

Subchapter E. Texas Windstorm Insurance Association 28 TAC §5.4905

INTRODUCTION. The commissioner of insurance adopts amendments to 28 TAC §5.4905, concerning minimum retained premium. The amendments are adopted with a nonsubstantive change to the proposed text published in the August 16, 2024, issue of the *Texas Register* (49 TexReg 6148). The adoption removes an extra "or" in subsection (b)(1).

REASONED JUSTIFICATION. Amendments to §5.4905 are necessary to implement changes that House Bill 3208, 88th Legislature, 2023, made to Insurance Code §2210.204. HB 3208 limited the circumstances in which the Texas Windstorm Insurance Association (TWIA) must refund premium when an insured cancels an insurance policy.

Descriptions of the adopted amendments follow.

Section 5.4905. Amendments to subsection (a) clarify that the minimum retained premium provision is subject to Insurance Code §2210.204 and specify that--except as provided in the rule--the minimum retained premium on a TWIA policy is equal to the premium for the full annual policy term.

Existing subsection (b) is replaced by a new subsection (b). New subsection (b) still provides that a TWIA policy is subject to a \$100 minimum retained premium if it is cancelled for specific reasons, but it now refers to the reasons specified in Insurance Code §2210.204(d). The new rule maintains as reasons current provisions that include a change in the majority ownership of the insured property, including foreclosure, and the death of

the policyholder. The text of subsection (b) as proposed is changed to remove an extra use of the word "or."

A new subsection (c) is added that maintains the requirement from current subsection (b) that if any unearned premium remains after applying the minimum retained premium, then it must be refunded pro rata. Existing subsections (c) and (d) are redesignated as (d) and (e) to reflect the insertion of new subsection (c).

In addition, the proposed amendments include nonsubstantive changes to conform the section to the agency's current drafting style, plain language preferences, and to improve the rule's clarity. Examples include replacing "Association" with "TWIA" and the phrase "shall not" with "may not" and "shall be" with "is."

Amendments also delete obsolete language specifying the applicable minimum retained premium for policies effective before and after November 27, 2011. To clarify the section, existing text is restructured and language that is effectively duplicative is eliminated.

SUMMARY OF COMMENTS. TDI provided an opportunity for public comment on the rule proposal for a period that ended on September 16, 2024. TDI did not receive any comments on the amendments.

STATUTORY AUTHORITY. The commissioner adopts the amendments to 28 TAC §5.4905 under Insurance Code §2210.008(b) and §36.001.

Insurance Code §2210.008(b) provides that the commissioner may adopt rules that are reasonable and necessary to implement Insurance Code Chapter 2210.

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.**§5.4905 Minimum Retained Premium.**

(a) Except as provided in this section and subject to Insurance Code §2210.204, concerning Cancellation of Certain Coverage, for cancellation of insurance coverage, the minimum retained premium on a TWIA policy issued on an annual basis is equal to the premium for the full annual policy term.

(b) A TWIA policy is subject to a \$100 minimum retained premium if it is canceled because of:

- (1) any of the reasons specified in Insurance Code §2210.204(d);
- (2) a change in majority ownership of the insured property, including foreclosure of the insured property; or
- (3) the death of the policyholder.

(c) Any unearned premium after the application of the minimum retained premium in this section must be refunded pro rata.

(d) TWIA may not issue a new or renewal policy to an applicant who owes premium on a prior TWIA policy.

(e) The minimum retained premium may not create or extend coverage beyond the policy's effective cancellation date.

2024-9040

TITLE 28. INSURANCE
Part I. Texas Department of Insurance
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Adopted Section
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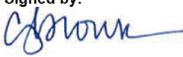
CERTIFICATION. The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Issued at Austin, Texas, on December 19, 2024.

Signed by:

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Jessica Barta, General Counsel
Texas Department of Insurance

The amendments to 28 TAC §5.4905 are adopted.

Signed by:

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Cassie Brown
Commissioner of Insurance

Commissioner's Order No. 2024-9040