Petition No. I-1220-12
eCase 24222

PETITIONER	**§**	**BEFORE THE**
STAFF OF THE TEXAS	**§**	**COMMISSIONER OF**
DEPARTMENT OF INSURANCE	**§**	**INSURANCE**

PETITION TO MAKE CHANGES TO THE TEXAS STATISTICAL PLAN FOR RESIDENTIAL RISKS

I. INTRODUCTION

The staff of the Texas Department of Insurance files this petition to make changes to the *Texas Statistical Plan for Residential Risks* (Plan). Staff proposes changes that will modernize the Plan by (1) eliminating obsolete submission methods, references, and coding; (2) adding coding that reflects changes in the residential property market and provides information about claims reported, closed with payment, and closed without payment; (3) eliminating the requirement that insurers report certain individual optional credits, and instead requiring insurers to report information about certain rating variables; and (4) making nonsubstantive changes to reflect current practices and clarify how insurers should report data in certain circumstances.

The Plan must be updated because it still contains coding and references to the benchmark rating system, as well as discounts and rating factors contained in the Texas Personal Lines Manual (TPLM). The TPLM became obsolete when the Texas Legislature eliminated the benchmark rating system in 2003. Since 2003, the residential property insurance market has changed with respect to the rating variables insurers use and how insurers rate residential property policies. A proposed amended Plan is attached to this petition and incorporated by reference.

II. STATUTORY AUTHORITY

Staff is authorized to file this petition and the Commissioner is authorized to act on the petition under Insurance Code Article 5.96 and §§38.202, 38.204(a), 38.205, 38.207, and 36.001:

- Article 5.96(a) authorizes the Commissioner to promulgate, adopt, approve, or amend standard and uniform manual rules, rating plans, classification plans, statistical plans, and policy and endorsement forms for various lines of insurance, including fire and allied lines insurance.
- Article 5.96(b) allows any interested person to initiate proceedings with respect to any matter specified in Article 5.96(a) by filing a written petition with the chief clerk.
- Section 38.202 allows the Commissioner to, for a line or subline of insurance, designate or contract with a qualified organization to serve as the statistical agent for the Commissioner to gather data relevant for regulatory purposes.
- Section 38.204(a) provides that a designated statistical agent must collect data from reporting insurers under a statistical plan adopted by the Commissioner.
- Section 38.205 requires insurers to provide all premium and loss cost data to the Commissioner or the designated statistical agent as the Commissioner or agent requires.
- Section 38.207 authorizes the Commissioner to adopt rules necessary to accomplish the purposes of Chapter 38, Subchapter E, relating to statistical data collection.
- Section 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.

III. PROPOSAL FOR CONSIDERATION AND ADOPTION

Staff proposes the following changes to modernize the Plan:

1. Elimination of Obsolete Submission Methods, References, and Coding

Staff proposes to remove the following obsolete items in the Plan:

a. **CD-ROM submission method.** Most insurers now use ShareFile and no longer make submissions by CD-ROM. This proposal will eliminate it as a submission method and delete any references to it in the Plan.

b. **Benchmark premium and flex percentages.** The proposal will delete all references to benchmark premiums and flex percentages under General Rule 7. It will also eliminate reporting Fire Flex and EC and Allied Lines Flex. The industry no longer uses these; they do not need to be reported.

c. **Property Protection Program (PPP).** This proposal will delete all codes for PPP under the TPLM as they are obsolete.

d. **Tear out and replacement of building and land coverage endorsement.** This proposal will delete the requirement that insurers report policies that contain limited coverage for tear out and replacement of building and land in order to access the part of a plumbing and drain system located under the slab or foundation (HO-155, HO-170, TDP-054).

e. **Number of Families.** This proposal will delete obsolete number of family codes 3, 4, and 5, relating to public housing credits and highly susceptible EC risks for dwelling risks under the TPLM.

f. **Special endorsements.** The proposal will delete Coding Section Rule 13 to eliminate required coding for replacement cost on personal property and residential glass coverage endorsements.

g. **Premium reduction certificates – Homeowners.** The proposal will delete Coding Section Rule 15 to eliminate required coding for credits for premium reduction certificates.

h. **Electronic equipment protection policies.** The proposal will delete obsolete coding for electronic equipment protection policies.

i. **Record Type.** The proposal will eliminate the obsolete Record Type 94.

j. **Allied lines – windstorm.** The proposal will delete obsolete coding for allied lines line of business for windstorm policies because the Plan already provides for line of business codes for windstorm policies written by the Texas Windstorm Insurance Association (TWIA) or the voluntary market.

