

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

INTRODUCTION. The Texas Department of Insurance (TDI) proposes to amend 28 TAC §5.7015, concerning unearned premium refunds. The proposed amendments implement Insurance Code §558.002 and §558.003(2).

EXPLANATION. Amending §5.7015 is necessary to ensure compliance with Insurance Code §558.002 and §558.003(2). Under Insurance Code §558.002(d), insurers are required 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. Under Insurance Code §558.003(2), the commissioner must establish guidelines to determine the appropriate portion of unearned premium that must be refunded.

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 any uncertainty about the amount that insurers must return, and they align with policyholder expectations because most personal automobile and residential property policies already calculate unearned premium proportionately.

The proposed amendments do not prohibit insurers from having a minimum retained premium. 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 nonrefundable expenses incurred in writing 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, TDI proposes a 180-day delayed effective date. The delayed effective date gives any insurers that have short rate provisions ample time to update policy forms and determine whether to update rate filings. The delayed effective date also gives any insurers that plan to file other policy form updates or changes the opportunity to mitigate costs by making the changes at the same time.

Descriptions of the section's proposed 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 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. The amendments also add the title of Insurance Code §558.002, for consistency with agency drafting style and plain language preferences.

FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT. David Muckerheide, assistant director of the Property and Casualty Lines Office, has determined that during each year of the first five years the proposed amendments are in effect, there will be no measurable fiscal impact on state and local governments as a result of enforcing or administering the amendments, other than that imposed by statute. Mr. Muckerheide made this determination because the amendments do not add to or decrease state revenues or expenditures, and because local governments are not involved in enforcing or complying with the proposed amendments.

PUBLIC BENEFIT AND COST NOTE. For each year of the first five years the proposed amendments are in effect, Mr. Muckerheide expects that administering the proposed amendments will have the public benefit of ensuring that TDI's rules conform to Insurance Code §558.002. In addition, the proposed amendments will benefit personal automobile and residential property policyholders by allowing consumers to shop and change policies or insurers without receiving less than a pro rata refund for cancelling a current policy before the end of its term. Because policyholders do not receive a policy contract until after the policy is purchased, it is especially important to remove potential financial impediments or disadvantages to shopping and changing policies. Policyholders will also benefit from receiving a refund amount that more likely corresponds with consumer expectations.

Mr. Muckerheide expects that the proposed amendments may increase the cost of compliance for the few insurers that currently have short rate provisions but that these costs may be mitigated by a delayed effective date for compliance.

Costs

TDI anticipates that requiring the changes described in §5.7015(a) will result in costs for insurers with short rate provisions because those insurers will need to revise policies to remove the short rate language and comply with the pro rata calculation requirement. The cost to comply will vary depending on insurers' current operations. While it is not feasible to determine the actual time required or the cost of employees needed to comply with the requirements, TDI estimates that drafting new policy language to reflect the mandatory changes to the amount of unearned premium refund owed to policyholders would take a range of one to two hours to complete and might require an attorney. According to the May 2024 Bureau of Labor Statistics Occupational Employment and Wage Statistics at www.bls.gov/oes/current/oes_nat.htm, the national mean hourly wage for the "Lawyers" classification is \$87.86.

TDI anticipates that incorporating the updated language into insurers' existing policy form templates, filing those updated forms with TDI, and updating policy administration systems to program the calculation of the refund amount would take a range of five to 15 hours to complete and would likely require both software programming and clerical staff. According to the May 2024 Bureau of Labor Statistics Occupational Employment and Wage Statistics at www.bls.gov/oes/current/oes_nat.htm, the national mean hourly wage for the "Software and Web Developers, Programmers, and Testers" classification is \$65.34, and the national mean hourly wage for the "Secretaries and Administrative Assistants, Except Legal, Medical, and Executive" classification is \$25.03.

TDI anticipates there could be printing, copying, mailing, and transmitting costs associated with providing updated forms to policyholders at renewal and would likely require clerical staff. It is not possible for TDI to estimate the total increased printing, copying, mailing, and transmitting costs related to compliance with this proposal because

there are many factors involved that TDI cannot quantify. For example, an insurer might conduct business with its policyholders electronically and would not incur printing, copying, mailing, or transmitting costs. Insurers are more capable of accurately estimating any costs they will incur to comply.

