

Subchapter G. Notice and Processing Periods for Permit Applications
28 TAC §1.814

INTRODUCTION. The Texas Department of Insurance (TDI) proposes new 28 TAC §1.814, concerning occupational and business permits and licenses for military service members, military veterans, and military spouses. Section 1.814 implements Senate Bill 422, 88th Legislature, 2023, and Chapter 55 of the Occupations Code and aligns TDI's rules with 50 USC §4025a.

EXPLANATION. Chapter 55 of the Occupations Code provides for alternative licensing procedures and requirements for military service members, military veterans, and military spouses. Before the passage of SB 422, Occupations Code §55.0041 required licensing agencies to recognize the out-of-state licenses of military spouses. SB 422 amended §55.0041 to also apply to military service members and to incorporate additional changes. The bill also amended Occupations Code §55.004(d) to apply residency rules to military service members and §55.005(a) to require that licensing agencies' processing and issuance of a license to a military service member, veteran, or spouse be completed within 30 days after application filing.

New §1.814 implements Chapter 55 of the Occupations Code, including §55.0041 as amended by SB 422, by describing the alternative licensing procedures and requirements for license applications by military service members, veterans, and spouses. Under new §1.814, these licensing procedures and requirements apply to all licenses issued by TDI, including the State Fire Marshal's Office. New §1.814 also aligns such procedures and requirements with 50 USC §4025a, which provides for the portability of professional licenses of servicemembers and their spouses.

Proposed subsection (a) of §1.814 provides applicable definitions. Proposed subsection (b) addresses conflicts with other sections in Title 28 of the Administrative

Code. Proposed subsection (c) clarifies the applicability of the proposed section. Proposed subsection (d) describes the alternative licensing requirements available to military service members, veterans, and spouses. Proposed subsection (e) provides for extension of the deadline for license renewal and related fee exemption for military service members who hold a Texas license. Proposed subsection (f) provides for exemption from payment of license application and examination fees. Proposed subsection (g) provides for reciprocity for out-of-state licenses for military service members and military spouses, consistent with SB 422. Proposed subsection (h) includes provisions applicable only to military service members and military spouses who are administrators. Proposed subsection (i) provides for expedited licensing procedures. Proposed subsection (j) provides for crediting of a military service member or veteran's military service, training, or education toward apprenticeship requirements or other license requirements. Proposed subsection (k) gives guidance on residency documentation requirements. Proposed subsection (l) provides for TDI's identification of states with licensing requirements that are substantially equivalent to Texas requirements.

Separate proposals amend or repeal sections in Chapters 7, 15, 19, 25, and 34 of Title 28 of the Administrative Code for consistency with the provisions in this section.

FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT. Jodie Delgado, director of the Agent and Adjuster Licensing Office, has determined that during each year of the first five years the proposed new section is in effect, there will be no measurable fiscal impact on state and local governments as a result of enforcing or administering the new section, other than that imposed by the statute. Ms. Delgado made this determination because the proposed new section does not add to or decrease state revenues or expenditures, and because local governments are not involved in enforcing or complying with the proposed new section.

Ms. Delgado 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 new section is in effect, Ms. Delgado expects that administering and enforcing the proposed section will have the public benefit of ensuring that TDI's rules conform to Occupations Code §55.0041.

Ms. Delgado expects that the proposed new section will not increase the cost of compliance with Occupations Code §55.0041 because it does not impose requirements beyond those in the statute. Occupations Code §55.0041 requires TDI to allow military service members and military spouses to engage in a business or occupation in Texas using a current license issued by another state with substantially equivalent licensing requirements. As a result, the cost associated with the proposed new section does not result from its enforcement or administration.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS. TDI has determined that the proposed new section will not have an adverse economic effect on small or micro businesses, or on rural communities. 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. Even if it did, no additional rule amendments are required under Government Code §2001.0045 because the proposed new section is necessary to implement legislation. The proposed rule implements Occupations Code §55.0041, as amended by SB 422.

GOVERNMENT GROWTH IMPACT STATEMENT. TDI has determined that for each year of the first five years that the proposed new section 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 require a decrease in fees paid to the agency;
- will create a new regulation;
- will not expand or repeal an existing regulation;
- will increase 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 January 3, 2024. 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 TDI no later than 5:00 p.m., central time, on January 3, 2024. If TDI holds a public hearing, TDI will consider written and oral comments presented at the hearing.

Subchapter G. Notice and Processing Periods for Permit Applications **28 TAC §1.814**

STATUTORY AUTHORITY. TDI proposes new §1.814 under Occupations Code §§55.002, 55.004(a), 55.0041, 55.007, and 55.008 and Insurance Code §§36.109, 4001.005, and 36.001.

Occupations Code §55.002 state agencies to adopt rules to exempt certain military service members from increased fees and penalties for failure to timely renew a license.

Occupations Code §55.004(a) requires state agencies to adopt rules for the issuance of a license to certain military service members, military veterans, and military spouses.

Occupations Code §55.0041, which addresses recognition of out-of-state licenses of military service members and military spouses, requires state agencies to adopt rules to implement the section. In addition, Occupations Code §55.0041(f) authorizes state

agencies to adopt rules for the issuance of a license to a military service member or military spouse who receives confirmation from TDI of licensure verification and authorization to engage in the business or occupation under Occupations Code §55.0041.

Occupations Code §55.007, which addresses license eligibility requirements for military service members and military veterans, requires state agencies to adopt rules necessary to implement the section. In addition, Occupations Code §55.007(c) provides that such rules may not apply to certain applicants who hold a restricted license or has an unacceptable criminal history.

Occupations Code §55.008, which addresses apprenticeship requirements for certain applicants with military experience, requires TDI to adopt rules necessary to implement the section.

Insurance Code §36.109, which addresses renewal extension for certain persons performing military service, authorizes the commissioner to adopt rules as necessary to implement the section.

Insurance Code §4001.005 authorizes the commissioner to adopt rules necessary to implement Title 13 of the Insurance Code and to meet minimum requirements of federal law.

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 1.814 implements Occupations Code §§55.002 - 55.009.

TEXT.

§1.814. Military Service Member, Military Veteran, and Military Spouse.

(a) Definitions.

(1) The definitions for terms defined in Occupations Code §55.001, concerning Definitions, are applicable to this section, including the terms "military service member," "military veteran," and "military spouse."

(2) for purposes of this section, "license" has the same meaning as "permit," as defined in §1.802 of this title (relating to Definitions), unless the context clearly indicates otherwise, and "licensee" includes anyone who holds a permit issued by the agency.

(b) Conflict. To the extent that provisions in this section conflict with provisions in any other section in this title, this section controls.

