

Subchapter E. Texas Windstorm Insurance Association
Division 4. Consumer Assistance; Claim Processes
28 TAC §5.4215 and §5.4233

INTRODUCTION. The commissioner of insurance adopts amendments to 28 TAC §5.4215 and §5.4233, concerning updates to umpire and mediator roster application forms. The amendments are adopted without changes to the proposed text published in the June 14, 2024, issue of the *Texas Register* (49 TexReg 4416).

REASONED JUSTIFICATION. The amended sections are necessary to add requirements related to applicants' consent to publish confidential information, and to state whether umpires are insured by the Texas Windstorm Insurance Association (TWIA). Senate Bill 510 added Government Code §552.11765, which created new categories of confidential information for state agencies. Section 5.4215 provides requirements for the appraisal umpire roster that TDI maintains for TWIA claims. That section specifies the information that umpire applicants must provide to register with TDI. Section 5.4233 does the same for the mediator roster.

SUMMARY OF COMMENTS. TDI provided an opportunity for public comment on the rule proposal for a period that ended on July 15, 2024. TDI did not receive any comments on the proposed amendments.

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STATUTORY AUTHORITY. The commissioner adopts the amendments to §5.4215 and §5.4233 under Insurance Code §§2210.008, 2210.575, 2210.580 and 36.001.

Insurance Code §2210.008 provides that the commissioner may adopt rules as reasonable and necessary to implement Insurance Code Chapter 2210.

Insurance Code §2210.575 requires the commissioner to establish rules for alternative dispute resolution for disputes concerning denied coverage.

Insurance Code §2210.580 provides that the commissioner must adopt rules regarding the qualifications and selection of appraisers for the appraisal process and the qualifications and selection of mediators.

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.

§5.4215. Appraisal Process - Umpire Roster.

(a) Eligibility. To be placed on the umpire roster, a person must register with the department and must meet the qualifications in §5.4214 of this title (relating to Appraisal Process - Umpire Qualifications and Conflicts of Interest).

(b) Registration. The registration must include contact information and details about:

(1) the person's training and experience related to building construction, repair, estimating, or investigating property damage;

(2) any training and experience related to estimating property damage claims;

(3) whether the person's experience is with residential or commercial property damage;

(4) any relevant licenses or certifications;

(5) a general description of the approximate number, type of policies, and value and complexity of property damage claims on which the applicant worked over the previous three years;

(6) the counties in which the person is willing to work;

(7) the type of policies, and value and complexity of claims on which the person is willing to work;

(8) potential conflicts of interest, under §5.4214 of this title;

(9) any professional disciplinary actions or criminal convictions;

(10) whether the umpire is insured by the association;

(11) an up-to-date biography, resume, or curriculum vitae; and

(12) whether the applicant consents to have information that might otherwise be confidential published on the roster.

(c) Notice. A person is not on the umpire roster until the department sends written notice of placement on the roster.

(d) Limited number. The department may limit the number of umpires on the roster.

(e) Publication. The department will publish the umpire roster on the department's website. Published roster information will include an umpire's name, and, to the extent that the applicant consents, contact information, required qualifications, preferred types of claims, and preferred geographic areas.

(f) Disqualifying conflicts. The umpire must notify the department of a disqualifying conflict of interest under §5.4214 of this title within 10 days of learning about the conflict.

(g) Term. An umpire will be on the umpire roster for a term of three years, except as provided under §5.4216 of this title (relating to Appraisal Process - Removal of Umpire from Roster). To remain on the roster for additional terms, an umpire must submit a new registration to the department.

(h) Submissions. Notices and registrations sent to the department under this section must comply with §5.4251 of this title (relating to Requests and Submissions to the Department).

§5.4233. Mediation Process - Mediator Roster.

(a) Eligibility. To be placed on the mediator roster, a mediator must register with the department and must meet the qualifications in §5.4232 of this title (relating to Mediation Process - Mediator Qualifications and Conflicts of Interest).

(b) Registration. The registration must include contact information and details about:

- (1) the mediator's mediation training;
- (2) any mediation certification;
- (3) any other relevant licenses or certifications;
- (4) any training or experience relating to property damage claims;

(5) a general description of the approximate number, value, complexity, and nature of disputes mediated over the previous three years;

(6) the counties in which the mediator is willing to mediate;

(7) the types of policies, and value and complexity of claims the mediator is willing to mediate;

(8) potential conflicts of interest, under §5.4232 of this title;

(9) any professional disciplinary actions or criminal convictions;

(10) whether the mediator is insured by the association;

(11) an up-to-date biography, resume, or curriculum vitae; and

(12) whether the applicant consents to have information that might otherwise be confidential published on the roster.

(c) Notice. A person is not on the mediator roster until the department sends written notice of placement on the roster.

(d) Limited number. The department may limit the number of mediators on the roster.

(e) Publication. The department will publish the mediator roster on the department's website. Published roster information will include a mediator's name, and, to the extent that the applicant consents, contact information, required qualifications, preferred types of claims, and preferred geographic areas.

(f) Disqualifying conflicts. The mediator must notify the department of a disqualifying conflict of interest, under §5.4232 of this title.

(g) Term. A mediator will be on the mediator roster for a term of three years, except as provided under §5.4234 of this title (relating to Mediation Process - Removal of

Mediator from Roster). To remain on the roster for additional terms, a mediator must submit a new registration to the department.

(h) Submissions. Notices and registrations under this section must comply with §5.4251 of this title (relating to Requests and Submissions to the Department).

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 August 20, 2024.

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

The amendments to 28 TAC §5.4215 and §5.4233 are adopted.

Signed by:
C Brown
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Cassie Brown
Commissioner of Insurance

Commissioner's Order No. 2024-8790