

SUBCHAPTER C. TEXAS TITLE INSURANCE STATISTICAL PLAN
28 TAC §9.401

INTRODUCTION. The Texas Department of Insurance proposes to amend 28 TAC §9.401, concerning the Texas Title Insurance Statistical Plan (Statistical Plan). This proposal will ensure the Statistical Plan is in harmony with Insurance Code §2703.153, which requires updating the Statistical Plan when necessary.

EXPLANATION. Based on changes made to title insurance rate rules on June 11, 2019, by Commissioner's Order No. 2019-5980, TDI must amend the Statistical Plan to add codes. These new codes will enable title insurance agents and companies to accurately report data as a result of the new rate rules. This data is used by the Commissioner to set future title insurance rates. Insurance Code §2703.153(h) requires that any change to the Statistical Plan must be done by a rulemaking hearing under Subchapter B, Chapter 2001 of the Government Code.

Commissioner's Order No. 2019-5980 amended Rate Rule R-5, *Simultaneous Issuance of Owner's and Loan Policies*; and Rate Rule R-8, *Mortgagee Policy, on a Loan to Take Up, Renew, Extend or Satisfy an Existing Lien(s)*. The change to Rate Rule R-5 allowed cash purchasers of property valued at \$5 million or more to have up to 90 days to finance the property and not have to pay the full basic rate for the loan policy. Although a simultaneous rate credit existed before, it did not allow 90 days to obtain the credit.

The change to Rate Rule R-8 extends the number of years a discount is available to a consumer who renews a loan policy from seven to eight years after the original policy was issued. The Statistical Plan does not have codes to track these new aspects to the rate rules. New codes are needed for the Statistical Plan to meet data collection standards required by Insurance Code §2703.153.

FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT. Brian Ryder, senior actuary of the Property and Casualty Actuarial 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 section, other than that imposed by the statute. This is 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.

Mr. Ryder does not anticipate any 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. Ryder expects that administering the proposed amendments will have the public benefits of ensuring that TDI's rules conform to Insurance Code §2703.153 and that the data collection abilities give the Commissioner the most accurate available information for setting title insurance rates.

Mr. Ryder expects that the proposed amendment will not increase the cost of compliance with Insurance Code §2703.153. Insurance Code §2703.153 requires that title insurance agents and companies submit data to TDI related to loss experience, expenses, and other material matters so that the information can be used by TDI to set title insurance rates. After analyzing the issue, TDI staff determined that the industry can add the codes to their data reporting operations without increasing their current costs.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS. TDI has determined that the proposed amendment will not have an adverse economic effect or a disproportionate economic impact on small or micro businesses, or on rural communities.

The existing information services contracts with vendors used by title insurance agents and companies will cover the costs of adding the new codes without additional expense. 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. This is based on research conducted by TDI that showed the scope of work to add these codes to the industry's systems would be handled without increasing costs with their information technology vendors.

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, limit, or repeal an existing regulation;
- will not increase or decrease the number of individuals subject to the rule's applicability; or
- 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 30, 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.

The Commissioner will also consider written and oral comments on the proposal in a public hearing under Docket No. 2818 at 10:30 a.m., central time, on December 19, 2109, in Room 100 of the William P. Hobby Jr. State Office Building, 333 Guadalupe Street, Austin, Texas.

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STATUTORY AUTHORITY. TDI proposes amendments to 28 TAC §9.401 under Insurance Code §2703.153 and §36.001.

Insurance Code §2703.153 requires title insurance companies and agents to submit data to TDI for use in fixing premium rates, and it provides that the Commissioner regularly evaluate the collected information to determine whether additional or different information is needed. The contents of the statistical report used to collect data, including

amendments to the report, must be established in a rulemaking hearing under Government Code, Chapter 2001, Subchapter B.

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 9.401 implements Insurance Code §2703.153.

TEXT.

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§9.401. Texas Title Insurance Statistical Plan.

The Texas Department of Insurance adopts by reference the rules in the Texas Title Insurance Statistical Plan as amended effective January 1, 2020 [~~January 3, 2014~~]. This document is published by and is available from the Texas Department of Insurance, Mail Code 105-5D, PO Box 149014, Austin, Texas 78714-9104. This document is also available on the TDI website at www.tdi.texas.gov.

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 November 19, 2019.

/s/ James Person
James Person, General Counsel
Texas Department of Insurance