(c) Applicability. The provisions in this section apply to all permits as defined in §1.802 of this title, including licenses and certificates of authority for administrators under Chapter 7, Subchapter P of this title (relating to Administrators); surplus lines agents under Chapter 15, Subchapter B of this title (relating to Surplus Lines Agents); insurance professionals under Chapter 19, Subchapter I of this title (relating to General Provisions Regarding Fees, Applications, and Renewals); and insurance premium finance companies under Chapter 25, Subchapter B of this title (relating to Licensing and Regulation); and licenses issued by the state fire marshal under Chapter 34 of this title (relating to State Fire Marshal).

(d) Alternative licensing requirements. Consistent with Occupations Code §55.004, concerning Alternative Licensing for Military Service Members, Military Veterans, and Military Spouses, an applicant for a license who is a military service member, military veteran, or military spouse may complete the following alternative procedures for licensing:

(1) Resident licensing by reciprocity for military service members and military spouses. An applicant who is a military service member or military spouse and

who holds a current license issued by another jurisdiction that has licensing requirements that are substantially equivalent to the requirements for the license may apply for a Texas resident license as provided in subsection (g) of this section.

(2) Resident licensing by reciprocity for military veterans. An applicant who is a military veteran and who holds a current license issued by another jurisdiction that has licensing requirements that are substantially equivalent to the requirements for the license may apply for a Texas resident license subject to the applicable qualifications for resident licenses as provided in this title and subject to subsection (f) of this section.

(3) Expired resident licenses. An applicant who is a military service member, military veteran, or military spouse and whose Texas resident license has been expired for fewer than five years preceding the application date may request that TDI waive the examination requirement. An applicant requesting this waiver must submit to the applicable licensing office or division of the agency:

(A) a new license application;

(B) identification indicating that the applicant is a military service member; military veteran; or military dependent, if a military spouse;

(C) evidence that the applicant has completed all required continuing education for the periods the applicant was licensed and paid all fines as required under this title; and

(D) a request for waiver that includes an explanation that justifies waiver of the licensing examination.

(e) License renewal extension and fee exemption.

(1) As specified in Occupations Code §55.003, concerning Extension of License Renewal Deadlines for Military Service Members, a military service member who holds a license is entitled to two additional years to complete any requirements related

to the renewal of the license, including continuing education requirements, and to submit a renewal application including the following:

(A) the licensee's name, address, and license number;

(B) the licensee's military identification indicating that the individual is a military service member; and

(C) a statement requesting up to two years of additional time to complete the renewal, including continuing education requirements.

(2) A military service member specified in paragraph (1) of this subsection is exempt from additional fees or penalties required under this title for failure to renew a license in a timely manner, as specified in Occupations Code §55.002, concerning Exemption from Penalty for Failure to Renew License.

(3) A military service member specified in paragraph (1) of this subsection must satisfy the continuing education requirement for which the compliance period has been extended before satisfying the continuing education requirement for any other period.

(4) A military service member serving in a combat theater, as provided for in Insurance Code §36.109, concerning Renewal Extension for Certain Persons Performing Military Service, may apply for an exemption from or an extension of time for meeting license renewal requirements, including continuing education requirements. The licensee must request the exemption or extension before the end of the applicable reporting period and must include:

(A) a copy of the order for active duty status, service in a combat theater, or other positive documentation of military service that will demonstrate that the licensee is prevented from compliance;

(B) a clear request for either an extension or exemption, or both;

(C) a statement indicating whether the request is for an extension or exemption, or both, from continuing education requirements or from license renewal;

(D) the expected duration of the assignment; and

(E) any other information the licensee believes may assist the agency or that the agency requests, on a case-by-case basis.

(f) Fee exemptions.

(1) Consistent with Occupations Code §55.009, concerning License Application and Examination Fees, the following applicants are not required to pay any applicable license application fee or examination fee that is otherwise payable to the agency:

(A) a military service member or military veteran whose military service, training, or education substantially meets all of the requirements for the license;
or

(B) a military service member, military veteran, or military spouse who holds a current license issued by another jurisdiction that has licensing requirements that are substantially equivalent to the requirements for the license.

(2) The fee exemption under paragraph (1) of this subsection does not apply to license renewal application fees.

(3) To qualify for the fee exemption under paragraph (1)(A) of this subsection, the applicant must submit as applicable:

(A) the license application, with a request for waiver of the application fee and examination fee;

(B) identification indicating that the applicant is a military service member or military veteran; and

(C) documentation that the applicant's military service, training, or education substantially meets all the requirements for the license.

(4) To qualify for the fee exemption under paragraph (1)(B) of this subsection, the applicant must submit as applicable:

(A) the license application, with a request for waiver of the application fee and examination fee; and

(B) identification indicating that the applicant is a military service member, military veteran, or military spouse.

(g) Reciprocal licenses for military service members and military spouses.

(1) A military service member or military spouse who is licensed in a state with substantially equivalent requirements to those of Texas is eligible for a Texas resident license while the military service member is stationed at a military installation in Texas.

(2) A license granted under paragraph (1) of this subsection is effective for a period of three years from the date the applicant receives confirmation from the agency of receipt of the items described in paragraph (4)(A) - (C) of this subsection and may not be renewed.

(3) Consistent with 55 USC §4025a, concerning Portability of Professional Licenses of Servicemembers and Their Spouses, if military orders require the military service member to continue to be stationed in Texas past the expiration of the license as described in paragraph (2) of this subsection, the licensee may apply for a new license under paragraph (1) of this subsection. A licensee seeking a new license under this paragraph must submit to the applicable licensing office or division of the agency documentation of the military order or orders requiring that the military service member continue to be stationed in Texas past the license expiration date.

(4) To apply for a license under this subsection, the applicant must provide to the applicable licensing office or division of the agency:

(A) an application notifying the agency of the applicant's intent to operate in Texas;

(B) proof of the applicant's residency in Texas and a copy of the applicant's military identification card; and

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

(5) Within 30 days after the applicant's submission of the items described in paragraph (4) of this subsection, the agency will verify the applicant's good standing status described in paragraph (4)(C) of this subsection.

(h) Administrators.

(1) A military service member or military spouse who is licensed as an administrator in a state with substantially equivalent requirements as those found in §7.1604 of this title (relating to Application for Certificate of Authority) and Insurance Code Chapter 4151, concerning Third-Party Administrators, may engage as an administrator while the military service member is stationed at a military installation in Texas.

(2) A military service member or military spouse seeking to engage as an administrator under this subsection must:

(A) submit an application notifying the agency of the military service member or military spouse's intent to engage as an administrator in Texas;

(B) submit to the agency proof of the applicant's residency in Texas and a copy of the applicant's military identification card; and

(C) show evidence of good standing from a jurisdiction with substantially equivalent requirements as those found in §7.1604 of this title and Insurance Code Chapter 4151.

(3) Notwithstanding §7.1604 of this title, a military service member or military spouse seeking to engage as an administrator under this subsection will not be assessed any application fees under that section.

(4) A military service member or military spouse authorized to engage as an administrator must comply with and adhere to all other laws and rules applicable to administrators.