2. Additional Coding

Staff proposes to add coding for the following codes:

a. **Increased record size.** The proposal will increase the premium and loss record size from 150 bytes to 200 bytes, and expand the size of certain premium, amount, and year fields.

b. **Additional coding to facilitate the reporting of reported claims, claims closed with payment, and claims closed without payment.**

   i. **Kind codes for reporting all claims that were open for all or part of the accounting month.** The proposal will require insurers to report data for all residential property claims reported to the insurer and will add Kind codes "1"–"5," "8," and "9" for claims with no outstanding or incremental paid losses for claims previously reported as closed.

   ii. **New claim count.** The proposal will add a code that indicates whether the claim is newly reported or had been previously reported to the statistical agent.

   iii. **Reopened claim count.** The proposal will add a code that indicates whether the claim is newly reopened by the insurer.

iv. **Paid claim count.** The proposal will rename the existing number of claims count field for consistency and to distinguish its usage from that for new claim count and reopened claim count.

v. **Claim status.** The proposal will add coding that indicates whether an individual claim is open, closed with payment, or closed without payment as of the end of the month.

vi. **Claim identifier.** The proposal will add an alphanumeric code assigned by the company to uniquely identify the claim for statistical reporting across all reporting periods.

c. **Contents limit for homeowners' risks.** The proposal will require insurers to report the personal property limit for premium and loss records.

d. **Loss of use limit for homeowners and dwelling risks.** The proposal will require insurers to report the loss of use limit in thousands of dollars.

e. **Amount of insurance for condominium risks.** The proposal will require insurers to report dwelling limits for condominium risks in the premium and loss records.

f. **Outstanding losses.** The proposal will require insurers to report outstanding losses every month. Currently insurers are only required to report this in their December submissions.

g. **Tenure discounts.** The proposal will expand coding for tenure discounts.

h. **Roof construction.** Currently, reporting roof construction type is optional, except for risks receiving a premium credit for hail resistant roof covering. The proposal will require reporting of the roof construction type.

i. **Tropical cyclone deductibles for homeowners, tenant, and condominiums.** The proposal will require reporting of the deductible applicable to hurricanes or tropical storms.

j. **Prior claims history.** The proposal will stop requiring that insurers identify policies with a claim surcharge and will add the requirement that insurers report the policy's prior claim history. The Plan will require that insurers define "chargeable claim" in the same manner that the company uses for rating or tiering.

k. **Year of construction for all risks, other than tenant and condominiums.** The proposal will require insurers to report the year the dwelling was built.

l. **Year of roof installation for risks, other than tenant and condominium owners.** The proposal will require insurers to report year of roof installation if the insurer uses year of roof installation in underwriting or rating. Currently, this field is only required for hail resistant roofs.

m. **Replacement cost personal property coverage for all risks with a limit for personal property coverage.** The proposal will require insurers to report whether personal property coverage for a given policy is on an actual cash value (ACV) basis or replacement cost basis.

n. **Replacement cost dwelling coverage for all risks with a dwelling limit.** The proposal will require insurers to report whether the dwelling coverage for a given policy is on an ACV or replacement cost basis.

o. **Roof coverage type for all risks with a dwelling limit.** The proposal will require insurers to report whether the roof coverage for a given policy is on an ACV or replacement cost basis, or whether a roof limitation or exclusion endorsement applies to the policy.

p. **Private flood coverage for all residential risks.** The proposal will require insurers to report whether a given policy provides private flood coverage, either as a part of the policy or through an endorsement. This is not intended to collect information about whether the insured has federal flood coverage through the National Flood Insurance Program.

3. Individual Optional Credits

Staff proposes to eliminate the requirement that insurers report certain individual optional credits, and instead require insurers to report information about certain rating variables. The proposal will:

a. Eliminate optional credits identifier codes "a" through "l," and the residential sprinkler premium credit.
b. Eliminate Record Types 16, 17, 96, and 97.
c. Require insurers to report a single-digit numeric code that describes how the insurer uses the rating variable:
    i. Fire, smoke, or burglar alarm
    ii. Age of home
    iii. Automatic sprinkler system
    iv. Loss or claims experience
    v. Companion policy (or policies)
    vi. Credit-based insurance score
    vii. Senior citizen
    viii. Smart or connected home
    ix. New home or recently purchased home
    x. Additional risk surcharges, including surcharges for attractive nuisances (such as swimming pools and trampolines), for certain animals or breeds of animals, or for other uncommon features (such as wood stoves) that result in additional premium or a premium surcharge.

