

SUBCHAPTER F. INLAND MARINE INSURANCE AND MULTI-PERIL INSURANCE
[~~28 TAC §§ 5.5001, 5.5002, and 5.5005~~]

DIVISION 1. INLAND MARINE INSURANCE
28 TAC §§5.5001 - 5.5008

DIVISION 2. MULTI-PERIL INSURANCE
28 TAC §5.5101

INTRODUCTION. The Texas Department of Insurance (TDI) proposes to repeal 28 TAC §§5.5001, 5.5002, and 5.5005, and TDI proposes new Division 1, containing 28 TAC §§5.5001 - 5.5008 and new Division 2, containing §5.5101. The repeals and new sections implement Senate Bill 1367, 87th Legislature, 2021, and House Bill 2587, 86th Legislature, 2019.

EXPLANATION. This proposal implements SB 1367, which exempts commercial inland marine insurance from rate and form filing requirements. The proposal also implements HB 2587, which requires travel insurance rates and forms to be filed as inland marine, subject to an exception allowing travel insurance with sickness, accident, disability, or death coverage to be filed as accident and health insurance.

TDI invited public comment on an informal draft posted on TDI's website on September 6, 2022. The draft text provided in the informal posting was substantively similar to current rule text, with the exception of the filing requirements for the classes of inland marine insurance and the addition of travel insurance. To illustrate the changes, the informal posting showed the current rule text alongside the proposed new text. TDI received no comments on the informal draft and did not substantively change any of the proposed rule text from what was included in the informal draft.

The proposed repeals and new sections are described in the following paragraphs.

DIVISION 1. INLAND MARINE INSURANCE

28 TAC §§5.5001 - §5.5008

Section 5.5001. Purpose and Classification Procedure. Proposed §5.5001 uses the designation "non-filed" for non-filed classes rather than "non-regulated," as is used in current §5.5001, to emphasize the non-filed status and reduce potential misunderstanding that the classes are not subject to regulation of any kind. The proposed section also does not reference "uniform standards of application" from the definition of "non-filed" because TDI does not adopt standard and uniform policies anymore.

Unlike current §5.5001, proposed §5.5001 does not include language regarding the exclusion of fire and extended coverage in relation to inland marine insurance coverage. Fire and extended coverage requirements exist for only the particular classes of inland marine insurance described in proposed §§5.5005(1), 5.5008(5), 5.5008(8), and 5.5008(28) and are specified in those subsections.

Section 5.5002. Inland Marine Insurance -- Imports. Proposed §5.5002 contains similar substantive language as in current §5.5002(1), which is proposed for repeal. The new section addresses insurance for imports, describing how imports on consignment and imports not on consignment may be covered. The new section differs from current §5.5002(1) in that, as with §5.5001, it uses the term "non-filed" instead of "non-regulated" for clarity.

Section 5.5003. Inland Marine Insurance -- Exports. Proposed §5.5003 contains similar substantive language as in current §5.5002(2), which is proposed for repeal. The new section addresses insurance for exports, describing how exports may be covered. The new section differs from current §5.5002(2) in that, as with §5.5001, it uses the term "non-filed" instead of "non-regulated" for clarity.

Section 5.5004. Inland Marine Insurance -- Domestic Shipments. Proposed §5.5004 contains similar substantive language as in current §5.5002(3), which is proposed for repeal. The new section addresses insurance for domestic shipments, describing how

domestic shipments may be covered. The new section differs from current §5.5002(3) in that, as with §5.5001, it uses the term "non-filed" instead of "non-regulated" for clarity.

Section 5.5005. Inland Marine Insurance -- Bridges, Tunnels, and Other Instrumentalities of Transportation and Communication. Proposed §5.5005 contains similar substantive language as in current §5.5002(4), which is proposed for repeal. The new section addresses insurance for bridges, tunnels, and other instrumentalities of transportation and communication, describing how they may be covered. The new section differs from current §5.5002(4) in that, as with §5.5001, it uses the term "non-filed" instead of "non-regulated" for clarity.

Section 5.5006. Inland Marine Insurance -- Consumer Credit Property Insurance. Proposed §5.5006 contains the same substantive language as current §5.5002(5)(Q)(i), which is proposed for repeal. The new section addresses insurance for consumer credit property, describing how it may be covered. The new section differs from current §5.5002(5)(Q)(i) in that it simplifies text and changes the text to more active voice, to conform to current agency drafting style and plain language preferences.