(i) Expedited license procedure. Within 30 days of the filing of a license application by a military service member, military veteran, or military spouse, the agency will process the application and issue the license to an applicant who qualifies for the license under subsection (d) of this section, subject to other qualification requirements under this title.

(j) Credit for military service, training, or education.

(1) An applicant who is a military service member or military veteran may submit to the agency documentation of the applicant's military service, training, or education. Such military service, training, or education, after verification by the agency, will be credited to license requirements other than examination requirements. This subsection will not apply to an applicant who holds a restricted license issued by another jurisdiction or who has an unacceptable criminal history.

(2) If an apprenticeship is required for the license, an applicant who is a military service member or military veteran may submit to the agency documentation of the applicant's military service, training, or education that is relevant to the occupation. Such military service, training, or education, after verification by the agency, will be credited to the apprenticeship requirements.

(k) Residency. For an application for a license that has a residency requirement for license eligibility, an applicant who is a military service member or military spouse may establish residency for the purposes of this section by providing the applicable licensing office or division of the agency with a copy of the permanent change of station order or other military order requiring the military service member to be stationed in Texas, or any other documentation of residency for license eligibility permitted under this title.

(l) States with substantially equivalent requirements. For the purposes of this section, the agency will work with non-Texas jurisdictions to:

(1) Identify, with respect to each type of license issued by the agency, the jurisdictions that have licensing requirements that are substantially equivalent to the requirements for the license in Texas; and

(2) Verify that a military service member or military spouse is licensed in good standing in a jurisdiction described in paragraph (1) of this subsection.

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 in Austin, Texas, on November 14, 2023.

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

Subchapter P. Certificate of Authority Required
28 TAC §7.1603

INTRODUCTION. The Texas Department of Insurance (TDI) proposes to amend 28 TAC §7.1603, concerning the certificate of authority required for administrators. The amendments to §7.1603 implement Senate Bill 422, 88th Legislature, 2023, which amended Occupations Code §§55.004(d), 55.0041, and 55.005(a).

EXPLANATION. Chapter 55 of the Occupations Code provides for alternative licensing procedures and requirements for military service members, military veterans, and military spouses. Before the passage of SB 422, Occupations Code §55.0041 required licensing agencies to recognize the out-of-state licenses of military spouses. SB 422 amended §55.0041 to also apply to military service members and to incorporate additional changes.

As part of the implementation of SB 422, TDI has separately proposed new 28 TAC §1.814, which provides alternative licensing procedures and requirements for license applications by military service members, military veterans, and military spouses, consistent with Occupations Code Chapter 55 and 50 USC §4025a. New §1.814 applies to all licenses, permits, certifications, and other authorizations issued by TDI, including certificates of authority for administrators.

Section 7.1603 requires that persons holding themselves out as administrators must hold a certificate of authority under Insurance Code Chapter 4151. Subsections (a), (c), (d), (e), and (f) currently include requirements for military spouses seeking authorization to or who are currently authorized in other states to engage as an administrator. This proposal will remove these provisions, including part of subsection (a), and subsections (c), (d), (e) and (f), which apply to military spouses, because they are made redundant by proposed new §1.814. Amendments also insert the titles of cited Insurance Code provisions in subsection (a).

FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT. Jodie Delgado, director of the Agent and Adjuster Licensing 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 the statute. Ms. Delgado 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. Delgado 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 amended section is in effect, Ms. Delgado expects that administering and enforcing the proposed amendments will have the public benefits of eliminating redundant provisions and ensuring that TDI's rules conform to Occupations Code §55.0041 in a consistent way.

Ms. Delgado expects that the proposed amendments will not increase the cost of compliance because they do not create or impose any requirements.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS. TDI has determined that the proposed amended section will not have an adverse economic effect on small or micro businesses, or on rural communities. 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. There are no additional costs as a result of this proposal because it only removes existing regulations made redundant by new regulations. No additional rule amendments 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 limit an existing regulation;
- will 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 January 3, 2024. 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 TDI no later than 5:00 p.m., central time, on January 3, 2024. If TDI holds a public hearing, TDI will consider written and oral comments presented at the hearing.

Subchapter P. Certificate of Authority Required 28 TAC §7.1603

STATUTORY AUTHORITY. TDI proposes amendments to §7.1603 under Occupations Code §55.0041(e) and Insurance Code §36.001.

Occupations Code §55.0041(e), which addresses recognition of out-of-state licenses of military service members and military spouses, requires state agencies to adopt rules to implement the section.

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. Amendments to §7.1603 implement Occupations Code §§55.004(d), 55.0041, and 55.005(a).

TEXT.

§7.1603. Certificate of Authority Required.

(a) Unless a person meets an exemption under Insurance Code §§4151.002, concerning Exemptions, 4151.004, concerning Applicability to Certain Insurers and Health Maintenance Organizations, or 4151.0021, concerning Applicability to Certain Processing Agents, a person acting as or holding themselves out as an administrator must hold a certificate of authority under Insurance Code Chapter 4151, concerning Third-Party Administrators. [~~A military spouse who meets the criteria described in subsection (c) of this section is eligible to apply for a temporary certificate of authority.~~]

(b) An administrator contractor and an administrator subcontractor must hold a certificate of authority under Insurance Code Chapter 4151.

~~[(c) A military spouse who is licensed as an administrator in a state with substantially equivalent requirements as those found in §7.1604 of this title (relating to Application for Certificate of Authority) and Insurance Code Chapter 4151 may engage as an administrator while the military service member to whom the military spouse is married is stationed at a military installation in this state for a period of three years from the date the spouse receives the confirmation described by subsection (d) of this section.]~~

~~[(d) A military spouse seeking to engage as an administrator must:]~~

~~[(1) submit an application notifying TDI of the military spouse's intent to engage as an administrator in Texas;]~~

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

~~[(3) show evidence of good standing from a jurisdiction with substantially equivalent requirements as those found in §7.1604 of this title and Insurance Code Chapter 4151.]~~

~~[(e) Notwithstanding §7.1604 of this title, a military spouse seeking to engage as an administrator will not be assessed any application fees under that section.]~~

~~[(f) A military spouse authorized to engage as an administrator must comply and adhere to all other laws and rules applicable to administrators.]~~

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 in Austin, Texas, on November 14, 2023.

DocuSigned by:

Jessica Barta

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Jessica Barta, General Counsel
Texas Department of Insurance

Subchapter B. Surplus Lines Agents
28 TAC §15.101

INTRODUCTION. The Texas Department of Insurance (TDI) proposes to amend 28 TAC §15.101, concerning the licensing of surplus lines agents. Amendments to §15.101 implement Senate Bill 422, 88th Legislature, 2023.

