost of compliance with Insurance Code §§551.053, 551.054, 551.104, 551.105 and

551.1053. The cost to comply will vary depending on insurers' current operations. Insurers may incur programming, legal, and administrative costs to address new rule requirements, including those related to giving longer notice of nonrenewal and cancellation, developing the notice language, extending the policy period, and providing a Spanish translation of the notice.

Cost of personnel associated with programming information systems. The United States Department of Labor indicates that in Texas, the mean hourly wage for computer programmers is \$44.98 (www.bls.gov/oes/current/oes_tx.htm#15-0000). TDI recognizes that costs will vary depending on each insurer's data systems and staffing strategies. Ms. Baker estimates that insurers may need 20 to 40 hours to complete the programming.

Cost of personnel associated with updating notice language in forms. The United States Department of Labor indicates that in Texas, the hourly mean wage for attorneys is \$80.10 and legal support workers is \$35.71 (www.bls.gov/oes/current/oes_tx.htm#15-0000). According to the 2019 survey of the State Bar of Texas on income and hourly rates, the median hourly rate for attorneys is \$291 (<https://tinyurl.com/mr7n3vpc>). TDI recognizes that costs will vary depending on each insurer's staffing strategies. Ms. Baker estimates insurers will need 15 to 30 hours to complete the drafting necessary to update the notice language.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS. TDI has determined that the proposed amended and new sections may have an adverse economic effect on small or micro businesses. The cost analysis in the Public Benefit and Cost Note section of this proposal also applies to these small and micro businesses. TDI estimates that the proposed amended and new sections could affect fewer than 150 small or micro businesses.

TDI has determined that the proposed amended and new sections will not have an adverse economic effect or a disproportionate effect on rural communities because the sections do not apply to rural communities.

TDI considered the following alternatives to minimize any adverse effect on small and micro businesses while accomplishing the proposal's objectives:

- (1) not proposing new §§5.7101 - 5.7110;
- (2) proposing different requirements for small and micro businesses; and
- (3) postponing the applicability of new §§5.7101 - 5.7110.

Not proposing §§5.7101 - 5.7110. Policy forms filed with TDI have not complied with Insurance Code §551.1053. To address this problem, the proposal establishes uniform requirements for insurers that implement important consumer protections. Not proposing §§5.7101 - 5.7110 would result in continued insurer misunderstanding of and failure to comply with statutory requirements, which could harm consumers because they may not get the information required under Insurance Code §551.1053. For these reasons, TDI rejected this option.

Proposing different requirements for small and micro businesses. Proposing different standards for small and micro businesses would not accomplish the goal of creating a uniform procedure to implement Insurance Code §551.1053. All consumers should receive clear, consistent, timely notices regarding mandatory nonrenewal of private passenger automobile coverage. In addition, harmonizing rules with statutes is important to ensure fair competition and foster a competitive market for all insurers, to protect and ensure fair treatment of consumers, and to ensure insurance laws are executed. For these reasons, TDI rejected this option.

Postponing the applicability of new §§5.7101 - 5.7110. Providing a six-month delay before the uncooperative insured requirements of new §§5.7101 - 5.7110 apply will help alleviate some of the possible economic impacts on all insurers, including small and

micro businesses, by giving insurers the ability to incorporate the requirements with other updates and process changes they are implementing. For these reasons, TDI has decided to incorporate this option into the proposal.

EXAMINATION OF COSTS UNDER GOVERNMENT CODE §2001.0045. TDI has determined that this proposal does impose a possible cost on regulated persons. However, Government Code §2001.0045 does not require any rule amendments or repeals because the proposed amendments and new sections are necessary to implement legislation. The proposed rule implements Insurance Code §§551.104, 551.105, and 551.1053.

GOVERNMENT GROWTH IMPACT STATEMENT. TDI has determined that for each year of the first five years that the proposed amended and new sections are 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 not increase 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 no later than 5:00 p.m., central time, on November 6, 2023. 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 November 6, 2023. If TDI holds a public hearing, the department will consider written and oral comments presented at the hearing.

Subchapter H. Cancellation, Denial, and Nonrenewal of Certain Property and Casualty Insurance

Division 1. Miscellaneous

28 TAC §§5.7005, 5.7007, 5.7011, 5.7012, and 5.7013

STATUTORY AUTHORITY. TDI proposes amendments to §§5.7005, 5.7007, 5.7011, 5.7012, and 5.7013 under Insurance Code §§551.1053, 551.112, 1951.002, and 36.001.