Section 5.5007. Inland Marine Insurance -- Commercial Credit Property Insurance. Proposed §5.5007 contains similar language as in current §5.5002(5)(Q)(ii), which is proposed for repeal. The new section addresses insurance for commercial credit property, describing how it may be covered. The new section differs from current §5.5002(5)(Q)(ii) in that, as with §5.5001, it uses the term "non-filed" instead of "non-regulated" for clarity.

Section 5.5008. Inland Marine Insurance -- Other Inland Marine Risks. Proposed §5.5008 contains similar substantive language as in most of current §5.5002(a)(5), other than current §5.5002(a)(5)(Q)(i) and §5.5002(a)(5)(Q)(ii), which is reflected in proposed §5.5006 and §5.5007, respectively. The new section addresses insurance for all other classes of inland marine insurance, describing how they may be

covered. The new section also classifies travel insurance as inland marine insurance. The new section differs from current §5.5002(5)(Q)(ii) in that, as with §5.5001, it uses the term "non-filed" instead of "non-regulated" for clarity.

DIVISION 2. MULTI-PERIL INSURANCE

28 TAC §5.5101

Section 5.5101. Rates for Commercial Multi-peril Policies. Proposed §5.5101 contains similar substantive language as in current §5.5005, which is proposed for repeal. The new section provides a procedure for regulating rates for commercial multi-peril policies.

FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT. David Muckerheide, assistant director of the Property and Casualty Lines Office, has determined that during each year of the first five years the sections as proposed are in effect, there will be no measurable fiscal impact on state and local governments as a result of enforcing or administering the sections, other than that imposed by the statute. Mr. Muckerheide made this determination because the proposed 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 sections.

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 sections as proposed are in effect, Mr. Muckerheide expects that administering them will have the public benefit of ensuring that TDI's rules conform to Insurance Code §§2251.0031, 2301.0031, and 3504.0003 and of providing clarity through the use of more plain language

and by addressing different types of coverage in separate sections rather than in one long section.

Mr. Muckerheide expects that the proposed sections will not increase the cost of compliance with Insurance Code §§2251.0031, 2301.0031, and 3504.0003 because they do not impose requirements beyond those in the statute and the current rule. Insurance Code §2251.0031 and §2301.0031 exempt commercial inland marine insurance from rate and form filing requirements. Insurance Code §3504.0003 requires travel insurance rates and forms to be filed as inland marine insurance (subject to an exception allowing travel insurance with sickness, accident, disability, or death coverage to be filed as accident and health insurance). As a result, any cost associated with the proposed sections is already present under current regulations or statute and does not result from the enforcement or administration of regulations.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS. TDI has determined that the sections as proposed will not have an adverse economic effect on small or micro businesses, or on rural communities. 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 cost on regulated persons. Even if it did, no additional rule amendments are required under Government Code §2001.0045 because the proposed §§5.5001 - 5.5008 and §5.5101 are necessary to implement legislation. The proposed rule implements Insurance Code §2251.0031 and §2301.0031 as added by SB 1367, and Insurance Code §3504.0003 as added by HB 2587.

GOVERNMENT GROWTH IMPACT STATEMENT. TDI has determined that for each year of the first five years that the sections as proposed 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 new regulations;
- will repeal existing regulations;
- will not increase or decrease the number of individuals subject to the rule's applicability; and
- will not positively or adversely affect the Texas economy.

This rule creates a new regulation by classifying travel insurance as inland marine insurance.

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 March 13, 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 the TDI no later than 5:00 p.m., central time, on March 13, 2023. If TDI holds a public hearing, TDI will consider written and oral comments presented at the hearing.

SUBCHAPTER F. INLAND MARINE INSURANCE AND MULTI-PERIL INSURANCE REPEAL OF 28 TAC §§5.5001, 5.5002, and 5.5005

STATUTORY AUTHORITY. TDI proposes the repeal of §§5.5001, 5.5002, and 5.5005 under Insurance Code §§2251.0031, 2251.004, 2301.0031, 2301.005, 3504.0007, 36.001, and 36.002.