EXPLANATION. Chapter 55 of the Occupations Code provides for alternative licensing procedures and requirements for military service members, military veterans, and military spouses. Before the passage of SB 422, Occupations Code §55.0041 required licensing agencies to recognize the out-of-state licenses of military spouses. SB 422 amended §55.0041 to also apply to military service members and to incorporate additional changes.

As part of the implementation of SB 422, TDI has separately proposed new 28 TAC §1.814, which provides alternative licensing procedures and requirements for license applications by military service members, military veterans, and military spouses, consistent with Occupations Code Chapter 55 and 50 USC §4025a. Proposed new §1.814 applies to all licenses, permits, certifications, and other authorizations issued by TDI, including surplus lines agent licenses.

Section 15.101 addresses requirements for the licensing of surplus lines agents, and subsection (g) provides licensing requirements for military spouses. Proposed amendments remove subsection (g), which is made redundant by proposed new §1.814, and redesignate the subsections that follow subsection (g) to reflect its removal. In addition, amendments in subsections (b), (e), and (f) and redesignated subsections (g) and (h) add the titles of cited Insurance Code sections, and an amendment to subsection (f) revises the capitalization of the word "commissioner," for consistency with current TDI rule drafting style.

FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT. Jodie Delgado, director of the Agent and Adjuster Licensing 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 the statute. Ms. Delgado 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. Delgado 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 amended section is in effect, Ms. Delgado expects that administering and enforcing the proposed amendments will have the public benefits of eliminating a redundant provision and ensuring that TDI's rules conform to Occupations Code §55.0041 in a consistent way.

Ms. Delgado expects that the proposed amendments will not increase the cost of compliance because the amendments do not create or impose any requirements.

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. 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. There are no additional costs as a result of this proposal because it only removes existing regulations made redundant by new regulations. No additional rule amendments 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 limit 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 January 3, 2024. 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.

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Subchapter B. Surplus Lines Agents **28 TAC §15.101**

STATUTORY AUTHORITY. TDI proposes amendments to §15.101 under Occupations Code §55.0041(e) and Insurance Code §36.001.

Occupations Code §55.0041, which addresses recognition of out-of-state licenses of military service members and military spouses, requires in subsection (e) that state agencies adopt rules to implement the section.

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 amendment of §15.101 implements Occupations Code §§55.004(d), 55.0041, and 55.005(a).

TEXT.

§15.101. Licensing of Surplus Lines Agents.

(a) Persons performing any of the following surplus lines insurance activities are required to have a surplus lines agent license:

(1) supervising unlicensed staff engaged in activities described in subsection (b) of this section, although unlicensed intermediary supervisors may supervise unlicensed staff engaging in these activities if the ultimate supervisor is licensed;

(2) negotiating, soliciting, effecting, procuring, or binding surplus lines insurance contracts for clients or offering advice, counsel, opinions, or explanations of surplus lines insurance products to agents or clients beyond the scope of underwriting policies or contracts, except for a general lines property and casualty agent making a referral of surplus lines business to a surplus lines agent that then completes the surplus lines transaction; or

(3) receiving any direct commission or variance in compensation based on the volume of surplus lines premiums taken and received from, or as a result of, another person selling, soliciting, binding, effecting, or procuring surplus lines insurance policies, contracts, or coverages, except for a general lines property and casualty agent making a referral of surplus lines business to a surplus lines agent that then completes the surplus lines transaction.

(b) The following activities, if supervised by a surplus lines agent, do not require a surplus lines agent license if the employee does not receive any direct commission from selling, soliciting, binding, effecting, or procuring insurance policies, contracts, or coverages, and the employee's compensation is not varied by the volume of premiums taken and received:

(1) full-time clerical and administrative services, including, but not limited to, the incidental taking of information from clients; receipt of premiums in the office of

a licensed agent; or transmitting to clients, as directed by a licensed surplus lines agent, prepared marketing materials or other prepared information and materials including, without limitation, invoices and evidences of coverage;

(2) contacting clients to obtain or confirm information necessary to process an application for surplus lines insurance so long as the contact does not involve any activities for which a license would be required under subsection (a)(2) of this section;

(3) performing the task of underwriting any insurance policy, contract, or coverage, including and without limitation, pricing of the policy or contract; or

(4) contacting clients, insureds, agents, other persons, and insurers to gather and transmit information regarding claims and losses under the policy to the extent the contact does not require a licensed adjuster as set forth under Insurance Code Chapter 4101, concerning Insurance Adjusters.

(c) This section must not be construed to prohibit distribution of agency profits to unlicensed persons, including shareholders, partners, and employees.

(d) Before TDI issues a surplus lines agent license, the applicant must submit the following:

(1) an appropriate, fully completed written application; and

(2) the fee specified by §19.801 and §19.802 of this title (relating to General Provisions and Amount of Fees, respectively).

(e) Texas-resident applicants, and nonresident applicants who do not hold a surplus lines license in their state of residence or whose state of residence does not license Texas residents on a reciprocal basis as determined by TDI, must meet all licensing requirements set forth in Insurance Code Chapter 981, concerning Surplus Lines Insurance. Nonresident applicants under this section must also comply with Insurance Code §4056.051, concerning Application for Nonresident Agent License; Criminal History.

(f) Nonresident applicants who hold a surplus lines agent license in good standing in the agent's state of residence and meet the requirements of Insurance Code §4056.052, concerning Issuance of License to Nonresident Agent Licensed in Other State, must meet all the licensing requirements of Insurance Code Chapter 981 to the extent that the requirements are not waived by the commissioner [~~Commissioner~~] under Insurance Code §4056.055, concerning Waiver of Requirements for Nonresident Agent Licensed in Other State or Jurisdiction.

~~[(g) 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 the confirmation described by paragraph (1) of this subsection.]~~

~~[(1) The military spouse must:]~~

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

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

~~[(C) show evidence of good standing from the jurisdiction with substantially equivalent requirements to the requirements of this state.]~~

~~[(2) Notwithstanding subsection (d)(2) of this section and §19.801 and §19.802 of this title, a military spouse will not be assessed any application fees under those sections.]~~

(g) ~~[(h)]~~ Notwithstanding any other subsection of this section, nonresident applicants are not required to obtain a general property and casualty agent license if they meet the requirements of Insurance Code §981.203(a-1), concerning Qualifications for Surplus Lines License.

(h) [(+)] Each surplus lines agent license issued to an agent will be valid for a term as established under Insurance Code §4003.001, concerning License Expiration, and Chapter 19, Subchapter I of this title (relating to General Provisions Regarding Fees, Applications, and Renewals). The license may be renewed by submitting a renewal application and a nonrefundable license fee as specified by §19.801 and §19.802 of this title.

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 in Austin, Texas, on November 14, 2023.

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

Subchapter B. Licensing and Regulation
28 TAC §25.24

INTRODUCTION. The Texas Department of Insurance (TDI) proposes to amend 28 TAC §25.24, concerning applications for an insurance premium finance company license. The proposed amendments to §25.24 implement Senate Bill 422, 88th Legislature, 2023, which amended Occupations Code §§55.004(d), 55.0041, and 55.005(a).