Insurance Code §551.1053 requires insurers to nonrenew private passenger automobile insurance policies when an insured fails or refuses to cooperate with the insurer in the investigation, settlement, or defense of a claim or action.

Insurance Code §551.112 authorizes the commissioner to adopt rules relating to the cancellation and nonrenewal of insurance policies.

Insurance Code §1951.002 authorizes the commissioner to adopt and enforce rules necessary to carry out the provisions of Insurance Code Title 10, Subtitle C.

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. Sections 5.7005, 5.7007, 5.7011, 5.7012, and 5.7013 implement Insurance Code §551.104 and §551.105.

TEXT.

§5.7005. Special One-Year Rule Applicable Only to Personal Automobile Policies.

(a) Purpose of rule. The ~~[It is the]~~ purpose of this ~~[special]~~ section is to:

(1) require ~~[provide]~~ continuity of coverage for ~~[a period of]~~ at least one year when the policy is written for a lesser term; and ~~[-Its purpose is also to permit]~~

(2) allow cancellation at the expiration of a one-year term when coverage is written for ~~[to cover a period of]~~ more than one year.

(b) Cancellation or nonrenewal. An insurer ~~[A company]~~ may cancel or nonrenew personal automobile policies for any legal reason ~~[irrespective of the reasons which prompt it to do so]~~, if the purpose is to terminate coverage concurrently with the expiration of any annual period, beginning with the original effective date of the policy. The prohibition ~~[contained]~~ in §5.7002 of this title (relating to Cancellations) does not apply ~~[is inapplicable]~~ to such cancellations. An insurer that ~~[It is especially provided, however, that a company which]~~ cancels on the anniversary, and in accordance with ~~[the~~

~~provisions of~~ this subsection, must give the policyholder at least 60 ~~[30]~~ days prior written notice of cancellation.

(c) Except as provided in Division 2 of this subchapter (relating to Mandatory Nonrenewal of Private Passenger Automobile Insurance Policies), personal ~~[Personal]~~ automobile policies that ~~[which]~~ are written for ~~[a period of]~~ less than one year must be renewed, at the option of the insured, for additional periods so as to accumulate a minimum of 12 months' continuous coverage.

§5.7007. Renewal of Policies.

(a) Except as provided in Division 2 of this subchapter (relating to Mandatory Nonrenewal of Private Passenger Automobile Insurance Policies), a ~~[A]~~ policy must be renewed at expiration, at the option of the policyholder, unless the insurer ~~[company]~~ has mailed written notice of nonrenewal to the policyholder ~~[of its intention to decline renewal]~~ at least 60 ~~[30]~~ days before the policy's ~~[in advance of the policy]~~ expiration date. The insurer ~~[company]~~ may comply with this provision by requiring or permitting its agent to notify the policyholder. However, it is the insurer's responsibility to give ~~[of giving]~~ notice to the policyholder ~~[insured remains with the company]~~ if the agent fails ~~[to carry out its instructions]~~ to notify the insured.

(b) An insurer ~~[A company]~~ may not decline to renew personal automobile policies because of the ages of the insureds.

§5.7011. Violations.

In addition to all other remedies provided by law, any policy cancellation or restriction of coverage made in violation of this subchapter is ~~[shall be]~~ deemed to be null and void and of no effect. Policies on which notice of nonrenewal is not given as required by this division must ~~[subchapter shall]~~ be renewed at the request of the insured.

§5.7012. Reason for Declination, Cancellation, or Nonrenewal.

Insurers must provide to policyholders or applicants a written statement of the reason or reasons for the declination, cancellation, or nonrenewal of any policy regulated by the Texas Department [~~State Board~~] of Insurance [~~pursuant to the Insurance Code, Chapter 5,~~] upon request by the policyholder or applicant. [~~This section is applicable to policies prescribed or approved by the board under authority of the Insurance Code, Articles 5.06, 5.13-1, 5.15, 5.15-1, 5.35, 5.36, 5.53, 5.53-A, 5.56, 5.57, 5.81, and 5.91.~~]

§5.7013. Notice Requirements for Cancellation and Nonrenewal for General Liability and Certain Automobile Insurance Policies.