Insurance Code §2251.0031 exempts commercial inland marine insurance from rate filing requirements. Section 2251.0031 also provides that the Commissioner may adopt reasonable and necessary rules to implement §2251.0031.

Insurance Code §2251.004 requires that the Commissioner adopt rules governing the manner in which rates for the various classifications of risks insured under inland marine insurance are regulated.

Insurance Code §2301.0031 exempts commercial inland marine insurance from form filing requirements. Section 2301.0031 also provides that the Commissioner may adopt reasonable and necessary rules to implement §2301.0031.

Insurance Code §2301.005 requires that the Commissioner adopt rules governing the manner in which forms for the various classifications of risks insured under inland marine insurance are regulated.

Insurance Code §3504.0007 provides that the Commissioner may adopt any rules necessary to implement Insurance Code Chapter 3504.

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.

Insurance Code §36.002 provides that the Commissioner may adopt reasonable rules that are necessary to effect the purposes of Insurance Code Chapter 2251 and Chapter 2301, Subchapter A.

CROSS-REFERENCE TO STATUTE. The repeal of §§5.5001, 5.5002, and 5.5005 implements Insurance Code §§2251.0031, 2301.0031, and 3504.0003.

TEXT.

§5.5001. Purpose and Classification Procedure.

§5.5002. Texas Definition of Inland Marine Insurance.

§5.5005. Rates for Commercial Multi-peril Policies.

SUBCHAPTER F. INLAND MARINE INSURANCE AND MULTI-PERIL INSURANCE
DIVISION 1. INLAND MARINE INSURANCE

STATUTORY AUTHORITY. TDI proposes new §§5.5001 - 5.5008 under Insurance Code §§2251.0031, 2251.004, 2301.0031, 2301.005, 3504.0007, 36.001, and 36.002.

Insurance Code §2251.0031 exempts commercial inland marine insurance from rate filing requirements. Section 2251.0031 also provides that the Commissioner may adopt reasonable and necessary rules to implement §2251.0031.

Insurance Code §2251.004 requires that the Commissioner adopt rules governing the manner in which rates for the various classifications of risks insured under inland marine insurance are regulated.

Insurance Code §2301.0031 exempts commercial inland marine insurance from form filing requirements. Section 2301.0031 also provides that the Commissioner may adopt reasonable and necessary rules to implement §2301.0031.

Insurance Code §2301.005 provides that the Commissioner must adopt rules governing the manner in which forms for the various classifications of risks insured under inland marine insurance are regulated.

Insurance Code §3504.0007 requires that the Commissioner adopt any rules necessary to implement Insurance Code Chapter 3504.

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.

Insurance Code §36.002 provides that the Commissioner may adopt reasonable rules that are necessary to effect the purposes of Insurance Code Chapter 2251 and Chapter 2301, Subchapter A.

CROSS-REFERENCE TO STATUTE. Proposed §§5.5001 - 5.5008 implement Insurance Code §§2251.0031, 2301.0031, and 3504.0003.

TEXT.

§5.5001. Purpose and Classification Procedure.

(a) The purpose of this division is to identify the various classifications of risks defined by the Texas Department of Insurance as inland marine insurance subject to any applicable qualifications in this division.

(b) Each class (or subclass, where indicated) is designated as "filed" or "non-filed."

(1) "Filed" indicates those classes or subclasses for which rules, rates, and forms must be filed with the Texas Department of Insurance. Forms are subject to filing and approval under Insurance Code §2301.006, concerning Filing and Approval of Forms.

(2) "Non-filed" indicates those classes or subclasses for which rules, rates, and forms are not subject to filing requirements.

(c) Inland marine insurance is defined and classified in:

(1) §5.5002 of this title (relating to Inland Marine Insurance -- Imports);

(2) §5.5003 of this title (relating to Inland Marine Insurance -- Exports);

(3) §5.5004 of this title (relating to Inland Marine Insurance -- Domestic Shipments);

(4) §5.5005 of this title (relating to Inland Marine Insurance -- Bridges, Tunnels, and Other Instrumentalities of Transportation and Communication);

(5) §5.5006 of this title (relating to Inland Marine Insurance -- Consumer Credit Property Insurance);

(6) §5.5007 of this title (relating to Inland Marine Insurance -- Commercial Credit Property Insurance); and

(7) §5.5008 of this title (relating to Inland Marine Insurance -- Other Inland Marine Risks).