EXPLANATION. Chapter 55 of the Occupations Code provides for alternative licensing procedures and requirements for military service members, military veterans, and military spouses. Before the passage of SB 422, Occupations Code §55.0041 required licensing agencies to recognize the out-of-state licenses of military spouses. SB 422 amended §55.0041 to also apply to military service members and to incorporate additional changes.

As part of the implementation of SB 422, TDI has separately proposed new 28 TAC §1.814, which provides alternative licensing procedures and requirements for license applications by military service members, military veterans, and military spouses, consistent with Occupations Code Chapter 55 and with 50 USC §4025a. Proposed new §1.814 applies generally to all licenses, permits, certifications, and other authorizations issued by TDI, including insurance premium finance company licenses.

Section 25.24 addresses requirements for insurance premium finance company licenses, and subsections (c) and (d) of §25.24 provide alternative licensing procedures for military spouses and related application fee exemption. This proposal removes subsections (c) and (d) because they will be made redundant by proposed new §1.814. In addition, subsection (b) is amended to remove a reference to subsection (d).

FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT. Jodie Delgado, director of the Agent and Adjuster Licensing 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 amended section, other than that imposed by the statute. Ms. Delgado 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 amended section.

Ms. Delgado 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 amended section is in effect, Ms. Delgado expects that administering and enforcing the proposed amendments will have the public benefits of removing redundant provisions and ensuring that TDI's rules conform to Occupations Code §55.0041 in a consistent way.

Ms. Delgado expects that the proposed amendments will not increase the cost of compliance because the amendments do not create or impose any requirements.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS. TDI has determined that the proposal will not have an adverse economic effect on small or micro businesses, or on rural communities. 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. There are no additional costs as a result of this proposal because it only removes existing regulations made redundant by new regulations. No additional rule amendments 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 amended section 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 limit an existing regulation;
- will 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 January 3, 2024. 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 TDI no later than 5:00 p.m., central time, on January 3, 2024. If TDI holds a public hearing, TDI will consider written and oral comments presented at the hearing.

Subchapter B. Licensing and Regulation **28 TAC §25.24**

STATUTORY AUTHORITY. TDI proposes amendments to §25.24 under Occupations Code §55.0041 and Insurance Code §651.003 and §36.001.

Occupations Code §55.0041, which addresses recognition of out-of-state licenses of military service members and military spouses, requires state agencies to adopt rules to implement the section.

Insurance Code §651.003 authorizes the commissioner to adopt rules necessary to administer Insurance Code Chapter 651.

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. Amended §25.24 implements Occupations Code §55.0041.

TEXT.

§25.24. License Application.

(a) An applicant for an insurance premium finance company license must file an application Form PF1 with TDI. The application must 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 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) On ~~[Except as provided by subsection (d) of this section, on]~~ notification by TDI of approval of the application, the applicant must submit a license fee as follows:

- (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 legal authority to adopt.

Issued in Austin, Texas, on November 14, 2023.

DocuSigned by:

Jessica Barta

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Jessica Barta, General Counsel
Texas Department of Insurance

Subchapter I. General Provisions Regarding Fees, Applications, and Renewals
28 TAC [~~§19.803 and~~] §19.810

**Subchapter K. Continuing Education, Adjuster Prelicensing Education Programs,
and Certification Courses**
28 TAC §19.1004

INTRODUCTION. The Texas Department of Insurance (TDI) proposes to repeal §19.803 and to amend §19.810 in Subchapter I of 28 TAC Chapter 19 and to amend §19.1004 in Subchapter K of 28 TAC Chapter 19. These sections concern the licensing of insurance professionals. The proposed repeal and amendments implement Senate Bill 422, 88th Legislature, 2023, which amended Occupations Code §§55.004(d), 55.0041, and 55.005(a).

EXPLANATION. Chapter 55 of the Occupations Code provides for alternative licensing procedures and requirements for military service members, military veterans, and military spouses. Before the passage of SB 422, Occupations Code §55.0041 required licensing agencies to recognize the out-of-state licenses of military spouses. SB 422 amended §55.0041 to also apply to military service members and to incorporate additional changes.

As part of the implementation of SB 422, TDI has separately proposed new 28 TAC §1.814, which provides alternative licensing procedures and requirements for license applications by military service members, military veterans, and military spouses, consistent with Occupations Code Chapter 55 and 50 USC §4025a. Proposed new §1.814 applies to all licenses, permits, certifications, and other authorizations issued by TDI, including insurance professional licenses.

The proposed amendments are described in the following paragraphs.

Section 19.803. The proposal repeals §19.803, which provides procedures for licensing of military service members, military veterans, and military spouses, because this section will be superseded by new 28 TAC §1.814.

Section 19.810. The amendments to §19.810 remove outdated effective date references in subsection (a) and replace cross-references to §19.803 in subsection (b) with cross-references to new 28 TAC §1.814. The amendments also correct erroneous cross-references in subsection (f), correct a grammatical error in subsection (h)(1), and insert the titles of cited Insurance Code and Administrative Code provisions in subsections (a), (c)(2), and (h)(1).

Section 19.1004. The amendments to §19.1004 remove subsection (f), which provides for licensing-related exemptions and extensions for military service members. Subsection (f) is superseded by new 28 TAC §1.814. Amendments also update cross-references to subsection (f) and redesignate the subsections that follow subsection (f) to reflect its removal. In addition, amendments insert the titles of cited Insurance Code and Administrative Code provisions in subsection (b) and redesignated subsections (f) and (g).

FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT. Jodie Delgado, director of the Agent and Adjuster Licensing Office, has determined that during each year of the first five years the sections as proposed are in effect, there will be no measurable fiscal impact on state and local governments as a result of enforcing or administering the proposed sections, other than that imposed by the statute. Ms. Delgado made this determination because the sections as proposed do not add to or decrease state revenues or expenditures, and because local governments are not involved in enforcing or complying with the proposed amended sections.

Ms. Delgado 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 sections as proposed are in effect, Ms. Delgado expects that administering and enforcing the proposed sections will have the public benefits of updating and eliminating redundant provisions and ensuring that TDI's rules conform to Chapter 55 of the Occupations Code in a consistent way.

Ms. Delgado expects that the sections as proposed will not increase the cost of compliance because the proposed sections do not create or impose any requirements.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS. TDI has determined that the sections as proposed will not have an adverse economic effect on small or micro businesses, or on rural communities. 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. There are no additional costs as a result of this proposal because it only removes existing regulations made redundant by new regulations. No additional rule amendments 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 sections as proposed 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 limit and repeal existing regulations;
- will not 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 January 3, 2024. 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 TDI no later than 5:00 p.m., central time, on January 3, 2024. If TDI holds a public hearing, TDI will consider written and oral comments presented at the hearing.