(a) An insurer may cancel general [~~General~~] liability insurance policies and commercial automobile insurance policies to which this section applies [~~may be cancelled by the company~~] by providing the notice required by Insurance Code §551.053, concerning Written Notice of Cancellation Required [~~mailing written notice to the insured of its intent to cancel at least 45 days prior to the effective date of cancellation~~], except as provided by [~~in~~] §5.7014 of this title (relating to Exceptions to Cancellations and Nonrenewal Notice Requirements for General Liability and Certain Automobile Insurance Policies). [~~However, the responsibility of giving notice to the insured remains with the company if the agent fails to carry out its instructions to notify the insured.~~]

(b) General liability insurance policies and automobile insurance policies to which this section applies must be renewed at expiration, at the option of the policyholder, unless the company has provided the [~~mailed~~] written notice required by Insurance Code §551.054, concerning Written Notice of Nonrenewal Required, or by Insurance Code §551.1053, concerning Mandatory Nonrenewal of Private Passenger Automobile Insurance Policies. If [~~to the policyholder of its intention to decline renewal at least 45~~

~~days in advance of the policy expiration date except as provided in §5.7014(d) of this title (relating to Exceptions to Cancellation and Nonrenewal Notice Requirements for General Liability and Certain Automobile Insurance Policies). The company may comply with this provision by requiring or permitting its agent to notify the policyholder. However, the responsibility of giving notice to the insured remains with the company if the agent fails to carry out its instructions to notify the insured. Upon failure of] the insured does not [to] pay the renewal premium when due, the insurer's [company's] obligation to renew terminates on the policy's [policy on its] expiration date [terminates], regardless of whether the company has given [any] notice of nonrenewal [intent to decline renewal].~~

(c) An insurer may comply with this section by requiring or permitting its agent to notify the policyholder. However, it is the insurer's responsibility to give notice to the policyholder if the agent fails to notify the policyholder.

Division 2. Mandatory Nonrenewal of Private Passenger Automobile Insurance Policies
28 TAC §§5.7101 - 5.7110

STATUTORY AUTHORITY. TDI proposes new §§5.7101 - 5.7110 under Insurance Code §§551.1053, 551.112, 1951.002, and 36.001.

Insurance Code §551.1053 requires insurers to nonrenew private passenger automobile insurance policies when an insured fails or refuses to cooperate with the insurance company in the investigation, settlement, or defense of a claim or action.

Insurance Code §551.112 authorizes the commissioner to adopt rules relating to the cancellation and nonrenewal of insurance policies.

Insurance Code §1951.002 authorizes the commissioner to adopt and enforce rules necessary to carry out the provisions of Insurance Code Title 10, Subtitle C.

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. Sections 5.7101 - 5.7110 implement Insurance Code §551.1053.

TEXT.

§5.7101. Division Purpose and Applicability.

(a) This division implements Insurance Code §551.1053, concerning Mandatory Nonrenewal of Private Passenger Automobile Insurance Policies.

(b) Insurance Code §551.1053 requires insurers to nonrenew a policy if the insured fails or refuses to cooperate with an insurer in an investigation, settlement, or defense of a claim or action.

(c) This division applies to third-party liability claims and actions:

(1) involving insurers identified in Insurance Code §551.101, concerning Definition; and

(2) on private passenger automobile insurance policies that are:

(A) personal automobile insurance policies, or

(B) policies written for any governmental entity or political subdivision identified in Insurance Code §551.102(4), concerning Applicability of Subchapter.

(d) This division does not apply to policies written through the Texas Automobile Insurance Plan Association.

§5.7102. Definition.

In this division, "notice" means the notice of nonrenewal and opportunity to cooperate required by Insurance Code §551.1053(a), concerning Mandatory Nonrenewal of Private Passenger Automobile Insurance Policies.

§5.7103. Reasonable Efforts.

An insurer must use reasonable efforts to contact and encourage cooperation from an insured who fails or refuses to cooperate in an investigation, settlement, or defense of a claim or action.

§5.7104. Notice Timing.

(a) An insurer must send a notice to the named insured within five days after determining that the insured failed or refused to cooperate.

(b) If an insurer determines that an insured is not cooperating, the insurer must send the notice even if the insurer has already sent a notice of nonrenewal for another reason.