§5.5002. Inland Marine Insurance -- Imports.

Imports (non-filed). Imports may be insured under inland marine policies when the property is not subject to import risk covered under marine (ocean) policies.

(1) Imports on consignment may be covered without restriction as to time or location of the property, provided the coverage includes transportation hazards. "On consignment" refers to property consigned and entrusted to factors or agents to be held in their care, or under their control:

(A) for sale; for account of another; or for exhibit, trial, approval, or auction; and

(B) for return, if not disposed of.

(2) Imports not on consignment may be covered in places of storage that are typically used by importers, provided the coverage includes transportation hazards. These policies may also include the same coverage for property purchased on cost-insurance-freight terms or spot purchases included with or substituted for bona fide importations. An import can remain covered under an inland marine policy as long as the property remains segregated in the original form or package in a way that it can be identified and has not become incorporated and mixed with the general mass of property in the United States. An import can no longer be covered under the inland marine policy when the property has been:

(A) sold and delivered by the importer, factor, or consignee;

(B) removed from its place of storage and placed on sale as part of the importer's stock in trade at a point of sales distribution; or

(C) delivered and accepted for manufacture, processing, or change in form at the premises used for any of those purposes.

§5.5003. Inland Marine Insurance -- Exports.

Exports (non-filed). Inland marine policies may cover property for export when the property is not subject to export risk covered under marine (ocean) policies.

(1) Export property may be covered without restriction as to time or location of the property, provided coverage includes transportation hazards.

(2) The property becomes export property when it is so designated or while it is being prepared for export. Export property retains its character unless diverted for

domestic trade. When the property is diverted for domestic trade, §5.5004 of this title (relating to Inland Marine Insurance -- Domestic Shipments) applies.

(3) Paragraphs (1) and (2) of this section do not apply to methods of insuring commodities such as cotton that were established before September 28, 1984.

§5.5004. Inland Marine Insurance -- Domestic Shipments.

Domestic shipments (non-filed).

(1) Inland marine policies may cover domestic shipments on consignment while in transit.

(A) Domestic shipments on consignment for sale or distribution for account of the consignor may be covered with no restriction as to time in storage or deposit. The shipments may be covered while in the custody of others. Coverage may also include return shipments. Coverage may not extend to premises owned, leased, or controlled by the consignor.

(B) Domestic shipments on consignment for sale or distribution for account of the consignee may be covered while in the custody of others and may include return shipments. Coverage may extend to premises owned, leased, or controlled by the consignee for no more than 120 days. If coverage is issued jointly to consignee and consignor, the same 120-day limitation applies to the consignee's interest.

(C) Domestic shipments on consignment for account of the consignor or consignee for exhibition, trial, approval, or auction may be covered with no restriction as to time in storage or deposit or on exhibition. The shipments may be covered while in the custody of others. Coverage may also include return shipments.

(2) Inland marine policies may cover domestic shipments not on consignment while in transit.

(A) Domestic shipments not on consignment may be covered without restriction as to time in storage or deposit while at premises of transportation companies or freight forwarders. A "freight forwarder" is a warehouse or transportation business that takes custody of the property of others for storage and transport either by schedule or upon call.

(B) Domestic shipments limited to used furniture and fixtures or used household furniture may be covered without restriction as to time in storage or deposit while in transit and awaiting determination or availability of the final destination. These policies may not cover the property after delivery to the final destination and may not include merchandise held for sale.

(C) In all other situations, domestic shipments not on consignment may be covered for not more than 120 days at any place of storage or deposit operated by the insured. Coverage at points of sales distribution or at the manufacturing premises of the insured may be written without restriction of time in storage. Policies may not include fire and extended coverage at points of sales distribution or manufacturing premises.

§5.5005. Inland Marine Insurance -- Bridges, Tunnels, and Other Instrumentalities of Transportation and Communication.

Bridges, tunnels, and other instrumentalities of transportation and communication (non-filed).

(1) Policies with fire and extended coverage must also cover at least one other peril.

(2) Policies must exclude buildings, office furniture, and supplies stored in the buildings.

(3) Policies covering piers, wharves, docks, and slips must exclude fire and extended coverage.