Subchapter I. General Provisions Regarding Fees, Applications, and Renewals.
28 TAC §19.803

STATUTORY AUTHORITY. TDI proposes the repeal of §19.803 under Occupations Code §§55.002, 55.004(a), 55.0041, 55.007, and 55.008 and Insurance Code §§36.109, 4001.005, and 36.001.

Occupations Code §55.002 requires state agencies to adopt rules to exempt certain military service members from increased fees and penalties for failure to timely renew a license.

Occupations Code §55.004(a) requires state agencies to adopt rules for the issuance of a license to certain military service members, military veterans, and military spouses.

Occupations Code §55.0041, which addresses recognition of out-of-state licenses of military service members and military spouses, requires state agencies to adopt rules to implement the section. In addition, Occupations Code §55.0041(f) authorizes state agencies to adopt rules for the issuance of a license to a military service member or military spouse who provides confirmation from TDI of licensure verification and authorization to engage in the business or occupation under Occupations Code §55.0041.

Occupations Code §55.007, which addresses license eligibility requirements for military service members and military veterans, requires state agencies to adopt rules necessary to implement the section.

Occupations Code §55.008, which addresses apprenticeship requirements for certain applicants with military experience, requires state agencies to adopt rules necessary to implement the section.

Insurance Code §36.109, which addresses renewal extension for certain persons performing military service, authorizes the commissioner to adopt rules as necessary to implement the section.

Insurance Code §4001.005 authorizes the commissioner to adopt rules necessary to implement Title 13 of the Insurance Code and to meet minimum requirements of federal law.

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 proposed repeal of §3.3725 implements Occupations Code §§55.002 - 55.009.

TEXT.

§19.803. Military Service Member, Military Veteran, and Military Spouse.

**Subchapter I. General Provisions Regarding Fees, Applications, and Renewals
28 TAC §19.810**

STATUTORY AUTHORITY. TDI proposes amendments to §19.810 under Occupations Code §§55.002, 55.004(a), and 55.0041 and Insurance Code §§36.109, 4001.005, and 36.001.

Occupations Code §55.002 requires state agencies to adopt rules to exempt certain military service members from increased fees and penalties for failure to timely renew a license.

Occupations Code §55.004(a) requires state agencies to adopt rules for the issuance of a license to certain military service members, military veterans, and military spouses.

Occupations Code §55.0041 which addresses recognition of out-of-state licenses of military service members and military spouses, requires state agencies to adopt rules to implement the section.

Insurance Code §36.109, which addresses renewal extension for certain persons performing military service, authorizes the commissioner to adopt rules as necessary to implement the section.

Insurance Code §4001.005 authorizes the commissioner to adopt rules necessary to implement Title 13 of the Insurance Code and to meet minimum requirements of federal law.

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 proposed amendments to §19.810 implement Occupations Code §§55.002 - 55.004, 55.0041, and 55.006.

TEXT.

§19.810. License Renewal and Application for an Expired License.

(a) Applicability. [~~This section becomes applicable to licensees and applicants on June 1, 2018. Prior to June 1, 2018, license renewal and reissuances will be processed under the regulations in effect prior to the adoption of this section.~~] This section applies to the renewal of a license and application for an expired license under Insurance Code Title 13, concerning Regulation of Professionals, that was issued or renewed on or after November 1, 2015.

(b) Conflicts with other sections. To the extent that this section conflicts with §1.814 [~~§19.803~~] of this title (relating to Military Service Member, Military Veteran, and Military

Spouse) in the application of this section and §1.814 [~~§19.803~~] to military service members, military veterans, and military spouses, §1.814 [~~§19.803~~] controls.

(c) Unexpired license. A licensee may apply for renewal of a license that has neither expired nor been suspended or revoked by:

(1) submitting to TDI the required renewal application fee and renewal application; and

(2) completing the applicable continuing education requirement within the reporting period and prior to the expiration of the license, as required under Insurance Code §4004.055, concerning Conduct, Disciplinary Actions, and Sanctions.

(d) Noncompliance with subsection (c) of this section. If the licensee does not comply with subsection (c) of this section, the license will not be renewed and will expire on the expiration date.

(e) Renewal of a license that has been expired for 90 days or less. A licensee may renew a license that has been expired for 90 days or less. The licensee must submit to TDI within 90 days after the license expiration date:

(1) the required renewal application fee;

(2) an additional fee equal to one-half of the required renewal application fee;

(3) a completed renewal application; and

(4) evidence demonstrating that the licensee has:

(A) completed the applicable continuing education requirement before the license expired; or

(B) completed continuing education after the license expired and paid all applicable fines as required under Insurance Code §4004.055.

(f) Effect of renewal or nonrenewal of expired license. If the licensee completes each item listed in subsection (c) [~~(d)~~] of this section for an unexpired license as described,

or completes each item listed in subsection (e) of this section within 90 days after the license expiration date, and the license is renewed, the license will be renewed effective as of the license expiration date. If the licensee fails to complete each item listed in subsection (c) of this section prior to the expiration date, or subsection (e) [~~(d)~~] of this section within 90 days after the license expiration date, as applicable, the license cannot be renewed, and the individual cannot engage in the business of insurance in the capacity granted by that license effective as of the license's expiration date and continuing until the individual obtains a new license as provided in subsection (g) or (h) of this section.

(g) License expired for more than 90 days. If an individual's license has been expired for more than 90 days, but less than one year, the individual may apply for the expired license without an examination. The individual must submit to TDI within one year after the date the license expired:

- (1) a new original application;
- (2) the required application fee;
- (3) an additional fee equal to one-half of the required application fee; and
- (4) evidence demonstrating that the licensee has:

(A) completed the applicable continuing education requirement before the license expired; or

(B) completed continuing education after the license expired and paid all applicable fines as required under Insurance Code §4004.055.

(h) License expired for one year or more. If an individual's license has been expired for one year or more, to obtain the expired license the individual must:

(1) complete the requirements for a [~~an~~] new license described in §§19.805 - 19.807 of this title (relating to Application for a New Individual License, Application for a Provisional Permit, and Application for a Temporary License), including reexamination, if applicable; and

(2) for a license that expired, was canceled, revoked, or not renewed on or after November 1, 2015, evidence demonstrating that the licensee:

(A) completed the applicable continuing education requirement before the license expired; or

(B) completed continuing education after the license expired and paid all applicable fines as required under Insurance Code §4004.055.

**Subchapter I. Continuing Education, Adjuster Prelicensing Education Programs,
and Certification Courses
28 TAC §19.1004**

STATUTORY AUTHORITY. TDI proposes amendments to §19.1004 under Occupations Code §§55.002, 55.004(a), and 55.0041 and Insurance Code §§36.109, 4001.005, and 36.001.

Occupations Code §55.002 requires state agencies to adopt rules to exempt certain military service members from increased fees and penalties for failure to timely renew a license.

