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Subchapter H. Cancellation, Denial, and Nonrenewal of Certain Property and Casualty Insurance Coverage Division 1. General Provisions 28 TAC §5.7015

INTRODUCTION. The commissioner of insurance adopts amendments to 28 TAC §5.7015, concerning unearned premium refunds. The amendments are adopted with changes to the proposed text published in the August 15, 2025 issue of the *Texas Register* (50 TexReg 5305). The section was revised in response to public comment.

REASONED JUSTIFICATION. The amendments to §5.7015 are necessary to ensure compliance with Insurance Code §558.002 and §558.003. Section 558.002 requires insurers to refund the appropriate portion of any unearned premium to a policyholder whenever a personal automobile or residential property insurance policy is cancelled before the end of its term. Section 558.003 directs the commissioner to adopt rules necessary to implement Insurance Code Chapter 558 and establish guidelines for determining required refunds of portions of unearned premiums.

The amendments to §5.7015 establish that when a personal automobile or residential property policy is cancelled, the appropriate portion to be refunded is the full amount of any unearned premium, which must be calculated pro rata. In effect, the amendments prohibit insurers from using a "short rate" provision or otherwise retaining any unearned premium. A short rate provision allows an insurer to retain a portion of unearned premium, which means that an insured's refund is less than a pro rata amount of the policy premium. The amendments remove uncertainty about the amount of unearned premium that insurers must return and align with policyholder expectations

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because most personal automobile and residential property policies already calculate unearned premium proportionately.

The amendments also clarify that insurers are not prohibited from having a minimum retained premium or other earned amount that is retained for otherwise unrecoverable expenses incurred in issuing a policy. For example, assume that a company issues a one-year personal automobile policy effective January 1 with an annual premium of \$365, and the policy has a minimum retained premium of \$25. If the insured cancels the policy effective February 19 (i.e., the 50th day of the policy), the pro rata refund amount would be \$315. If the insured cancels effective January 10 (i.e., the 10th day of the policy), the refund amount would be \$340 (i.e., \$365 annual premium minus the \$25 minimum retained premium). Any minimum retained premium or other earned amount that is retained for otherwise unrecoverable expenses incurred in issuing a policy, as well as justification for the amount, must be included in a rate or rule filing required under 28 TAC Chapter 5, Subchapter M, Division 6.

To provide adequate time for insurers to comply with these changes, the changes made to §5.7015 will become effective September 1, 2026. This delayed effective date will give insurers time to update policy forms, determine whether to update rate filings, and implement any necessary programming or procedural changes. This is longer than the 180-day period referenced in the proposal preamble, so it should give insurers enough time to incorporate the requirements under §5.7015.

Descriptions of the section's amendments follow.

Section 5.7015. Subsection (a) is amended to remove the phrase "the appropriate portion of" to more clearly require personal automobile and residential property insurers to

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refund any unearned premium when a policy is cancelled or terminated before the end of its term. The amendments also specify that unearned premium must be calculated pro rata, and add the title of Insurance Code §558.002 for consistency with agency drafting style.

New subsection (e) has been added in response to a comment. It clarifies that the requirements in subsection (a) do not prohibit a policy from including an earned amount that is retained for otherwise unrecoverable expenses incurred in issuing a policy, such as a minimum retained premium.

SUMMARY OF COMMENTS AND AGENCY RESPONSE. TDI provided an opportunity for public comment on the rule proposal for a period that ended on September 15, 2025.

Commenters: TDI received comments from four commenters, all of which were generally in support of the proposal and requested some clarification: American Property Casualty Insurance Association; Old American County Mutual; Insurance Council of Texas; and Insurance Services Office, Inc.

Comments on §5.7015.

Comment. A commenter states that the requirement to calculate premiums pro rata rather than short rate is straightforward and clear, as is the allowance for the application of a minimum earned premium that is properly included in the rate and rule filings for the product.

Agency Response. TDI appreciates the commenter's observations.

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Comment. A commenter commends TDI for including a statement in the proposal preamble that the amendments would "not prohibit insurers from having a minimum retained premium."

Agency Response. TDI appreciates the comment.

Comment. A commenter raises concerns about how to handle cases where the premium credit balances are inconsequential and costly for insurers to issue refund checks relative to the amounts. The commenter states that such checks often go uncashed, and the industry often includes "waiver of premium" rules in their filings, generally providing that inconsequential amounts will not be refunded unless requested. The commenter suggests that \$5.00 is a typical threshold. The commenter asserts that TDI has handled companies' waiver-of-premium rules inconsistently in recent years, sometimes objecting to them and sometimes not. The commenter believes the commissioner of insurance has the authority to make reasonable allowances for the handling of inconsequential premium credit balances and that requiring automatic refund is inefficient, ineffective, and unnecessary.

Agency Response. TDI acknowledges the commenter's concern. However, TDI declines to revise the rule to address "inconsequential" premium credit balances, as it is outside the scope of this rulemaking. TDI will ensure that staff are trained on the matter. The rule proposal did not address the retention of minor amounts of credit balances but instead addressed the scope and types of expenses that are considered earned. With the understanding that the expense of returning the credit can be greater than the amount returned, TDI notes that companies have historically filed thresholds for waivers of minor amounts of credit balances unless the insured specifically requests a refund. These thresholds should be nominal and justified in the company's rate filing.