(4) Other navigation and transportation aids, including dry docks and marine railways, may be covered against any risks.

(5) Property insured under this section may include:

(A) pipelines, including on-line propulsion, regulating, and other equipment appurtenant to such pipelines, but excluding all property at manufacturing, producing, refining, converting, treating, or conditioning plants;

(B) power transmission, telephone, and telegraph lines, excluding all property at generating, converting, or transforming stations, substations, and exchanges;

(C) radio and television communication equipment in commercial use, including towers, antennae, auxiliary equipment, electrical operating and control apparatuses, and other property directly used for transmitting or receiving; and

(D) outdoor cranes, loading bridges, and similar equipment used to load, unload, and transport.

§5.5006. Inland Marine Insurance -- Consumer Credit Property Insurance.

Consumer credit property insurance (filed). These policies provide property coverage for an open- or closed-end consumer credit transaction that is a retail installment transaction. For purposes of this section, "retail installment transaction" has the meaning assigned in Finance Code §345.001, concerning Definitions.

(1) Policies must include coverage while in transit.

(2) Policies may extend coverage to include vendee, mortgagor, or lessee interests.

(3) Policies may not cover a vendor's, mortgagee's, or lessor's interest beyond the termination of that interest.

(4) All policies or certificates must include a clear statement to the insured about how payments will be allocated to all outstanding purchase obligations. The statement must reference the applicable lending documents to determine how the coverage will be applied.

(5) Premium calculations for coverage involving a closed-end consumer credit transaction may not be based on amounts paid for services, meals, entertainment, finance or service fees, loan interest, delivery charges, or other insurance premiums (for example, credit life, credit disability, credit property, or credit involuntary unemployment insurance coverage).

(6) Offers for coverage involving a closed-end consumer credit transaction must include, at the time of the offer, the following prominent written disclosure in no smaller than 10-point boldface type: "This coverage might duplicate existing coverage if you have a residential property insurance policy. This coverage ceases when you have fully paid the debt. This coverage is primary, so it is the first source to be used in the event of a loss on property it covers. You may cancel this coverage at any time by calling the insurer at the toll-free telephone number provided to you, or by writing to the insurer. This coverage costs {set out the total identifiable credit property insurance charge}."

(7) Offers for coverage involving an open-end consumer credit transaction must include, at the time of the offer, the following prominent written disclosure in no smaller than 10-point boldface type: "This coverage might duplicate existing coverage if you have a residential property insurance policy. It applies to any item of covered property on which you owe a debt. This coverage is primary, so it is the first source to be used in the event of a loss on property it covers. You may cancel this coverage at any time by calling the insurer at the toll-free telephone number provided to you, or by writing to the insurer. This coverage costs \${enter amount} per \$100 of outstanding balance on your account. The premium charged for this coverage is based on your entire outstanding

balance, but the coverage only applies to tangible personal property purchased on an open-end credit account. Services, meals or other consumables, entertainment, finance or service fees, loan interest, delivery charges, or other insurance premiums, which may be part of your outstanding balance, are not covered."

(8) Policies or certificates must be given to the insured when the coverage is accepted by the insurer, along with written instructions about filing claims under the coverage.

(A) The instructions must include the insurer's toll-free telephone number. The instructions must list the essential elements an insured must provide to perfect a claim.

(B) Policies or certificates given to insureds must include the disclosure in either paragraph (6) or (7) of this section, as applicable, with the same typeface and size requirements.

(9) Policies and certificates for open-end consumer credit transactions must provide that the policyholder or certificate holder will receive a disclosure with the account statement not less than semiannually.

(A) The disclosure must be at least 6-point boldface type on the face of the account statement, or at least 10-point boldface type on a statement insert.

(B) The disclosure must state: "If you are paying a credit property insurance premium, that premium is based on the entire outstanding balance of this account. You may cancel this coverage at any time by calling the insurer at the toll-free telephone number it has provided to you, or by writing to the insurer. Any premium charged for credit property insurance coverage is based on your entire outstanding balance, but the coverage only applies to tangible personal property purchased on an open-end credit account. Services, meals or other consumables, entertainment, finance

or service fees, loan interest, delivery charges, or other insurance premiums, which may be part of your outstanding balance, are not covered."