Occupations Code §55.004(a) requires state agencies to adopt rules for the issuance of a license to certain military service members, military veterans, and military spouses.

Occupations Code §55.0041, which addresses recognition of out-of-state licenses of military service members and military spouses, requires state agencies to adopt rules to implement the section.

Insurance Code §36.109, which addresses renewal extension for certain persons performing military service, authorizes the commissioner to adopt rules as necessary to implement the section.

Insurance Code §4001.005 authorizes the commissioner to adopt rules necessary to implement Title 13 of the Insurance Code and to meet minimum requirements of federal law.

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 proposed amendments to §19.1004 implement Occupations Code §55.003 and Insurance Code §36.109.

TEXT.

§19.1004. Licensee Exemption from and Extension of Time for Continuing Education.

(a) Any exemption or extension granted to a licensee under subsections (b) - (f) [~~(g)~~] of this section applies to all license types held by the licensee. Nothing within this subchapter may be construed as preventing TDI from auditing a licensee to confirm the continued existence of circumstances supporting the exemption or extension.

(b) An agent who held a Texas resident license issued under Insurance Code Article 21.07-1, as Group I, legal reserve life insurance agent or general lines life, accident, and health insurance agent; Article 21.07-3, as managing general agent; or Article 21.14, as local recording agent, solicitor, general lines property and casualty agent, or insurance service representative, for at least 20 years or more as of December 31, 2002, is exempt from completing the required number of continuing education hours in §19.1003 of this title (relating to Licensee Hour and Completion Requirements). Agents must confirm that they qualify for this exemption by submitting a written request to TDI indicating that they have met the longevity requirement. TDI or TDI's designee will provide written notice that

an agent qualifies for this exemption. Agents that qualified for the longevity exemption authorized under the Insurance Code prior to September 1, 2001, remain qualified and do not have to reapply for this exemption.

(c) A licensee who on or after January 1, 2003, has been continuously licensed by TDI for at least 20 years is exempt from completing the required number of continuing education hours in §19.1003 of this title. For purposes of this subsection "continuously licensed" means that the licensee has held a TDI issued license for the entire period of time without any lapse in excess of 90 days in which the licensee was not licensed or failed to renew a license. The exemption will apply beginning with the reporting period in which the licensee reaches the 20th year of licensure. TDI or TDI's designee will provide written notice to the licensee that a licensee qualifies for this exemption. Licensees may not claim the exemption prior to receiving written notice that they qualify for the exemption. Licensees may submit a written request to TDI to evaluate their longevity status.

(d) Nonresident licensees, are subject to the following requirements:

(1) A nonresident licensee, including an adjuster with a designated home state adjuster license issued by a state other than Texas, who is in compliance with the licensee's resident state's or adjuster's designated home state's continuing education requirements are not required to complete the continuing education requirement under this subchapter. A licensee may qualify for this exemption based on the following:

(A) the licensee's state of residence, or adjuster's designated home state, claimed in the licensee's original application;

(B) by sending written notification to TDI or its designee stating that the licensee is a resident of another state, or the adjuster has a designated home state other than Texas, with a certificate of good standing; or

(C) by sending any other document acceptable to TDI, showing that the licensee has a resident license or an adjuster's designated home state adjuster license in good standing in that state.

(2) A designated home state adjuster licensee who designates Texas as the licensee's home state is not exempt under this subsection and must complete continuing education under the same requirements as a Texas resident adjuster as required under §19.1003(e) of this title.

(e) Licensees who meet the criteria of illness, medical disability, or circumstances beyond the control of the licensee may apply for an exemption or extension of time to complete their continuing education requirement without incurring a fine or a waiver, in whole or in part, of the continuing education requirement. Business reasons do not constitute circumstances beyond the control of the licensee. TDI will establish the duration of the extension when it is granted. If the circumstances supporting the extension continue beyond the granted extension period, the licensee may reapply for an exemption or extension. The licensee's application must include the information set forth in paragraphs (1) - (6) of this subsection:

(1) a written statement of the exact nature of the illness, medical disability or other extenuating circumstances beyond the control of the licensee that have prevented or will prevent the licensee from completing the required hours within the reporting period;

(2) evidence regarding the illness or medical disability of the licensee and circumstances beyond the control of the licensee;

(3) a written assessment of whether the condition is temporary, permanent, or unknown;

(4) a written statement as to whether the licensee will be able to perform activities including any acts of an agent or adjuster during the exemption or extension period being requested;

(5) the estimated date when the licensee will be able to perform any activities including any acts of an agent or adjuster in accordance with the medical reports or other documents pertaining to circumstances beyond the control of the licensee; and

(6) any other information that may be of assistance in evaluating the request.

~~[(f) A military service member may request an exemption or extension as follows:]~~

~~[(1) a military service member is entitled to two additional years to complete the continuing education requirements specified in this subchapter and may request the extension under §19.803(c) of this title; and]~~

~~[(2) a military service member serving in a combat theater, as provided for in Insurance Code §36.109, may apply to TDI for an exemption from or an extension of time for meeting the continuing education requirements or extending the licensee's license renewal under §19.803(f) of this title.]~~

(f) ~~[(g)]~~ An individual holding a risk manager license is exempt from the continuing education requirements under this subchapter for any license held by the individual, if the individual demonstrates in writing to TDI that the individual has held one of the following designations listed in Insurance Code §4153.055, concerning Exemptions from Examination and Continuing Education Requirement, for a period of not less than 30 years:

- (1) certified insurance counselor,
- (2) associate in risk management, or
- (3) certified risk manager.

(g) ~~(h)~~ A licensee holding only a funeral prearrangement life insurance agent license or a life insurance not exceeding \$25,000 agent license and meeting the requirements specified in Insurance Code §4054.159, concerning Continuing Education Exemption, or Insurance Code §4054.207, concerning Continuing Education Exemption, is exempt from completing the continuing education requirements in this subchapter. A licensee claiming this exemption must attest to meeting this requirement during each reporting period with the licensee's license renewal.

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 in Austin, Texas, on November 14, 2023.

DocuSigned by:
Jessica Barta
5DAC5618BBC74D4... _____
Jessica Barta, General Counsel
Texas Department of Insurance

Subchapter E. Fire Extinguisher Rules

~~[28 TAC §34.524]~~

Subchapter F. Fire Alarm Rules

~~[28 TAC §34.631]~~

Subchapter G. Fire Sprinkler Rules

~~[28 TAC §34.726]~~

Subchapter H. Storage and Sale of Fireworks

~~[28 TAC §34.833]~~

INTRODUCTION. The Texas Department of Insurance (TDI) proposes to repeal 28 TAC §§34.524, 34.631, 34.726, and 34.833, concerning licenses issued to military service members, military veterans, and military spouses. The proposed repeals implement Senate Bill 422, 88th Legislature, 2023 and Chapter 55 of the Occupations Code.