Opportunity to Eliminate or Mitigate Costs

With a 180-day delayed effective date, insurers that already plan to make and file other form updates or changes during that period would either not incur any costs resulting from this rule amendment or such costs would be significantly mitigated because the insurers would already be incurring those costs to make the other form updates and changes.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS. TDI has determined that the proposed amendments may have an adverse economic effect on small or micro businesses if any of those businesses are personal automobile or residential property insurers that have short rate provisions. According to the definition of small or micro business, TDI estimates there are approximately 60 to 65 residential property insurers and 70 to 75 personal automobile insurers. TDI identified three potentially small or micro insurers that may be required to update policy forms containing short rate provisions. The cost analysis in the Public Benefit and Cost Note section of this proposal also applies to these small and micro businesses.

TDI has determined that the proposed amendments will not have an adverse economic effect or a disproportionate effect on rural communities because the rules do not apply to rural communities.

TDI considered the following alternatives to minimize any adverse impact on small and micro businesses while accomplishing the proposal's objectives:

- (1) not proposing amendments to §5.7015;
- (2) proposing a different requirement for small and micro businesses; and
- (3) extending the deadline for compliance under §5.7015.

Not proposing amendments to §5.7015. TDI declined this option because it would not accomplish the goal of ensuring that personal automobile and residential property policyholders are refunded any unearned premium under Insurance Code §558.002. There are a few insurers that currently retain some unearned premium and refund less than a pro rata amount of the policy premium. To address this, the proposal establishes uniform requirements for insurers that implement important consumer protections. This will allow policyholders to change policies or insurers without a refund penalty, and it aligns with ordinary policyholder expectations about the refund amount. Not proposing §5.7015 would allow some insurers to continue retaining some unearned premium that should be refunded to policyholders. In addition, not proposing the amendments to §5.7015 would keep policyholders in a financially disadvantageous position because they could receive less than a pro rata refund of premium when changing policies. Policyholders do not receive a copy of the policy contract until after the policy is purchased, making it difficult to know about any short rate provision before they buy. For these reasons, TDI rejected this option.

Proposing a different requirement for small and micro businesses. TDI declined this option because it would not accomplish the goal of creating a uniform

procedure to implement Insurance Code §558.002(d). Imposing different requirements would result in disparate treatment of policyholders who purchase a policy from a small or micro business. It would place policyholders who purchase a policy through small or micro businesses in a disadvantageous position compared to those who purchase a policy from larger insurers. Not requiring a uniform approach would likely leave policyholders unaware that some insurers could refund less than a pro rata amount of premium. Proposing different requirements for small and micro businesses would not provide consistency across insurers. All personal automobile and residential property policyholders should receive consistent, predictable, and appropriate calculation of premium refunds whenever a policy is cancelled, regardless of the size of the insurer. For these reasons, TDI rejected this option.

Extending the deadline for compliance under §5.7015. TDI decided to extend the deadline for compliance for all insurers because this option ensures consistent application of Insurance Code §558.002, protects all policyholders who purchase a personal automobile or residential property policy, and lessens confusion by having only one effective date that applies to all applicable Texas insurers. In addition, applying a 180-day delayed effective date will extend the deadline for compliance and help alleviate some of the possible economic impacts on any insurers that have short rate provisions, including any small and micro businesses. By giving 180 days to comply, insurers will have the opportunity to incorporate the new requirements under §5.7015 with other planned policy updates or changes during that period. For these reasons, TDI has decided to incorporate this option into the proposal.

EXAMINATION OF COSTS UNDER GOVERNMENT CODE §2001.0045. TDI has determined that this proposal does impose a possible cost on regulated persons. However, no additional rule amendments are required under Government Code

§2001.0045 because the proposed amendments to §5.7015 are necessary to implement legislation. The proposed amendments implement Insurance Code §558.002 and §558.003.

GOVERNMENT GROWTH IMPACT STATEMENT. TDI has determined that for each year of the first five years that the proposed amendments are 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 expand an existing regulation;
- will not increase or decrease 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 September 15, 2025. 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 September 15, 2025. 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 amendments to §5.7015 under Insurance Code §§558.002, 558.003 and 36.001.

Insurance Code §558.002 states that this chapter 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.

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.

CROSS-REFERENCE TO STATUTE. Section 5.7015 implements Insurance Code §558.002 and §558.003(2).

TEXT.

§5.7015. Refund of Unearned Premium.

(a) Insurers must refund ~~[the appropriate portion of]~~ 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.

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 August 4, 2025.

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