

Subchapter J. Prohibited Trade Practices

28 TAC §21.1006

INTRODUCTION. The Texas Department of Insurance (TDI) proposes to amend 28 TAC §21.1006, concerning the prohibition against declining to write residential property insurance based on the age or value of the property.

EXPLANATION. The proposed amendments to §21.1006 clarify the existing prohibition against refusing to write or renew residential property insurance on the basis of the property's age. These amendments do not change the rule's meaning or application. Instead, they further the goals of Government Code Chapter 465 by making the rule clearer, more concise, and more consistent. By improving readability, the proposed amendments better support compliance with the rule's intended regulatory purpose of prohibiting unfair practices.

The proposed amendments rearrange the rule's provisions into a more logical order, moving part of subsection (b) into subsection (d).

- Subsection (a) remains the same.
- Subsection (b) now includes only the prohibition on declinations based on property or component age and sets those out as paragraphs (1) and (2).
- Subsection (c) remains essentially the same, prohibiting declinations based on minimum value.
- New subsection (d) contains provisions moved from existing subsection (b) which state that the rule does not prohibit (paragraph 1) declinations based on the condition of the property or (paragraph 2) TWIA from requiring certain building code standards.

The proposed amendments reinforce that the prohibition against declinations based on age include those based on either the age of the property or a component of

property. The existing rule includes the age of components by listing example components in subsection (b). The proposed amendments improve the readability of subsection (b) and incorporate the age of the components more directly into the subsection by moving the list of examples into new paragraph (2) and labeling them as "components or materials." This restructuring mitigates potential confusion and minimizes interpretive uncertainty.

The remaining amendments are proposed for consistency and clarity. The amendments in subsection (b) add another common example of a property's components to the list: siding. The amendments in subsection (b) and (c) remove the unnecessary language "sought to be insured." The proposal adds the words "components and materials" to new subsection (d) to align with subsection (b). The reference to Insurance Code Chapter 2210 is modified to conform to TDI's current drafting style.

FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT. Marianne Baker, 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 them other than that imposed by statute. Ms. Baker made this determination because the proposed 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.

Ms. Baker 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 amendments are in effect, Ms. Baker expects that enforcing them will have the public

benefit of ensuring that TDI's rules conform to Insurance Code Chapter 541 and to TDI's long-standing application of §21.1006 by ensuring that insurers and consumers clearly understand the parameters of this unfair act or practice.

Ms. Baker expects that the proposed amendments will not increase the cost of compliance to insurance companies because they do not impose requirements beyond the existing rule. The amendments are not intended to expand the existing prohibition, so insurers currently in compliance with §21.1006 will not be required to make any filings.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS. TDI has determined that the proposed amendments will not have an adverse economic effect on small or micro businesses, or on rural communities because the amendments make only nonsubstantive changes to clarify long-standing TDI application. 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 cost on regulated persons, thus no additional rulemakings 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 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 not expand, limit, or repeal 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 November 9, 2026. Consistent with Government Code §2001.024(a)(8), TDI requests public comments on the proposal, including information related to the cost, benefit, or effect of the proposal and any applicable data, research, and analysis. 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.

The commissioner of insurance will also consider written and oral comments on the proposal in a public hearing under Docket No. 2874 at 2:00 p.m., central time, on November 3, 2026. TDI will hold the public hearing remotely using online resources and in person at the Barbara Jordan State Office Building, 1601 Congress Avenue, Austin, Texas 78701 in Room 2.034. Details of how to view and participate virtually in the public hearing will be made available on TDI's website at www.tdi.texas.gov/alert/event/index.html.

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STATUTORY AUTHORITY. TDI proposes amendments to §21.1006 under Insurance Code §541.401 and §36.001.

Insurance Code §541.401 provides that the commissioner may adopt rules necessary to accomplish the purpose of Insurance Code Chapter 541, which is to regulate trade practices in the business of insurance by defining or determining trade practices that are unfair methods of competition or deceptive acts or practices and prohibiting them.

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. The amendments to §21.1006 implement Insurance Code §§541.001, 541.003, and 541.401.

TEXT.

§21.1006. Prohibition Against Declining to Write Residential Property Insurance Based on the Age or Value of the Property.

(a) "Residential property insurance" means insurance against loss to real or tangible personal property at a fixed location provided in a homeowners policy or residential fire and allied lines policy.

(b) An insurer may not decline to write residential property insurance based on the age of:

(1) the property; or

~~(2) any of the property's individual components or materials, [sought to be insured. This provision does not prohibit an insurer from declining to write coverage based on physical conditions of the property,] including wiring, heating, air conditioning, plumbing, siding, and roofing. [This provision does not prohibit the Texas Windstorm Insurance Association from requiring, in accordance with the provisions of Chapter 2210 of the Insurance Code, different building code standards to qualify for coverage based on the date that the structure was constructed, repaired, or additions were made.]~~

(c) An insurer may not decline to write residential property insurance based on a minimum value of the property ~~[sought to be insured]~~.

(d) This section does not prohibit:

(1) an insurer from declining to write coverage based on the physical condition of the property or any of the property's individual components or materials; or

(2) the Texas Windstorm Insurance Association from requiring different building code standards to qualify for coverage based on the date that the structure was constructed, repaired, or additions were made, in accordance with Insurance Code Chapter 2210, concerning Texas Windstorm Insurance Association.

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 September 29, 2026.

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