§5.7105. Cooperation Timeframe.

(a) An insured may cooperate at any time during the policy term in which a notice is sent or during any extended term required under §5.7106 of this title (relating to Extension of Term and Additional Premium). If the insured cooperates, the insurer may not nonrenew for failure or refusal to cooperate.

(b) An insurer must give the insured at least 10 days to cooperate from the date the insurer sends the notice, regardless of when the policy term ends.

§5.7106. Extension of Term and Additional Premium.

(a) If a notice is sent less than 10 days before the end of the policy term, the insurer must extend the policy term to give the insured 10 days to cooperate.

(b) An insurer may charge additional premium for any extended term on a pro rata basis, based on the premium for the expiring term.

§5.7107. Contents of Notice.

(a) A notice must be written in:

- (1) plain language (see TDI's website for plain language guidance); and
- (2) at least 10-point type.

(b) The notice must inform the named insured:

- (1) of the identity of the insured who failed or refused to cooperate;
- (2) how the insured failed or refused to cooperate;
- (3) of the insurer's attempts to contact the insured;
- (4) of the claim number or action for which the insurer is requesting cooperation;
- (5) that the insurer will not renew the policy if the insured continues to fail or refuse to cooperate;
- (6) that the insured still has time to cooperate;
- (7) that the insured must cooperate before the end of the policy term (or any extended term) to stop nonrenewal of the policy;
- (8) that if the insured cooperates, then the insurer will not nonrenew the policy for failure or refusal to cooperate;
- (9) that even if the insured cooperates, the insurer may nonrenew for other reasons;
- (10) of the date of nonrenewal; and
- (11) of any other information the insurer deems appropriate.

(c) Insurers may provide the notice either:

(1) in both English and Spanish; or

(2) in English with a statement in Spanish on the first page that the policy will be nonrenewed if the insured continues to fail or refuse to cooperate. The statement must list a phone number where an insured can speak in Spanish with the insurer's representative to discuss the items listed in subsection (b) of this section.

(d) Insurers are not required to file the notice with TDI unless requested.

(e) The notice may include additional information that does not violate other statutes or rules.

§5.7108. Sample Notice of Nonrenewal and Opportunity to Cooperate.

The figures in this section provide examples of written notices that comply with §5.7107 of this title (relating to Contents of Notice). Insurers are not limited to using the examples in this section; they may use other content and formatting as long as the notice they provide complies with this division.

Figure 1: 28 TAC 5.7108 - English Sample Notice

Call us now! Help us with this claim or we can't renew your policy!

Notice of Nonrenewal and Opportunity to Cooperate

We can't renew your policy unless you help us with this claim. If you don't help us, you won't have coverage after [DATE policy term ends or the end of extended term].

You still have time to cooperate and work with us on the claim [OR action] described below. If you cooperate before [DATE policy term ends or the end of extended term], we won't nonrenew your policy for this reason.

What we need from you:

Call us **now** at [insurer contact information].

[Insurer should explain specifically what the insured or named insured should do or provide.]

What happened:

[Insurer should:

- identify the insured who failed or refused to cooperate;
- explain how that person failed or refused to cooperate, including, if applicable, if the insurer was unable to contact them; and
- list the dates and methods used to attempt to contact that person, including phone numbers, mailing addresses, and email addresses, or other electronic means.]

Claim [or Action] information:

Named Insured name: [_____]

[Name of other insured: [include if applicable] [_____]]

Auto policy number: [_____]

Claim number: [_____]

[Action: [include if applicable] [_____]]

Date of loss: [_____]

Location or address where damage or loss took place: [_____]

Warning: If you continue to fail or refuse to cooperate, we will nonrenew your policy. Even if you cooperate, we may still not renew your policy for other reasons allowed by law.

Notice of Nonrenewal and Opportunity to Cooperate

Figure 2: 28 TAC 5.7108 - Spanish Sample Notice

¡Llámenos ahora! ¡Ayúdenos con esta reclamación o no podremos renovar su póliza!

Notificación de No Renovación y Oportunidad para Cooperar

No podemos renovar su póliza a menos que usted nos ayude con esta reclamación. Si no nos ayuda, no tendrá cobertura después del [DATE policy term ends or the end of extended term].

