

**Subchapter W. Consumer Rights Notices [~~Protection Requirements~~ ~~Consumer Bill of Rights~~]  
28 TAC §5.9970 and §5.9971**

**INTRODUCTION.** The Texas Department of Insurance (TDI) proposes to amend 28 TAC §5.9970 and §5.9971, concerning consumer rights notices for personal automobile insurance and homeowners, dwelling, and renters insurance. Insurance Code §501.156 requires the Office of Public Insurance Counsel (OPIC) to submit to TDI for adoption a consumer bill of rights appropriate to each personal line of insurance that TDI regulates.

**EXPLANATION.** Under Insurance Code Chapter 501, OPIC represents the interests of insurance consumers in Texas. OPIC is required by Insurance Code §501.156 to submit to TDI for adoption a consumer bill of rights appropriate to each personal line of insurance TDI regulates. These notices explain how consumer rights are affected by applicable statutes and rules and are to be distributed by an insurer to each policyholder on issuance of a policy.

TDI received a petition from OPIC on August 30, 2022, requesting that TDI adopt a revised consumer rights notice for personal automobile insurance (Auto Bill of Rights). TDI's proposal revising the Auto Bill of Rights was published in the April 14, 2023, issue of the *Texas Register*. However, following the publication of the proposal in the *Texas Register*, the 88th Legislature enacted legislation impacting the Auto Bill of Rights. Therefore, TDI has withdrawn its April 14, 2023, proposal amending the Auto Bill of Rights.

TDI received another petition from OPIC on August 28, 2023, requesting adoption of revisions to the Auto Bill of Rights and the consumer rights notice for Homeowners, Dwelling, and Renters Insurance (Homeowners Bill of Rights). The current versions of both

the Auto Bill of Rights and the Homeowners Bill of Rights were adopted in May 2021 and are found in 28 TAC §5.9970 and §5.9971, respectively.

Since the last amendments, the Legislature enacted legislation affecting the rights of insurance consumers. Senate Bill 1602, 87th Legislature, 2021, added Insurance Code §551.1053, requiring mandatory nonrenewal of private passenger automobile policies when an insured fails or refuses to cooperate with an insurer in the investigation, settlement, or defense of a claim or action.

House Bill 2065, 88th Legislature, 2023, amended Insurance Code §551.1053 to apply only to third-party liability claims or actions.

House Bill 1900, enacted by the 88th Legislature, 2023, amended the Insurance Code to require notice of nonrenewal no later the 60th day before the date of nonrenewal of certain insurance policies, including personal automobile insurance and homeowners, dwelling, and renters insurance. The bill amended Insurance Code §551.105, changing the requirement from 30 days' notice to 60 days' notice.

House Bill 1706, enacted by the 88th Legislature, 2023, added new Insurance Code §4102.007, specifying that a commercial or residential property insurance policy may not include a provision prohibiting an insured from contracting with a public insurance adjuster for services.

The petition received from OPIC on August 28, 2023, updates the Auto Bill of Rights to include changes made by SB 1602, HB 2065, and HB 1900, and updates the Homeowners Bill of Rights to include changes made by HB 1900 and HB 1706.

Insurers must distribute the Auto Bill of Rights or Homeowners Bill of Rights to each policyholder on issuance of a new policy or on renewal if the updated consumer notice was not previously sent. Amending the Auto Bill of Rights and Homeowners Bill of

Rights ensures that insurers distribute current and accurate consumer rights information to policyholders.

The proposed amendments to the sections are described in the following paragraphs.

**Section §5.9970.** Amendments to §5.9970 adopt updated versions of the English and Spanish translation of the Auto Bill of Rights by revising FIGURE 1: 28 TAC §5.9970(b) and FIGURE 2: 28 TAC §5.9970(b).

Updates to both figures implement the HB 1900 amendment to Insurance Code §551.105, changing the required lead time for notice of nonrenewal in paragraph 21 from 30 to 60 days. Updates to both figures also implement Insurance Code §551.1053, which was added by SB 1602, 87th Legislature, and then amended by HB 2065, 88th Legislature, by inserting a new paragraph 22 that describes the insurer's duty to nonrenew a policy for failure to cooperate in the investigation, settlement, or defense of a third-party liability claim. In addition, the TDI Consumer Protection post office box address for filing a complaint by mail is removed from page 1 of each notice because TDI is updating the methods used for receiving complaints.

Amendments to §5.9970(b), (c), and (e) change "2021" to "2024" to reference the updated versions of the forms, and amendments to §5.9970(f) specify that insurers must use the new Auto Bill of Rights by May 1, 2024, but that until that date insurers may use either the existing Auto Bill of Rights or the new Auto Bill of Rights.

