

Subchapter C. Standards and Fees for State Fire Marshal Inspections
Division 3. Inspection Fees
28 TAC §34.340

INTRODUCTION. The Texas Department of Insurance (TDI) proposes to amend 28 TAC §34.340, concerning payment of inspection fees. The proposed amendment will enhance efficiency and remove a limitation requiring outdated payment methods.

EXPLANATION. The proposed amendment to §34.340 adds the option of using online payment for inspection payments. This change will make the payment process more efficient for both staff and customers. The State Fire Marshal's Office is working on new technology to enable electronic payments, which will simplify transactions and offer more convenience.

FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT. Chuck Allen, Assistant State Fire Marshal, has determined that during each year of the first five years the proposed amendment is in effect, there will be no fiscal impact on state and local governments as a result of enforcing or administering the amendment, other than that imposed by statute. Assistant Chief Allen made this determination because the proposed amendment does not add to or decrease state revenues or expenditures, and because local governments are not involved in enforcing or complying with the proposed amendment.

Assistant Chief Allen does not anticipate a 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 amendment is in effect, Assistant Chief Allen expects that administering the proposed amendment will have the public benefit of ensuring that the public and TDI staff have more current and efficient payment options for inspection fees.

Assistant Chief Allen expects that the proposed amendment will not increase the cost of compliance with §34.340 because the amendment expands the options on how to pay inspection fees. Inspection requests paid online may require an additional service fee. However, requests can continue to be paid by check or money order.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS. TDI has determined that the proposed amendment will not have an adverse economic effect on small or micro businesses, or on rural communities. The cost of the inspections has not changed; rather, the options of payment modes have expanded. 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 possible cost on regulated persons. Therefore, no additional rule amendments are required under Government Code §2001.0045.

GOVERNMENT GROWTH IMPACT STATEMENT. TDI has determined that for each year of the first five years that the proposed amendment is 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 not 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 not positively or adversely 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 by TDI no later than 5:00 p.m., central time, on November 25, 2024. 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 November 25, 2024. If a public hearing is held, TDI will consider written and oral comments presented at the hearing.

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STATUTORY AUTHORITY. TDI proposes the amendment to §34.340 under Government Code §417.005 and §417.008(f), and Insurance Code §36.001.

Government Code §417.005 states that the commissioner, after consulting with the state fire marshal, may adopt rules necessary to guide the state fire marshal in the performance of duties.

Government Code §417.008(f) provides that the commissioner, by rule, must prescribe a reasonable fee for an inspection performed by the state fire marshal.

Insurance Code §36.001 provides that the commissioner may adopt any rules necessary and appropriate to implement TDI's powers and duties under the Insurance Code and other laws of this state.

CROSS-REFERENCE TO STATUTE. Section 34.340 implements Government Code §417.008(f).

TEXT.

§34.340. Inspection Fees For Requested Inspections

(a) The commissioner adopts by reference the Inspection Request Form for use to request a fire safety inspection by the State Fire Marshal's Office. This form is published by and available from the State Fire Marshal's Office.

(b) The amount of money a person requesting an inspection must pay to the department for a state fire marshal fire safety inspection is listed in paragraphs (1) - (7) of this subsection. If the building includes more than one building type as listed in paragraphs (1) - (7) of this subsection, then the requester must pay for the most expensive

building type that the building includes, plus the amount of money specified in paragraph (8) of this subsection.

(1) Licensed adult or child day care facility or foster home--\$75;

(2) Licensed nursing home, assisted living or board and care facility, or school--\$100;

(3) Apartment building, hotel, motel, lodge, or rooming house--\$150;

(4) Assembly occupancy, restaurant, or other commercial facility--\$150;

(5) Industrial facility or warehouse--\$200;

(6) Private prison or jail--\$200;

(7) Other building not listed in paragraphs (1) - (6) of this subsection:

(A) less than 25,000 square feet--\$100;

(B) 25,000 square feet to less than 100,000 square feet--\$200; and

(C) 100,000 square feet or greater--\$300.

(8) Each additional building after the first--\$25.

(c) To obtain an inspection, a person requesting an inspection must submit the Inspection Request Form to the State Fire Marshal's Office. The form and payment must be submitted as specified in the Inspection Request Form. All payments are nonrefundable.

(d) A person submitting an inspection request must pay the inspection fee by cashier's check or money order made payable to the Texas Department of Insurance or online payment at the time the Inspection Request Form is submitted to the state fire marshal.

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

Issued in Austin, Texas, on October 8, 2024.

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