

**SUBCHAPTER J. RULES TO IMPLEMENT THE AMUSEMENT RIDE SAFETY
INSPECTION AND INSURANCE ACT
28 TAC §5.9003**

1. INTRODUCTION. The Texas Department of Insurance proposes amending 28 TAC §5.9003. This section concerns the payment of annual fees by persons operating amusement rides. The amendments are necessary to provide additional payment options for owners and operators of amusement rides and to clarify the administration of fees.

The proposed amendments to §5.9003 provide for the option of paying required fees online through the Texas OnLine Project. The Texas OnLine Project is the common electronic infrastructure established by Government Code §2054.252 for state agencies and local governments, including licensing entities. The proposed new language specifies that TDI authorizes online or electronic transactions, and persons must pay the fee associated with the transaction as directed by TDI or the Texas OnLine Authority. The website for payment is www.texas.gov. The proposed amendments also allow amusement ride owners and operators to remit fees by personal check, in addition to cashier's check. Finally, the proposed amendments also clarify that fees are nonrefundable and nontransferable.

2. FISCAL NOTE. Sam Nelson, director of the Inspections Office, Property and Casualty Section, has determined that for each year of the first five years the proposed sections will be in effect, there will be no fiscal impact to state and local governments as a result of the enforcement or administration of the proposal. There will be no measurable effect on local employment or the local economy as a result of the proposal.

3. PUBLIC BENEFIT/COST NOTE. Mr. Nelson has also determined that for each year of the first five years the proposed amendment is in effect, the public benefit anticipated as a result of the proposal is the more efficient administration of Occupations Code 2151 and increased access to state government over the Internet for the public. The cost to persons required to comply with the proposal varies. Owners and operators of amusement rides electing to use the optional electronic transaction available online at www.texas.gov must pay additional charges. The website www.texas.gov adds \$2 and an additional 2.25 percent for each transaction. For a single amusement ride inspection certificate fee costing \$40, the price on www.texas.gov would be \$42.90. Owners and operators of amusement rides are not required to pay online, and the proposed amendments do not impose other new requirements. All of the costs in this cost note are equally applicable to small or micro businesses. TDI anticipates that the proposed amendments and new subsections will not substantively affect persons who do not choose to use the optional online payment method.

4. ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS

FOR SMALL AND MICRO BUSINESSES. As required by Government Code §2006.002(c), TDI has determined that the proposal will not have an adverse economic effect on small or micro businesses because the proposed rule may not apply to any small or micro businesses. Instead, the rule provides an additional option for the payment of annual fees. In accord with Government Code §2006.002(c), TDI has determined that a regulatory flexibility analysis is not required.

5. 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 and, as a result, does not constitute a taking or require a takings impact assessment under the Government Code §2007.043.

6. REQUEST FOR PUBLIC COMMENT. To have your written comments on the proposal considered, you must submit them no later than 5:00 p.m., Central time on September 22, 2014. Send your comments to the chief clerk by email at chiefclerk@tdi.texas.gov, or by mail to Office of the Chief Clerk, Mail Code 113-2A, Texas Department of Insurance, P.O. Box 149104, Austin, Texas 78714-9104. You must simultaneously submit your comments by email to Sam Nelson at sam.nelson@tdi.texas.gov, or by mail to Sam Nelson, Inspections Office, Mail Code 103-1A, Texas Department of Insurance, P.O. Box 149104, Austin, Texas 78714-9104. You must submit any request for a public hearing separately to the chief clerk by email at chiefclerk@tdi.texas.gov, or by mail to Office of the Chief Clerk, Mail Code 113-2A, Texas Department of Insurance, P.O. Box 149104, Austin, Texas 78714-9104 before the close of the public comment period. If TDI holds a hearing, written comments and testimony presented at the hearing will also be considered.

7. STATUTORY AUTHORITY. The amendments are proposed under Title 13, Occupations Code, Chapter 2151 and Insurance Code §36.001. Occupations Code

§2151.052 provides that the commissioner may establish reasonable and necessary fees, in an amount not to exceed \$40 per year, for each amusement ride covered by this chapter. Section 36.001 provides that the commissioner may adopt any rules necessary and appropriate to implement the powers and duties of the department under the Insurance Code and other laws of this state. Government Code §2054.252(g) requires TDI to increase licensing fees in an amount sufficient to cover TDI's Texas OnLine Project subscription fee cost.

8. CROSS REFERENCE TO STATUTE. The proposal affects Title 13, Occupations Code, Chapter 2151 and Government Code §2054.252.

9. TEXT.

§5.9003. Administration and Enforcement.

The Texas Department of Insurance is required by the Act to administer and enforce the Act. Owners/operators operating amusement rides must pay a fee of \$40 per year for each amusement ride subject to the Act. ~~[The fee payment shall accompany the insurance policy and amusement ride inspection certificate (TDI Form AR-100, Amusement Ride Certificate of Inspection/Re-Inspection, Revised Effective October, 2005) required by the Act and by §5.9004 of this title (relating to Amusement Ride Operation Requirements).]~~ The fees must [shall] be paid by [certified] check or money order made payable to the Texas Department of Insurance; or if paying over the Internet, the fee must be submitted through the Texas OnLine Project, as directed by the Texas OnLine Authority, which may add a surcharge for the online transaction. ~~[The applicant~~

~~shall attach the certified check or money order to the inspection certificate (TDI Form AR-100, Revised Effective October, 2005). The certified check or money order may be one check or money order for the total amount of fees for all rides or a separate check for each ride.]~~ Except for overpayments resulting from mistakes of law or fact, all fees are nonrefundable and nontransferable.

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

Issued at Austin, Texas, on the 4th day of August, 2014.



Sara Waitt
General Counsel
Texas Department of Insurance