

CHAPTER 5. PROPERTY AND CASUALTY INSURANCE
SUBCHAPTER M. FILING REQUIREMENTS
28 TAC §5.9303

INTRODUCTION. The Texas Department of Insurance adopts an amendment to 28 TAC §5.9303, relating to the definition of catastrophe. Section 5.9303 implements Insurance Code §542.059. The amendment is adopted without changes to the proposed text published in the June 9, 2017, issue of the *Texas Register* (42 TexReg 2997).

REASONED JUSTIFICATION. The amendment updates the thresholds for extending claim-handling deadlines under Insurance Code §542.059(b).

Insurance Code Chapter 542, Subchapter B, requires insurers to meet specific deadlines when they process and pay insurance claims. Insurance Code §542.059 extends those deadlines by 15 days in the event of a weather-related catastrophe or major natural disaster, as defined by the commissioner of insurance. Before the amendment, a weather event under 28 TAC §5.9303(c)(2) could have been considered a catastrophe or major natural disaster if, in a reasonably defined area in which the losses occur, it resulted in estimates of at least 3,000 claims in aggregate for all insurers and at least \$5 million in estimated losses in aggregate for all insurers. The amendment modifies this criteria and adds alternative criteria for declaring a weather-related catastrophe or major natural disaster.

The amendment divides §5.9303(c)(2) into two parts. First, §5.9303(c)(2)(A) updates the threshold for a catastrophe or major natural disaster to at least 5,000 estimated claims and \$50 million in estimated losses. TDI adopted the previous thresholds in 1992. Almost all recent petitions exceeded at least one of the new thresholds, even though they were based on data from only one company.

Second, to ensure adequate time to process and pay claims when a weather event causes widespread but less costly damage, §5.9303(c)(2)(B) provides alternative criteria to establish a weather-related catastrophe or major natural disaster. Section 5.9303(c)(2)(B) adds a new threshold of at least 10,000 estimated claims in a reasonably defined area in which the losses occur, regardless of total losses.

In addition, the amendment updates citations to the Insurance Code to reflect changes made by the nonsubstantive recodification of the Insurance Code by House Bill 2922, 78th Legislature, Regular

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Session (2003). This order also adopts the nonsubstantive editorial and formatting changes included in the proposed text to conform it to TDI's current writing style and improve the rule's clarity.

SUMMARY OF COMMENTS. TDI did not receive any comments on the proposed amendment within the comment period. Likewise, TDI received no comments on an informal draft of the proposed amendment, which was posted on its website on December 8, 2016.

STATUTORY AUTHORITY. TDI amends §5.9303 under Insurance Code §542.059 and §36.001. Insurance Code §542.059 requires the commissioner to define "weather-related catastrophe or major natural disaster" to implement the statute. 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 5.9303 implements Insurance Code §542.059.

TEXT.

§5.9303. Definition of Catastrophe

(a) An individual insurer or a group of insurers may petition the Texas Department of Insurance for a determination that a weather-related event is a catastrophe or major natural disaster in accordance with Insurance Code §542.059. The Texas Department of Insurance will make a determination within three business days of receipt of a petition, and if the event is determined to be a catastrophe, it will notify all companies, by bulletin issued by the Texas Department of Insurance of the designated catastrophe.

(b) An insurer's petition as specified in subsection (a) of this section must include, but is not limited to, the following information:

(1) type of losses: wind, hail, tornado, hurricane, freeze, or other weather-related losses;

(2) specific lines of insurance affected: property, automobile, inland marine (any lines which may involve a first party claim);

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- (3) location of the loss: towns, cities, or other specified areas;
- (4) specific time period of the event which produced the catastrophe;
- (5) the insurer's total estimated dollar losses for insured property, by line of business;
- (6) the insurer's total estimated number of claims, by line of insurance;
- (7) a statement of the reason claims cannot be processed within the time periods

specified under the conditions of the property and casualty policies and Insurance Code §§542.055 – 542.057.

(c) For a weather-related event to be considered a catastrophe or major natural disaster by the Texas Department of Insurance:

- (1) The area in which the losses occur must be defined by reasonable boundaries.
- (2) For the designated area where the losses occur, either the:

(A) estimated total dollar losses must be \$50 million or more in the aggregate for all insurers, and the estimated total number of claims must be 5,000 or more in the aggregate for all insurers; or

(B) estimated total number of claims must be 10,000 or more in the aggregate for all insurers.

(3) The estimated dollar losses and number of claims in paragraph (2) of this subsection may include all lines of insurance listed in subsection (b)(2) of this section.

(d) If the Texas Department of Insurance determines a catastrophe exists, the provisions of Insurance Code §542.059 apply for all affected insurers.

(e) Claims processed in accordance with Insurance Code §542.059 must include all losses arising from the event or events identified in subsection (b)(4) of this section.

(f) In addition to subsections (a)-(c) of this section, the Texas Department of Insurance may use any other criteria it deems appropriate for determining if a catastrophe exists in connection with a

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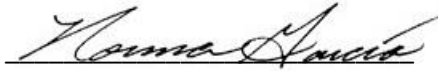
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weather-related event or natural disaster.

CERTIFICATION. This agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Issued at Austin, Texas, on August 30, 2017



Norma Garcia
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Texas Department of Insurance

TDI adopts the amendment to §5.9303.



Kevin Brady
Deputy Commissioner of Agency Affairs
Texas Department of Insurance
Delegation Order 4506

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