4. Nonsubstantive Changes

Staff proposes the following nonsubstantive changes to reflect current practices and to clarify how insurers should report data in certain circumstances:

a. Add the mobile home construction code to Coding Section Rule 8. This code is included in the separate premium and loss coding instructions but was inadvertently left off the Coding Section.
b. Replace references to terms "Coverage A," "Coverage B," etc., which are not used uniformly throughout the industry.
c. Clarify that recording of enhancement endorsement premiums applies to dwellings as well as homeowners.
d. Delete references to the TPLM for construction class descriptions and incorporate those descriptions directly into the Plan.
e. Amend the rule on reporting for TWIA depopulation to recognize changes made by SB 615 (86th Legislature, Regular Session, 2019) and delete all references to the June 1 opt-out date.
f. Formalize the reporting of negative amounts. There has been a long-standing practice for reporting negative amounts, but it was never formalized in the Plan.
g. Add line of business code 16 for theft. This code has been in use for some time but was missing from the Plan.
h. Remove references to forms THO-B and THO-C (Coding Section Rule 4).
i. Clarify coding for percentage and dollar deductibles greater than those for which the statistical codes provide and add a code for a half-percent deductible for dwelling risks.
j. Formalize the requirement that insurers submit residential property statistical data monthly.

k. Clarify that codes referring to tenant policies also include condominium owners' policies.

l. Clarify that Record Types 01 and 91 include onset/offset records for endorsements.

m. Clarify that coding for optional coverage endorsements only apply to endorsements that provide coverage for water damage, flood, foundation, or mold.

n. Clarify that reporting of Difference in Actual Cash Value and Replacement Cost only applies for a loss on the roof.

o. Make nonsubstantive formatting changes in keeping with TDI's style guide.

IV. BACKGROUND

TDI's Plan instructs property insurers how to report premium and loss experience data. Except for adding Texas Windstorm Insurance Association rules and coding in 2016[1], the Plan has not changed substantially since 2003. Since that time, the residential property insurance market has changed regarding how insurers rate residential property policies and the rating variables they use.

In May 2018, TDI sought public input and published an informal draft of an updated Plan, which received numerous comments. After publishing the informal draft, TDI did not move forward with a formal proposal. Since that time, staff incorporated some of the suggestions from the previous comments and updated the informal proposal. This updated informal proposal was posted on August 28, 2020, with a comment period open until September 17, 2020.

[1] Commissioner's Order No. 2017-4907, December 2, 2016.

TDI received three comments on the updated informal proposal. The comments were from the Office of Public Insurance Counsel (OPIC), the Texas Insurance Checking Office (TICO), and the National Association of Mutual Insurance Companies (NAMIC). Staff made nonsubstantive changes to the informal proposal in response to the comments.

V. JUSTIFICATION

In 2003, the Texas Legislature eliminated the benchmark rating system promulgated under Texas Insurance Code Article 5.101 and introduced a file and use system for residential property rates and rating plans.[2] At the same time, the Texas Legislature eliminated the system where the Commissioner of Insurance promulgated forms and endorsements, and created a system where all insurers could use their own forms and endorsements on a prior approval basis. Following these changes in rate and form regulation, insurers began to expand the rating variables they used to calculate a policyholder's premium and the forms and endorsements they offered insurance consumers.

In the early 2000s, insurers expanded the use of credit-based insurance scores in underwriting and rating. This practice continued to expand over the years such that most insurers now use some form of credit-based insurance scoring to underwrite and rate insureds. In addition, because of the prevalence of windstorm, hurricane, and hail losses in Texas, insurers began to use age and type of roof when rating homeowner policies and introduced separate deductibles for hurricanes or named storms.

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[2] SB 14, 78th Texas Legislature, Regular Session. SB 14 also created a transition period where residential property rates and rating plans were subject to prior approval under Texas Insurance Code Article 5.142 until December 1, 2004. After that, residential property rates and rating plans were subject to file and use under Texas Insurance Code Article 5.13-2, later re-codified as Texas Insurance Code Chapter 2251.

Since 2003, insurers have expanded the number of forms and endorsements they offer to consumers. To address increasing costs related to windstorm, hurricane, and hail damage, many insurers have filed endorsements that provide actual cash value coverage for the dwelling (or roof) or otherwise reduce or limit coverage for the roof. In the last five years there has been increased interest among policymakers about the extent to which insurers are using these endorsements. The proposed changes to the Plan will allow TDI to answer questions about the extent to which insurers are using these endorsements and whether there are differences in loss costs or loss ratios for these forms.

REQUESTED ACTION

Staff recommends that the Commissioner approve staff's requests to modernize the *Texas Statistical Plan for Residential Risks* by:

1. Eliminating obsolete submission methods, references, and coding as outlined in Section III(1) and reflected in the attached proposed amended Plan.
2. Adding codes as outlined in Section III(2) and reflected in the attached proposed amended Plan.
3. Eliminating optional credits and record types, and requiring insurers to report codes that describe how they use certain rating variables as outlined in Section III(3) and reflected in the attached proposed amended Plan.
4. Making nonsubstantive changes as outlined in Section III(4) and reflected in the attached proposed amended Plan.

Respectfully submitted,

DocuSigned by:
J'ne Byckovski
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J'ne Byckovski, Director and Chief Actuary,
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December 10, 2020
Date