(10) Policies and certificates for open-end consumer credit transactions must provide that the policyholder or certificate holder will receive a statement each billing cycle, but not less frequently than quarterly. The statement must include:

(A) the amount of the credit property insurance charge, separate from any total insurance charge;

(B) the amount of debt to which the insurance charge rate was applied;

(C) the date the rate was applied; and

(D) the period covered by the monthly charge.

§5.5007. Inland Marine Insurance -- Commercial Credit Property Insurance.

Commercial credit property insurance (non-filed). These policies provide property coverage for commercial credit transactions involving installment sales, leased property, and deferred payment contracts. The policies cover the interest of a vendor or mortgagee in property sold in a commercial transaction under an installment sales contract, or a partial or deferred payment contract, and the interest of a lessor in leased property.

(1) For purposes of this section, a commercial credit transaction is one that does not fall within the meaning of a consumer credit transaction as described in §5.5006 of this title (relating to Inland Marine Insurance -- Consumer Credit Property Insurance).

(2) Policies must include coverage while in transit.

(3) Policies may extend coverage to include vendee, mortgagor, or lessee interests. The policy may not cover beyond the termination of the vendor's, mortgagee's, or lessor's interest.

§5.5008. Inland Marine Insurance -- Other Inland Marine Risks.

Other inland marine risk definitions and classifications follow.

(1) Accounts receivable (non-filed).

(2) Agricultural machinery and equipment. These risks include:

(A) personal risks (filed); and

(B) dealers and other commercial risks (non-filed).

(3) Bailee customers policies (non-filed). These policies cover property in the custody of bleacheries, throwsters, fumigatories, dyers, cleaners, laundries, needle workers, and other bailees for the purpose of storage or performing work on the property. The policies may include coverage while in transit but may not cover the bailee's property at the bailee's premises.

(4) Block policies. These risks include:

(A) camera dealers (non-filed);

(B) equipment dealers (non-filed);

(C) furrier's block (non-filed);

(D) jeweler's block (non-filed); and

(E) musical instrument dealers (non-filed).

(5) Builders' risks or installation risks (non-filed). These policies cover loss to the owner, seller, or contractor due to physical damage to machinery, equipment, building materials, or building supplies being used with and during the course of installation, testing, building, renovating, or repairing of dwelling, commercial, or industrial construction.

(A) Policies may cover property designated for and awaiting specific installation, building, renovating, or repairing while the property is at points or places where work is being performed, in transit, or in temporary storage or deposit.

(B) Policies may not cover property while it is part of merchandise held by dealers for public sale.

(C) Coverage must be limited to builders' risks or installation risks if a policy insures perils in addition to fire and extended coverage.

(D) If a policy is written for an owner, coverage must end when the work is completed and accepted.

(E) If a policy is written for a seller or contractor, coverage must end when the interest of the seller or contractor ends.

(6) Cold storage locker plant policies (non-filed). These policies cover merchandise of customers such as meats, game, fish, poultry, fruit, vegetables, and similar property.

(7) Cotton buyers transit policies (non-filed).

(8) Domestic bulk liquids policies (non-filed). These policies cover domestic bulk liquids stored in tanks, but do not include fire and extended coverage.

(9) Electronic Equipment Protection Policy (filed for personal risks; non-filed for commercial risks).

(A) These policies can cover:

(i) electronic equipment, including data processing equipment and components, connections, extensions, and systems;

(ii) electronic media, including converted data; and

(iii) extra expense incurred to continue normal operations that are interrupted as a result of an insured loss.

(B) A policy must cover the property while in transit.

(C) Insurance for "portable electronic devices," as described in Insurance Code §4055.251, concerning Definitions, is also subject to the provisions of

Insurance Code Chapter 551, Subchapter E, concerning Portable Electronics Insurance, and Chapter 4055, Subchapter F, concerning Portable Electronic Vendor License.

(10) Exhibition policies covering property while on exhibition and in transit to or from an exhibition (non-filed).

(11) Film floaters, including builders' risk during the production and coverage of completed negatives and positives and sound records:

(A) personal risks (filed); and

(B) commercial risks (non-filed).

(12) Fine arts policies covering objects of art such as pictures, bronzes, antiques, rare manuscripts and books, and articles of vertu:

(A) private collections (filed); and

(B) dealers and other commercial risks (non-filed).

