

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.

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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