Usted todavía tiene tiempo para cooperar y colaborar con nosotros en la reclamación [OR action] que se describe a continuación. Si usted coopera antes del [DATE policy term ends or the end of extended term], no cancelaremos la renovación de su póliza por este motivo.

Lo que necesitamos de usted:

Llámenos **ahora** al [phone number of Spanish-speaking person at company].

[Insurer should explain specifically what the insured or named insured should do or provide.]

Lo que sucedió:

[Insurer should:

- identify the insured who failed or refused to cooperate;
- explain how that person failed or refused to cooperate, including, if applicable, if the insurer was unable to contact them; and
- list the dates and methods used to attempt to contact that person, including phone numbers, mailing addresses, and email addresses, or other electronic means.]

Información sobre la reclamación [o Acción]:

Nombre del Asegurado Principal: [_____]
[Nombre de otros asegurados: [include if applicable] [_____]]
Número de la póliza de automóvil: [_____]
Número de reclamación: [_____]
[Acción: [include if applicable] [_____]]
Fecha de la pérdida: [_____]
Lugar o dirección en donde ocurrió el daño o la pérdida: [_____]

Advertencia: Si usted continúa sin responder o si se niega a cooperar, no renovaremos su póliza. Incluso si usted coopera, es posible que no renovemos su póliza por otras razones permitidas por la ley.

Notificación de No Renovación y Oportunidad para Cooperar

Call us now! Help us with this claim or we can't renew your policy!

Notice of Nonrenewal and Opportunity to Cooperate

We can't renew your policy unless you help us with this claim. If you don't help us, you won't have coverage after [DATE policy term ends or the end of extended term].

¡Llámenos ahora mismo al [phone number of Spanish-speaking person at company]! No podemos renovar su póliza a menos que usted nos ayude con esta reclamación. Si no nos ayuda, no tendrá cobertura después del [DATE policy term ends or the end of extended term].

You still have time to cooperate and work with us on the claim [OR action] described below. If you cooperate before [DATE policy term ends or the end of extended term], we won't nonrenew your policy for this reason.

What we need from you:

Call us **now** at [insurer contact information].

[Insurer should explain specifically what the insured or named insured should do or provide.]

What happened:

[Insurer should:

- identify the insured who failed or refused to cooperate;
- explain how that person failed or refused to cooperate, including, if applicable, if the insurer was unable to contact them; and
- list the dates and methods used to attempt to contact that person, including phone numbers, mailing addresses, and email addresses, or other electronic means.]

Claim [or Action] information:

Named Insured name: [_____]

[Name of other insured: [include if applicable] [_____]]

Auto policy number: [_____]

Claim number: [_____]

[Action: [include if applicable] [_____]]

Date of loss: [_____]

Location or address where damage or loss took place: [_____]

Warning: If you continue to fail or refuse to cooperate, we will nonrenew your policy. Even if you cooperate, we may still not renew your policy for other reasons allowed by law.

§5.7109. Nonrenewal Under Insurance Code §551.1053.

(a) If an insured does not cooperate after the insurer provides a notice, the insurer must nonrenew the policy at the end of the policy term or at the end of the extended term under §5.7106 of this title (relating to Extension of Term and Additional Premium).

(b) Insurance Code §551.105, concerning Nonrenewal of Policies; Notice Required, and Insurance Code §551.106, concerning Renewal and Reinstatement of Personal Automobile Insurance Policies, do not apply where they conflict with the requirement to nonrenew the policy under Insurance Code §551.1053.

(c) If the insured cooperates before the end of the policy term or the end of the extended term under §5.7106 of this title, then the insurer may not nonrenew under this division.

§5.7110. Nonrenewal Under Other Statutes.

(a) An insurer may nonrenew a policy for a reason other than an insured's failure or refusal to cooperate under §5.7109 of this title (relating to Nonrenewal Under Insurance Code §551.1053) if the insurer complies with other rules and statutes governing renewal and nonrenewal, including Insurance Code §551.105, concerning Nonrenewal of Policies; Notice Required, and Insurance Code §551.106, concerning Renewal and Reinstatement of Personal Automobile Insurance Policies.

(b) To encourage cooperation, even if an insurer has already sent a notice of nonrenewal for another reason, the insurer must still send the notice required by Insurance Code §551.1053(a).

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 September 18,
2023.

DocuSigned by:
Jessica Barta
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Jessica Barta, General Counsel
Texas Department of Insurance