(13) Floor plan policies (non-filed). These policies cover property for sale while in possession of dealers under a floor plan or any similar plan under which the dealer borrows money from a lending institution to pay the manufacturer.

(A) The merchandise must be specifically identifiable as encumbered to the lending institution.

(B) The dealer's right to sell or otherwise dispose of the merchandise must be conditioned upon the lending institution releasing the merchandise from encumbrance.

(C) These policies must cover the merchandise in transit and not extend beyond termination of the dealer's interest.

(D) These policies may not cover merchandise for which the collateral is the dealer's stock or inventory, as distinguished from merchandise specifically identifiable as encumbered to the lending institution.

(14) Furriers' customers policies (non-filed). These policies cover specified articles of customers' property for which furriers or fur storers issue certificates or receipts.

(15) Garment contractors floaters (non-filed).

(16) Government service floaters (non-filed).

(17) Home freezers and freezer contents (non-filed). These policies cover against loss resulting from power failure or mechanical breakdown.

(18) Live animal floaters. These risks include:

(A) cattle kept for feeding, dairy, breeding, or show purposes; sheep; swine; and horses and mules (except horses and mules used exclusively for racing, show, or breeding for racing or show):

(i) personal risks (filed); and

(ii) commercial risks (non-filed);

(B) range cattle and range sheep while on ranges (non-filed);

(C) horses or mules used exclusively for racing, show, or breeding for racing or show (non-filed);

(D) livestock while being transported to or from stockyards or while at stockyards (non-filed);

(E) policies issued to insureds conducting sales or auctions, covering others' livestock for public sale (non-filed);

(F) livestock insured under mortality policies that cover, among other perils, death or destruction due to natural causes (non-filed);

(G) livestock of circus, carnival, or theatrical enterprises (non-filed);
and

(H) policies issued to veterinarians and humane societies to cover others' livestock in their custody or control for professional purposes (non-filed).

(19) Mobile equipment and miscellaneous movable property (non-filed).

(A) These policies cover contractors' equipment, industrial and other special equipment not primarily designed for highway use, mechanical sales devices, storage batteries, stevedores' equipment, divers' equipment, undertakers' equipment, outboard boats and motors, parachutes, balloons, scientific and surveyors' instruments, articles for sport and recreation, musical scores and orchestrations, or all other similar movable and identified property.

(B) These policies do not cover any equipment or property:

(i) on sale or consignment; or

(ii) that, in the course of manufacture, has come into the custody or control of parties who intend to use the equipment or property for the purpose for which it was manufactured or created.

(C) These policies may not cover storage at the insured's premises, except where storage is incidental to the regular use of the equipment or property away from the premises.

(20) Musical instrument floaters. For purposes of this section, "musical instrument" does not include music-playing equipment like radios, televisions, CD or record players, MP3 players, and streaming devices:

(A) Personal risks (filed); and

(B) Commercial risks (non-filed).

(21) Nuclear insurance (non-filed). These policies cover loss resulting from physical damage (including risks in the course of construction) to:

(A) designated nuclear facilities, including property associated with the facilities and subject to radiation damage from them;

(B) other property directly related to the nuclear facilities; and

(C) other facilities involving substantial quantities of radiation.

(22) Oil and gas lease property (non-filed).

(23) Pattern and die floaters, excluding coverage on the owner's premises (non-filed).

(24) Personal property floaters (filed). These policies include floaters for personal effects, personal fur, personal jewelry, and other personal property.

(25) Pet insurance (non-filed). Individual or group insurance policies covering veterinary expenses for pet illness or injury.

(26) Physicians' and surgeons' equipment floaters (non-filed).

(27) Radium floaters (non-filed).

(28) Rolling stock used on a railway system (non-filed). Coverage may be provided on an all-risk basis or named peril basis. Coverage must include fire, collision, derailment, overturn, strikes, and riots.

(29) Salespersons' samples floaters (non-filed).

(30) Sign and street clock policies (non-filed). These policies cover neon signs, automatic or mechanical signs, and street clocks, while in use.

(31) Silverware floaters:

(A) personal risks (filed); and

(B) commercial risks (non-filed).

(32) Stamp and coin floaters:

(A) private collections (filed); and

(B) commercial risks (non-filed).

