

SUBCHAPTER B. LICENSING AND REGULATION
28 TAC §25.24

INTRODUCTION. The Texas Department of Insurance proposes to amend 28 TAC §25.24, concerning requirements for premium finance companies. Amendments to §25.24 implement Senate Bill 1200, 86th Legislature, Regular Session (2019), which amended Occupations Code §55.0041.

EXPLANATION. SB 1200 amended Occupations Code §55.0041 as it addresses authority of military spouses to engage in a business or occupation in this state. These amendments impact TDI licensing rules, which necessitates revisions to 28 TAC §25.24, as well as revisions to sections in other chapters of Title 28 of the Texas Administrative Code addressed in separate rule proposals.

Section 25.24. Currently, §25.24(a) requires all applicants for an insurance premium finance company license to file an application with TDI. The amendment adds subsection (b) to this section, which allows a less stringent application process for military spouses who are licensed in a jurisdiction with substantially equivalent requirements to those in Texas.

In addition, the proposal includes nonsubstantive editorial and formatting changes to conform the section to the agency's current style and to improve the rule's clarity.

FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT. Chris Herrick, deputy commissioner of the Office of Customer Operations, 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 section, other than that imposed by the statute. This determination was made 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 amendment.

Mr. Herrick 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, Mr. Herrick, expects that administering the proposed amendments will have the public benefit of ensuring that TDI's rules conform to Occupations Code §55.0041.

Mr. Herrick expects that the proposed amendments will not increase the cost of compliance with Occupations Code §55.0041 because they do not impose requirements beyond those in the statute. Occupations Code §55.0041 requires TDI to implement rules that the execute statute. Any costs that result from this implementation are the result of the statute. The costs associated with the rule do not result from the enforcement or administration of the proposed amendments.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS. TDI has determined that the proposed amendments will not have an adverse economic effect or a disproportionate economic impact on small or micro businesses, or on rural communities. TDI does not anticipate a significant increase in applications that would qualify for this exemption. 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, and no additional rule amendments are required under Government Code §2001.0045

because the proposed amendment to §25.24 is necessary to implement legislation. The proposal implements Occupations Code §55.0041, as added by SB 1200 Legislature, 86th Legislature, Regular Session (2019).

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 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 December 9,

2019. Send your comments to ChiefClerk@tdi.texas.gov; or to the Office of the Chief Clerk, MC 112-2A, Texas Department of Insurance, P.O. Box 149104, Austin, Texas 78714-9104. To request a public hearing on the proposal, submit a request before the end of the comment period, and separate from any comments, to ChiefClerk@tdi.texas.gov; or to the Office of the Chief Clerk, MC 112-2A, Texas Department of Insurance, P.O. Box 149104, Austin, Texas 78714-9104. The request for public hearing must be separate from any comments and received by TDI no later than 5:00 p.m. Central time on December 9, 2019. If TDI holds a public hearing, TDI will consider written and oral comments presented at the hearing.

SUBCHAPTER B.

28 TAC §25.24

STATUTORY AUTHORITY. TDI proposes amendments to 28 TAC §25.24 under Insurance Code §36.001 and Occupations Code §55.0041.

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.

Occupations Code §55.0041 addresses licensing of military spouses with out of state licenses. This section also grants rule making authority to applicable state agencies.

CROSS-REFERENCE TO STATUTE. Section 25.24 implements Occupations Code §55.0041, enacted by SB 1200, 86th Legislature, Regular Session (2019).

TEXT.

§25.24. License Application.

(a) An applicant for an insurance premium finance company license must ~~[shall]~~ file an application Form PF1 with TDI ~~[the Department]~~. The application must ~~[shall]~~ include the following as applicable:

- (1) List of Principals (Form PF2);
- (2) Premium Finance Application Questionnaire (Form PF3);
- (3) Biographical Affidavit (Form PF4) for each individual named on Form PF2;
- (4) General statement of experience giving applicant's qualifications;
- (5) List of Other States of Licensure (Form PF5);
- (6) Appointment of Statutory Agent and Consent to Service (Form PF6);
- (7) Sworn financial statement;
- (8) Sample Business Operation forms;
- (9) \$400 Investigation Fee;
- (10) Partnership agreement;
- (11) Certified copy of Assumed Name Certificate as on file with the County Clerk or ~~[Clerk(s) and/or]~~ Secretary of State;
- (12) Originally certified copy of Articles of Incorporation from the Office of the Secretary of State or equivalent office in another state;
- (13) Certified copy of Bylaws;
- (14) Certified copy of Minutes;
- (15) Current Franchise Tax Certificate of Good Standing or letter of exemption issued by the Texas Comptroller of Public Accounts; and
- (16) Certified copy of Certificate of Authority issued by the Texas Secretary of State (foreign corporations only).

(b) Except as provided by subsection (d) of this section, on ~~[Upon]~~ notification by TDI ~~[the Department]~~ of approval of the application, the applicant must ~~[shall]~~ submit a license fee as follows ~~[as indicated in paragraphs (1) and (2) of this subsection]:~~

(1) Licenses issued January 1 through June 30--\$200;

(2) Licenses issued July 1 through December 31--\$100.

(c) Military spouses who are licensed in a state with substantially equivalent requirements to those of this state are eligible for a license while the military service member to whom the military spouse is married is stationed at a military installation in this state. This license is effective for a period of three years from the date the spouse receives confirmation from the Texas Department of Insurance of receipt of the items described by this subsection. The military spouse must:

(1) submit an application notifying TDI of the military spouse's intent to operate under the license in Texas;

(2) submit to TDI proof of the military spouse's residency in Texas and a copy of the spouse's military identification card; and

(3) show evidence of good standing from the jurisdiction with substantially equivalent requirements to the requirements of this state.

(d) A military spouse will not be assessed any application fees under this section.

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

Issued in Austin, Texas, on October 25, 2019.

James Person, General Counsel
Texas Department of Insurance