

**SUBCHAPTER E. NOTICE OF TOLL-FREE TELEPHONE NUMBERS AND  
PROCEDURES FOR OBTAINING INFORMATION AND FILING COMPLAINTS**  
**28 TAC §1.603**

**1. INTRODUCTION.** The Texas Department of Insurance (TDI) proposes new 28 TAC §1.603, concerning complaint information available through TDI's toll-free telephone number. This new section is necessary to: (i) notify the public that, pursuant to the Insurance Code §521.052, complaint information available through TDI's toll-free telephone number includes information collected or maintained by TDI relating to the number and disposition of complaints received against an insurer that are justified, verified as accurate, and documented as valid; (ii) equate the term "confirmed," for the Consumer Protection Section's use in its complaint handling process, with the statutory term "justified"; and (iii) describe the criteria TDI uses to classify a complaint as "confirmed."

Proposed new §1.603 addresses complaint information available through TDI's toll-free telephone number. Proposed new §1.603(a) says that TDI will provide to the public through its toll-free telephone number the information specified by the Insurance Code §521.052, including information TDI collects or maintains relating to the number and disposition of complaints received against an insurer that are justified, verified as accurate, and documented as valid. Proposed new §1.603(b) states that TDI considers a complaint justified if the complaint is a confirmed complaint. Proposed new §1.603(c) provides the definition of what constitutes a confirmed complaint.

**2. FISCAL NOTE.** Melissa Hield, Associate Commissioner, Consumer Protection Section, has determined that, for each year of the first five years the proposed section will be in effect, there will be no fiscal impact to state and local governments as a result of the enforcement or administration of the proposal. There will be no measurable effect on local employment or the local economy as a result of the proposal.

**3. PUBLIC BENEFIT/COST NOTE.** Ms. Hield also has determined that, for each year of the first five years the proposed section is in effect, the public benefit anticipated as a result of the proposal is public awareness of complaint information available through TDI's toll-free telephone number, notification to the public of how the term "confirmed" is equated with the statutory term "justified," and what criteria TDI uses to classify a complaint as confirmed. Ms. Hield anticipates no costs for persons required to comply with the proposal; therefore, the costs for compliance will not vary between the smallest and largest businesses.

**4. ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS FOR SMALL AND MICRO BUSINESSES.** As required by the Government Code §2006.002(c), TDI has determined that the proposal will not have an adverse economic effect on small or micro businesses because the proposed rule does not apply to any small or micro businesses. Instead, it only relates to complaint information available through TDI's toll-free telephone number. Therefore, in accordance with the Government Code §2006.002(c), TDI has determined that a regulatory flexibility analysis is not required.

**5. TAKINGS IMPACT ASSESSMENT.** TDI has determined that this proposal does not affect any private real property interests 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. Therefore, this proposal does not constitute a taking or require a takings impact assessment under the Government Code §2007.043.

**6. REQUEST FOR PUBLIC COMMENT.** If you want TDI to consider written comments on the proposal, you must submit them no later than 5:00 p.m. on June 25, 2012 to Sara Waitt, General Counsel, Mail Code 113-2A, Texas Department of Insurance, P. O. Box 149104, Austin, Texas 78714-9104. You must simultaneously submit an additional copy of the comment to Melissa Hield, Associate Commissioner, Consumer Protection Section, Mail Code 111-1A, Texas Department of Insurance, P.O. Box 149104, Austin, Texas 78714-9104. You should separately submit any request for a public hearing to the Office of the Chief Clerk, Mail Code 113-2A, Texas Department of Insurance, P. O. Box 149104, Austin, Texas 78714-9104, before the close of the public comment period. If TDI holds a hearing, TDI will consider written and oral comments presented at the hearing.

**7. STATUTORY AUTHORITY.** TDI proposes the new section pursuant to the Insurance Code §§521.051, 521.052, and 36.001. Section 521.051 requires TDI to maintain a toll-free telephone number to provide the information described by the Insurance Code §521.052 and receive and aid in resolving complaints against insurers.

Section 521.052 requires TDI to provide to the public through its toll-free telephone information specified by the section, including information TDI collects or maintains relating to the number and disposition of complaints received against an insurer that are justified, verified as accurate, and documented as valid. Section 36.001 provides that the commissioner of insurance 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.

**8. CROSS REFERENCE TO STATUTE.** The proposal affects the following statutes:

<u>Rule</u>	<u>Statute</u>
§1.603	Insurance Code §521.052

**9. TEXT.**

**§1.603. Complaint Information Available through the Texas Department of Insurance's Toll-Free Telephone Number.**

(a) The Texas Department of Insurance (department) will provide to the public through its toll-free telephone number the information specified by the Insurance Code §521.052, including information collected or maintained by the department relating to the number and disposition of complaints received against an insurer that are justified, verified as accurate, and documented as valid.

(b) The department considers a complaint justified if the complaint is a confirmed complaint.

(c) A “confirmed complaint” is a complaint for which the department receives information indicating that:

(1) an insurer committed any violation of:

(A) an applicable state insurance law or regulation;

(B) a federal requirement the department has authority to enforce;

or

(C) the term or condition of an insurance policy or certificate; or

(2) the complaint and insurer’s response, considered together, suggest that the insurer was in error or that the complainant had a valid reason for the complaint.

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