EXPLANATION. Chapter 55 of the Occupations Code provides for alternative licensing procedures and requirements for military service members, military veterans, and military spouses. Before the passage of SB 422, Occupations Code §55.0041 required licensing agencies to recognize the out-of-state licenses of military spouses. SB 422 amended §55.0041 to also apply to military service members and to incorporate additional changes.

As part of the implementation of SB 422, TDI has separately proposed new 28 TAC §1.814, which provides alternative licensing procedures and requirements for license applications by military service members, military veterans, and military spouses, consistent with Occupations Code Chapter 55 and 50 USC §4025a. Proposed new §1.814 applies to all licenses, permits, certifications, and other authorizations issued by TDI, including those issued by the state fire marshal.

Section 34.524 addresses the waiver of application and examination fees, as well as alternative licensing options for military service members, veterans, and spouses, as it relates to fire extinguisher rules.

Section 34.631 addresses the waiver of application and examination fees, as well as alternative licensing options for military service members, veterans, and spouses, as it relates to fire alarm rules.

Section 34.726 addresses the waiver of application and examination fees, as well as alternative licensing options for military service members, veterans, and spouses, as it relates to fire sprinkler rules.

Section 34.833 addresses the waiver of application and examination fees, as well as alternative licensing options for military service members, veterans, and spouses, as it relates to the sale and storage of fireworks.

This proposal repeals these sections, which are made redundant by proposed new §1.814.

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

Ms. Delgado 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 repealed sections are in effect, Ms. Delgado expects that administering and enforcing the proposed repeals will have the public benefits of eliminating redundant sections and ensuring that TDI's rules conform to Occupations Code §55.0041 in a consistent way.

Ms. Delgado expects that the proposed repeals will not increase the cost of compliance because the repeals do not create or impose any requirements.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS. TDI has determined that the proposed repeals will not have an adverse economic effect on small or micro businesses, or on rural communities. 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 the proposed repeals do not impose a possible cost on regulated persons. There are no additional costs as a result of this proposal because it only removes existing sections made redundant by a new section. No additional rule repeals 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 repeals 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 repeal existing regulations;
- 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 January 3, 2024. 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 TDI no later than 5:00 p.m., central time, on January 3, 2024. If TDI holds a public hearing, TDI will consider written and oral comments presented at the hearing.

Subchapter E. Fire Extinguisher Rules
28 TAC §34.524

STATUTORY AUTHORITY. TDI proposes the repeal of §34.524 under Occupations Code §§55.004(a), 55.0041(e), and 55.008(b) and Insurance Code §§6001.051(b), 6001.052(c), and 36.001.

Occupations Code §55.004(a) requires state agencies to adopt rules for the issuance of a license to certain military service members, military veterans, and military spouses.

Occupations Code §55.0041(e), which addresses recognition of out-of-state licenses of military service members and military spouses, requires state agencies to adopt rules to implement the section.

Occupations Code §55.008(b), which addresses apprenticeship requirements for certain applicants with military experience, requires state agencies to adopt rules necessary to implement the section.

Insurance Code §6001.051(b) provides that the commissioner may issue rules necessary to administer Insurance Code Chapter 6001 through the state fire marshal.

Insurance Code §6001.052(c) requires the commissioner to prescribe requirements for applications and qualifications for licenses, permits, and certificates issued under Insurance Code Chapter 6001.

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 repeal of §34.524 implements Occupations Code Chapter 55.

TEXT.

§34.524. Military Service Members, Military Veterans, or Military Spouses.

**Subchapter F: Fire Alarm Rules
28 TAC §34.631**

STATUTORY AUTHORITY. TDI proposes the repeal of §34.631 under Occupations Code §§55.004(a), 55.0041(e), and 55.008(b) and Insurance Code §6002.051(b) and §36.001.

Occupations Code §55.004(a) requires TDI to adopt rules for the issuance of a license to certain military service members, military veterans, and military spouses.

Occupations Code §55.0041(e), which addresses recognition of out-of-state licenses of military service members and military spouses, requires state agencies to adopt rules to implement §55.0041.

Occupations Code §55.008(b), which addresses apprenticeship requirements for certain applicants with military experience, requires state agencies to adopt rules necessary to implement the section.

Insurance Code §6002.051(b) provides that the commissioner may adopt rules as necessary to administer Insurance Code Chapter 6002, including rules the commissioner considers necessary to administer the chapter through the state fire marshal.

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 repeal of §34.631 implements Occupations Code Chapter 55.

TEXT.

§34.631. Military Service Members, Military Veterans, or Military Spouses.

**Subchapter G. Fire Sprinkler Rules
28 TAC §34.726**

STATUTORY AUTHORITY. TDI proposes the repeal of §34.726 under Occupations Code §§55.004(a), 55.0041(e), and 55.008(b) and Insurance Code §6003.051(b) and §36.001.

Occupations Code §55.004(a) requires TDI to adopt rules for the issuance of a license to certain military service members, military veterans, and military spouses.

Occupations Code §55.0041(e) requires state agencies to adopt rules to implement §55.0041.

Occupations Code §55.008(b), which addresses apprenticeship requirements for certain applicants with military experience, requires state agencies to adopt rules necessary to implement the section.

Insurance Code §6003.051(b) provides that the commissioner may issue rules necessary to administer Insurance Code Chapter 6003 through the state fire marshal.

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 repeal of §34.726 implements Occupations Code Chapter 55.

TEXT.

§34.726. Military Service Members, Military Veterans, or Military Spouses.

**Subchapter H. Storage and Sale of Fireworks
28 TAC §34.833**

STATUTORY AUTHORITY. TDI proposes the repeal of §34.833 under Occupations Code §§55.004(a), 55.0041(e), 55.008(b), and 2154.052, and Insurance Code §36.001.

Occupations Code §55.004(a) requires state agencies to adopt rules for the issuance of a license to certain military service members, military veterans, and military spouses.

Occupations Code §55.0041(e), which addresses recognition of out-of-state licenses of military service members and military spouses, requires state agencies to adopt rules to implement §55.0041.

Occupations Code §55.008(b), which addresses apprenticeship requirements for certain applicants with military experience, requires state agencies to adopt rules necessary to the section.

Occupations Code §2154.052 authorizes the commissioner to issue rules to administer Insurance Code Chapter 2154 requires the commissioner to adopt rules regulating issuance of licenses and permits to persons engaged in manufacturing, selling, storing, possessing, or transporting fireworks in this state and adopt rules for applications for licenses and permits.

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 repeal of §34.833 implements Occupations Code Chapter 55.

TEXT.

§34.833. Military Service Members, Military Veterans, or Military Spouses.

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 in Austin, Texas, on November 14, 2023.

DocuSigned by:
Jessica Barta
5DAC5618BBC74D4... _____
Jessica Barta, General Counsel
Texas Department of Insurance

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