

Subchapter F. Electronic Transactions
28 TAC §21.501

INTRODUCTION. The commissioner of insurance adopts new 28 TAC Subchapter F, §21.501, concerning notices of termination of insurance policies. New §21.501 implements House Bill 1040, 88th Legislature, 2023. The rule is adopted without changes to the proposed text published in the May 24, 2024, issue of the *Texas Register* (49 TexReg 3695).

REASONED JUSTIFICATION. The new subchapter and section clarify that nonrenewals and discontinuations of insurance policies are considered forms of termination that require insurance companies and other regulated entities to notify a party both electronically and by paper or another nonelectronic form.

HB 1040 amended Insurance Code §35.003 and §35.004 to allow regulated entities to do business electronically without obtaining consent from the other party. Before HB 1040, a regulated entity had to obtain an agreement from a party to an insurance transaction to do business or deliver documents electronically. Under HB 1040, no express agreement is required, and the regulated entity can simply notify the party that it will conduct business electronically. After receiving notice, the party has a right to withdraw consent from doing business electronically.

HB 1040 also added to §35.004 new subsection (l), which requires a regulated entity to send notices in both electronic form and in paper or another nonelectronic form to a party when cancelling or terminating a policy. With the proliferation of electronic transactions, entities may be sending notices in only electronic form. The 88th Legislature included new subsection (l) to make sure that regulated entities send notices in nonelectronic form as well as electronic. New §21.501 defines "termination" to include

nonrenewal, a refusal to renew, or discontinuation by a regulated entity for the purposes of Insurance Code §35.004.

SUMMARY OF COMMENTS AND AGENCY RESPONSE. TDI provided an opportunity for public comment on the rule proposal. The comment period ended on June 24, 2024.

Commenters: TDI received two comments. One from the Office of Public Insurance Counsel in support of the proposal and one from the American Property and Casualty Insurance Association asking for clarification

Comments on §21.501

Comment. One commenter expresses support for TDI's proposal, saying that it "increases transparency, updates the rules in accordance with statutory changes, and helps ensure that companies give the required notice to those insured."

Agency Response. TDI appreciates the commenter's support.

Comment. Another commenter wanted to know if they are required to send notices to non-renewals that are customer initiated, such as when a renewal proposal is made to the insured, but the insured declines to pay the new premium to renew the policy.

Agency Response. 28 TAC §21.501 clarifies that if a notice of nonrenewal is delivered electronically, then it must also be delivered by paper or another nonelectronic form. 28 TAC §21.501 does not address what circumstances require a notice of nonrenewal.

STATUTORY AUTHORITY. The commissioner adopts new §21.501 under Insurance Code §§35.0045, 551.001, 1202.051, 1271.307, and 36.001.

Insurance Code §35.0045 requires the commissioner to adopt rules necessary to implement and enforce Insurance Code Chapter 35.

Insurance Code §551.001 authorizes the commissioner to adopt rules related to the cancellation and nonrenewal of insurance policies issued under specified provisions of the Insurance Code.

Insurance Code §1202.051 requires the commissioner to adopt necessary rules related to the renewal and continuation of individual health insurance policies.

Insurance Code §1271.307 authorizes the commissioner to adopt necessary rules related to the renewal of managed care individual health care plans and conversion contracts.

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.

21.501. Notices of Termination.

"Termination" includes nonrenewal, a refusal to renew, or discontinuation by a regulated entity for the purposes of Insurance Code §35.004, concerning Minimum Standards for Regulated Entities Electronically Conducting Business with Consumers.

2024-8845

TITLE 28. INSURANCE
Part I. Texas Department of Insurance
Chapter 21. Trade Practices

Adopted Section
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CERTIFICATION. This agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Issued at Austin, Texas, on September 23, 2024.

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

New §21.501 is adopted.

Signed by:
C. Brown
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Cassie Brown
Commissioner of Insurance

Commissioner's Order No. 2024-8845