These amendments will ensure that the Auto Bill of Rights is consistent with the law and that consumers are informed of their rights related to their personal automobile insurance policies.

**Section §5.9971.** Amendments to §5.9971 adopt updated versions of the English and Spanish translation of the Homeowners Bill of Rights by revising FIGURE 1: 28 TAC §5.9971(b) and FIGURE 2: 28 TAC §5.9971(b).

Updates to both figures implement Insurance Code §4102.007, which was added by HB 1706, by inserting a new paragraph 9, explaining that residential property policies may not prohibit consumers from contracting with a public insurance adjuster. Updates to both figures also implement the HB 1900 amendment to Insurance Code §551.105 by changing the required lead time for notice of nonrenewal in paragraph 26 from 30 to 60 days. In addition, the TDI Consumer Protection post office box address for filing a complaint by mail is removed from page 1 of each notice because TDI is updating the methods used for receiving complaints.

Amendments to §5.9971(b), (c), and (e) change "2021" to "2024" to reference the updated versions of the forms, and amendments to §5.9971(f) specify that insurers must use the new Homeowners Bill of Rights by May 1, 2024, but that until that date insurers may use either the existing Homeowners Bill of Rights or the new Homeowners Bill of Rights.

These amendments are intended to ensure that the Homeowners Bill of Rights is consistent with the law and that consumers are informed of their rights related to their residential property insurance policies.

**FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT.** John Mooney, manager of the Property and Casualty Lines Office, has determined that for 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 the enforcement or administration of this proposal.

Mr. Mooney does not anticipate any measurable effect on local employment or the local economy as a result of the enforcement or administration of this proposal because the proposal simply updates documents insurers are already required to provide.

**PUBLIC BENEFIT AND COST NOTE.** For each of the first five years the proposed amendments are in effect, Mr. Mooney expects public benefits to include consumers receiving an accurate and understandable summary of their rights related to their personal automobile and residential property insurance policies and facilitating public awareness of insurance consumer rights.

Mr. Mooney expects that the proposed amendments will impose an economic cost on persons required to comply. The cost will vary based on the lines of insurance and number of policyholders for each insurer.

Insurance Code §501.156 and TDI rules require insurers to deliver the Auto Bill of Rights and Homeowners Bill of Rights to policyholders at the time a policy is issued or renewed. Because the proposed amendment updates existing documents already required to be provided with insurance policies, the amendment does not impose additional duties regarding new policies. Insurers must provide policyholders with copies of the updated consumer rights notices at the first renewal after the updated bill of rights is effective.

If the insurer uses electronic delivery as permitted under Insurance Code Chapter 35, the insurer may send the updated consumer rights notice electronically, avoiding paper and printing costs. If an insurer prints paper copies instead, TDI expects the cost to be between \$0.06 and \$0.08 per page for printing and paper. The English and the Spanish versions of both the Auto Bill of Rights and the Homeowners Bill of Rights are seven pages long.

An insurer's cost of complying with the requirements will depend on the number of renewals that the insurer provides and on the number of paper consumer rights notices the insurer sends. TDI expects that each insurer will have the information necessary to determine its individual cost, including the number of pages to be printed, in-house printing costs, and commercial printing costs.

TDI does not anticipate additional costs for mailing or electronic distribution because the new bill of rights will be sent out in new and renewal packets that the insurer already sends.

TDI estimates that insurers may face administrative costs associated with updating the consumer rights notices in their systems. While it is not feasible to determine the actual cost of any employees needed to comply with the requirement, TDI estimates that amending the consumer rights notices may require the following resources:

- between eight and 14 hours of compliance officer staff time to update internal procedures to ensure the revised consumer rights notices are distributed; and
- between eight and 14 hours of computer programming staff time to prepare and test systems to begin distributing the revised consumer rights notices.

Staff costs may vary depending on the skill level required, the number of staff required, and the geographic location where work is done. The 2022 median hourly wage for these positions in Texas was:

- compliance officer, \$32.35; and
- computer programmer, \$42.31;

as reported by the Texas Wages and Employment Projections database, which is developed and maintained by the Texas Workforce Commission and located at [www.texaswages.com/WDAWages](http://www.texaswages.com/WDAWages).

Information on median wages in other states may be obtained directly from the federal Bureau of Labor Statistics website at [www.bls.gov/oes/current/oes\\_nat.htm](http://www.bls.gov/oes/current/oes_nat.htm).

**ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS.** TDI has determined that this proposal may have an adverse economic effect on any insurers that are small or micro businesses. Data provided by the Texas Comptroller of Public Accounts for use in calculating the number of small businesses indicates that there are approximately 630 insurance carriers that are considered small businesses as that term is defined in Government Code §2006.001. This Economic Impact Statement and Regulatory Flexibility Analysis and the cost analysis in the Public Benefit and Cost Note section of this proposal applies to the portion of insurance carriers that write personal automobile or residential property insurance policies and are small and micro businesses. The total cost to an insurer in providing the revised consumer rights notices to its policyholders is not wholly dependent on the size of the insurer. Instead, the cost depends on the insurer's number of current and future policyholders. TDI does not anticipate an impact on any rural communities because the requirement to distribute consumer rights notices under Insurance Code §501.156 applies to insurers, not to rural communities.

In accordance with Government Code §2006.002(c-1), TDI considered the following alternatives to minimize any adverse impact on small or micro businesses while still accomplishing the proposal's objectives:

(1) TDI considered not proposing the new rules, but Insurance Code §501.156 requires OPIC to submit to TDI for adoption a consumer bill of rights appropriate to each personal line of insurance TDI regulates. The statute requires these consumer rights notices to be distributed upon issuance of a policy by insurers to all applicable policyholders. Updating the consumer rights notices is necessary to reflect legislative

actions that affect the rights of insurance policyholders despite any possible impact on small or micro businesses. To ensure compliance with the statutory requirements, TDI rejected this option.

(2) TDI also considered imposing different rules for small or micro businesses, but ultimately rejected this option for the reason previously stated. The proposed amendments are necessary to comply with statutes and rules that require all insurers to issue the consumer rights notices to policyholders on issuance of a new or renewal policy. These statutory requirements apply to all insurers writing these lines of insurance, regardless of size, and any modification for small or micro businesses would not change the underlying requirement for insurers to provide the consumer rights notices. For these reasons, TDI rejected this option.

(3) Finally, TDI considered exempting small or micro businesses from the rule requirements, but ultimately rejected this option for the reason previously stated. The purpose of any consumer bill of rights is to notify each policyholder of their rights applicable to those personal lines of insurance. Insurance Code §501.156 requires OPIC to submit to TDI for adoption a consumer bill of rights appropriate to each personal line of insurance that TDI regulates. These statutory requirements apply to all insurers writing these lines of insurance, regardless of size, and cannot be waived for small or micro businesses. For these reasons, TDI rejected this option.

**EXAMINATION OF COSTS UNDER GOVERNMENT CODE §2001.0045.** TDI has determined that this proposal does impose a possible cost on regulated persons. However, no additional rule amendments are required under Government Code §2001.0045 because the proposed amendments are necessary to implement legislation. Insurance Code §501.156 requires OPIC to submit for adoption a consumer bill of rights



appropriate to each personal line of insurance TDI regulates, to be distributed on issuance of a policy by an insurer to each policyholder under TDI rules. Updates to the consumer rights notices are necessary to ensure that consumers are aware of their rights as impacted by SB 1602, HB 2065, HB 1900, and HB 1706.

**GOVERNMENT GROWTH IMPACT STATEMENT.** TDI has determined that for each year of the first five years the amendments are in effect, the 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 not expand, limit, or repeal 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.** This proposal amends two consumer rights notices that insurers are required to provide. 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 or require a takings impact assessment under Government Code §2007.043.

**REQUEST FOR PUBLIC COMMENT.** TDI will consider any written comments for the proposal that are received by TDI no later than 5:00 p.m., central time, on Nov. 13, 2023. Send your comments to ChiefClerk@tdi.texas.gov or by mail 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 separate request before the end of the comment period to ChiefClerk@tdi.texas.gov or by mail to the Office of the Chief Clerk, MC: GC-CCO, Texas Department of Insurance, P.O. Box 12030, Austin, Texas 78711-2030.

**STATUTORY AUTHORITY.** TDI proposes amendments to §5.9970 and §5.9971 under Insurance Code §501.156 and §36.001.

Insurance Code §501.156 requires OPIC to submit to TDI for adoption a consumer bill of rights appropriate to each personal line of insurance TDI regulates, to be distributed under TDI rules.

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 5.9970 implements Insurance Code §§501.156, 551.1053, and 551.105. Section 5.9971 implements Insurance Code §§501.156, 4102.007, and 551.105.