(33) Self-service storage customer floaters (filed for policy forms and endorsements; non-filed for rates). These policies may be issued to a tenant of a self-service storage facility to cover property stored at the facility.

(A) For purposes of this paragraph, the terms "self-service storage facility" and "tenant" have the meanings prescribed by Property Code §59.001, concerning Definitions.

(B) Coverage is limited to property in storage for the perils listed in the policies, which must include coverage for property while in transit.

(C) Coverage may not be provided for any motor vehicles subject to motor vehicle registration and inspection.

(D) Policies may not cover property stored in:

(i) any facility where the lessor issues a warehouse receipt, bill of lading, or other document of title relating to the stored property; or

(ii) in facilities other than storage facilities that have multiple storage units.

(34) Theatrical floaters (non-filed). These policies may not include coverage for buildings, improvements, betterments, and furniture and fixtures that do not travel with theatrical troupes.

(35) Travel insurance (filed), as described in Insurance Code Chapter 3504, concerning Travel Insurance.

(36) Valuable papers and records. These risks include:

(A) personal risks (filed); and

(B) commercial risks (non-filed).

(37) Wedding present floaters (non-filed).

(38) Wool growers and wool buyers floaters (non-filed). These policies cover property usual to the insured's business while in transit and all other situations customary and incidental to transit.

SUBCHAPTER F. INLAND MARINE INSURANCE AND MULTI-PERIL INSURANCE

DIVISION 2. MULTI-PERIL INSURANCE

STATUTORY AUTHORITY. TDI proposes §5.5101 under Insurance Code §36.001 and §36.002.

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.

Insurance Code §36.002 provides that the Commissioner may adopt reasonable rules that are necessary to effect the purposes of Insurance Code Chapter 2251.

CROSS-REFERENCE TO STATUTE. Section 5.5101 implements Insurance Code Chapter 2251.

TEXT.

§5.5101. Rates for Commercial Multi-peril Policies.

(a) This section provides a rate regulatory procedure for commercial multi-peril policies.

(b) The word "rate," when used in this section, means the cost of insurance per exposure unit, whether expressed as a single number or as a prospective loss cost, with an adjustment to account for the treatment of expenses, profit, and individual insurer variation in loss experience, including any application of individual risk variations based on loss or expense considerations.

(c) Rates for commercial multi-peril policies are subject to the rate regulatory provisions of Insurance Code Chapter 2251, concerning Rates, except as provided in subsections (d) and (e) of this section.

(d) For a commercial multi-peril policy described in this section, Lloyd's plans, reciprocals, and interinsurance exchanges must file with TDI a schedule of the amounts to be charged policyholders or applicants and the amounts of any rate changes for all lines of insurance that are included in the commercial multi-peril policy, including commercial property and inland marine lines of insurance. The schedule must include any amount

charged, including rates, policy fees, service fees, and other fees that are charged or collected under Insurance Code §550.001, concerning Solicitation or Collection of Certain Payments. Commercial multi-peril policies that contain lines of insurance other than those specified in subsection (e)(1) - (6) of this section are subject to the requirements of subsection (c) of this section.

(e) To receive a reduction in filing requirements under this section, a commercial multi-peril policy filed by a Lloyd's plan, reciprocal, or interinsurance exchange may contain some combination of only the following lines of insurance:

(1) general liability;

(2) commercial property;

(3) commercial casualty, including boiler and machinery, commercial crime, commercial glass, and professional liability, but excluding commercial automobile, fidelity, surety and guaranty bonds, financial guaranty, and workers' compensation;

(4) medical professional liability;

(5) inland marine; and

(6) garage insurance, including all coverages and endorsements included in the Texas Garage Policy, except for those coverages specifically rated on the basis of risk characteristics of the automobile or the person driving.

(f) Nothing in this section may be construed to preclude the exemptions for Lloyd's plans, reciprocals, and interinsurance exchanges in Insurance Code §2251.003, concerning Applicability of Certain Subchapters, from rate filing for commercial property and inland marine lines of insurance, provided these lines are not included in a commercial multi-peril policy.

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 January 30, 2023.

DocuSigned by:
Allison Eberhart
D03DCB0BCCB94B6... _____
Allison Eberhart
Deputy General Counsel
Texas Department of Insurance