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Comment. One commenter requests clarification regarding companies retaining a minimum earned premium. The commenter asks that TDI maintain consistency with the proposed rule's preamble explanation that there may be nonrefundable expenses incurred in writing a policy and for which a pro rata refund may not be appropriate.

The commenter, along with another commenter, similarly requests clarification about whether the rule amendment would apply only to premiums, or if it also would apply to other charges. The two commenters give examples such as the Motor Vehicle Crime Prevention Authority surcharge, installment payment fees, late payment fees, return payment fees, SR-22 fees, surcharges to collect volunteer fire assessments, surcharges to recoup FAIR Plan assessments, and catastrophe surcharges collected to repay a Texas Windstorm Insurance Association financing arrangement under Insurance Code Chapter 2210, Subchapter M-2.

One of the commenters suggests a way to clarify the rule is by adding new subsection (e) to read: "This requirement does not prohibit a policy from including a minimum retained premium or other earned amount that is retained for nonrefundable expenses incurred in writing a policy."

Agency Response. TDI agrees with this request. To clarify the rule, TDI added a new subsection (e) containing language similar to the commenter's suggested language, with changes made for added clarity.

The addition of new subsection (e), which references "an earned amount that is retained for otherwise unrecoverable expenses incurred in issuing a policy, such as a minimum retained premium," reinforces the principle that there are certain amounts like statutory fees and surcharges that may be retained as unrecoverable expenses.

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Companies should state in their manual and forms which fees are fully earned or unrecoverable.

Comment. A commenter requests that TDI consider a longer implementation period beyond the 180-day effective date TDI stated in the proposal. The commenter suggests that extending the effective date beyond 180 days could ensure a smoother transition, reduce compliance burdens, and minimize potential disruptions for companies that might have to make systems changes. The commenter does not suggest how much additional time is needed.

Agency Response. TDI agrees to extend the implementation period. TDI expects that few insurers will need to make systems changes because TDI is aware of only a few insurers that have short rate provisions. But extending the effective date to September 1, 2026, as discussed in the preamble, should give those insurers that need it ample time to implement the new requirements under §5.7015.

Comment: A commenter references the preamble of the rule proposal in which TDI stated that the amendments in effect prohibit insurers from using a short rate provision or otherwise retaining any unearned premium. The commenter requests that TDI clarify how insurers can recover expenses incurred for insured-requested cancellations of policy terms for less than one year, as well as for cancellations occurring within the first year of one-year policies. The commenter states that insurers often incur expenses to obtain new business, and the retention of a small amount of premium for nonrefundable expenses during the first year of an automobile policy is a common practice.

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The commenter requests that the preamble of the rule as proposed be revised by adding the following statement: "Given the nonrefundable expenses incurred, insurers are not prohibited from retaining a relatively small amount (i.e., 10%) of premium during the first year that the policy is in force." The commenter also requests that TDI issue a bulletin with more specific guidance on its interpretation of these regulatory requirements for carriers writing automobile insurance policies in Texas.

Agency Response. TDI declines to add the requested language to the preamble of the rule as proposed or to issue a bulletin. The commenter's concerns are addressed in new subsection (e), which clarifies that insurers can retain amounts for otherwise unrecoverable expenses incurred in issuing a policy. TDI believes that the rule, with the addition of subsection (e), addresses the commenter's request for more specific guidance.

Subchapter H. Cancellation, Denial, and Nonrenewal of Certain Property and Casualty Insurance Coverage Division 1. General Provisions 28 TAC §5.7015

STATUTORY AUTHORITY. TDI adopts amendments to §5.7015 under Insurance Code §§558.002, 558.003 and 36.001.

Insurance Code §558.002 provides that Insurance Code Chapter 558 applies to an insurer that issues an insurance policy that requires the insurer to maintain an unearned premium reserve for the portion of the written policy premium applicable to the unexpired or unused part of the policy period for which the premium has been paid.

Insurance Code §558.003 directs the commissioner to adopt rules necessary to implement Insurance Code Chapter 558 and establish appropriate guidelines to determine the portion of unearned premium that must be refunded to a policyholder.

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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.

§5.7015. Refund of Unearned Premium.

(a) Insurers must refund any unearned premium to the policyholder not later than the 15th business day after the effective date of cancellation or termination of a personal automobile or residential property insurance policy, as required by Insurance Code §558.002(d), concerning Applicability of Chapter; Refund of Unearned Premium. Unearned premium must be calculated pro rata.

(b) For purposes of this section and Insurance Code §558.002(d), the "effective date of cancellation or termination" means the date the insurer receives notice of the cancellation or termination, or the date of the cancellation or termination, whichever is later. This does not change the actual date of cancellation or termination for calculating the amount of unearned premium or any other purpose.

(c) Insurers may refund unearned premium by applying it as a credit to other premium due on the same policy, unless the policyholder requests otherwise.

(d) This section applies to any unearned premium, including any that results from cancellation or termination of an entire policy or an endorsement.

(e) The requirements in subsection (a) of this section do not prohibit an insurer from including in a policy an earned amount that is retained for otherwise unrecoverable expenses incurred in issuing a policy, such as a minimum retained premium.

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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 January 12, 2026.

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

The amendments to 28 TAC §5.7015 are adopted and are effective September 1, 2026.

Signed by:
C Brown
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Cassie Brown
Commissioner of Insurance

Commissioner's Order No. 2026-9730.