**Subchapter W. Consumer Rights Notices [~~Protection Requirements Consumer Bill of Rights~~]**

## 28 TAC §5.9970 and §5.9971

### TEXT.

#### **§5.9970. Personal Automobile Insurance Consumer Bill of Rights.**

(a) For purposes of this section, "insurer" means an insurance company, reciprocal or interinsurance exchange, mutual insurance company, capital stock company, county mutual insurance company, Lloyd's plan, or other legal entity authorized to write personal automobile insurance in this state. The term includes an affiliate, as described by Insurance Code §823.003(a), if that affiliate is authorized to write and is writing personal automobile insurance in this state.

(b) The Texas Department of Insurance adopts the 2024 [~~2021~~] version of the Consumer Bill of Rights - Personal Automobile Insurance (Auto Bill of Rights), and the Spanish language translation, as developed and submitted by the Office of Public Insurance Counsel:

FIGURE 1: 28 TAC §5.9970(b) [~~FIGURE 1: 28 TAC §5.9970(b)~~]

FIGURE 2: 28 TAC §5.9970(b) [~~FIGURE 2: 28 TAC §5.9970(b)~~]

(c) All insurers writing personal automobile insurance policies must provide with each new policy of personal automobile insurance a copy of the 2024 [~~2021~~] version of the Auto Bill of Rights. At the consumer's request, the insurer may provide an electronic copy of the Auto Bill of Rights instead of a hard copy. The insurer must provide the Auto Bill of Rights with each renewal notice for personal automobile insurance unless the insurer has previously provided the policyholder with the 2024 [~~2021~~] version of the Auto Bill of Rights.

(d) The Auto Bill of Rights must appear in no less than 10-point type and be on separate pages with no other text on those pages.

(e) Insurers must provide the Spanish language version of the 2024 [~~2021~~] version of the Auto Bill of Rights to any consumer who requests it.

(f) Insurers must provide the applicable Auto Bill of Rights included in this section beginning May 1, 2024 [~~November 15, 2021~~]. Before that date, insurers may provide the Auto Bill of Rights either as it currently is included in this section or as it was included in the section as the section was amended to be effective May 16, 2021 [~~January 31, 2013~~].

**§5.9971. Homeowners, Dwelling, and Renters Insurance Consumer Bill of Rights.**

(a) For purposes of this section, "insurer" means an insurance company, reciprocal or interinsurance exchange, mutual insurance company, capital stock company, county mutual insurance company, Lloyd's plan, or other legal entity authorized to write residential property insurance in this state. The term includes an affiliate, as described by Insurance Code §823.003(a), if that affiliate is authorized to write and is writing residential property insurance in this state. The term does not include the Texas Windstorm Insurance Association or the Texas Fair Plan Association.

(b) The Texas Department of Insurance adopts the 2024 [~~2021~~] version of the Consumer Bill of Rights - Homeowners, Dwelling, and Renters Insurance (Homeowners Bill of Rights), and the Spanish language translation, as developed and submitted by the Office of Public Insurance Counsel:

FIGURE 1: 28 TAC §5.9971(b) [~~FIGURE 1: 28 TAC §5.9971(b)~~]

FIGURE 2: 28 TAC §5.9971(b) [~~FIGURE 2: 28 TAC §5.9971(b)~~]

(c) All insurers writing homeowners, dwelling, or renters insurance must provide with each new policy of any such insurance a copy of the 2024 [~~2021~~] version of the Homeowners Bill of Rights. At the consumer's request, the insurer may provide an electronic copy of the Homeowners Bill of Rights instead of a hard copy. The insurer must

provide the Homeowners Bill of Rights with each renewal notice for any such insurance unless the insurer has previously provided the policyholder with the 2024 [2021] version of the Homeowners Bill of Rights.

(d) The Homeowners Bill of Rights must appear in no less than 10-point type and be on separate pages with no other text on those pages.

(e) The insurer must provide the Spanish language version of the 2024 [2021] version of the Homeowners Bill of Rights [~~Revised 2021~~] to any consumer who requests it.

(f) Insurers must provide the applicable Homeowners Bill of Rights included in this section beginning May 1, 2024 [~~November 15, 2021~~]. Before that date, insurers may provide the Homeowners Bill of Rights either as it is currently included in this section or as it was included in the section as the section was amended to be effective May 16, 2021 [~~§5.9970 of this title as that section was amended to be effective January 31, 2013~~].

**CERTIFICATION.** This agency certifies that legal counsel has reviewed the proposal and found it to be within the agency's authority to adopt.

Issued in Austin, Texas, on September 28, 2023.

DocuSigned by:  
*Jessica Barta*  
5DAC5618BBC74D4... \_\_\_\_\_  
Jessica Barta  
General Counsel  
Texas Department of Insurance