

**SUBCHAPTER FF. CREDIT LIFE AND CREDIT ACCIDENT AND HEALTH
INSURANCE
DIVISION 10. RESPONSIBILITIES AND OBLIGATIONS OF INSURANCE
COMPANIES AND THEIR AGENTS AND REPRESENTATIVES
28 TAC §3.6011**

1. INTRODUCTION. The Texas Department of Insurance proposes amendments to Title 28 Texas Administrative Code (28 TAC) §3.6011, concerning the responsibility and obligation of insurers to provide copies of *Consumer Bill of Rights for Credit Life, Credit Disability, & Involuntary Unemployment Insurance* to each insured. The amendments are necessary to reflect updated law and contact information and to make the existing bill of rights document more consumer-friendly.

Insurance Code §501.156 requires the Office of Public Insurance Counsel (OPIC) to submit to the department for adoption a consumer bill of rights appropriate to each personal line of insurance regulated by the department. The Consumer Bill of Rights is required to be distributed to each policyholder on issuance of a policy by an insurer. The department regulates credit life, credit disability, and credit involuntary unemployment insurance under Insurance Code Chapter 1153. On May 3, 2012, the department received a petition from OPIC, requesting the adoption of a revised *Consumer Bill of Rights for Credit Life, Credit Disability, and Credit Involuntary Unemployment Insurance* (Consumer Bill of Rights). Copies of the Consumer Bill of Rights petition filed by OPIC are available for review on written request to the Office of the Chief Clerk, Texas Department of Insurance, 333 Guadalupe Street, Austin, Texas 78714-9104.

The current Consumer Bill of Rights was adopted in §3.6011 to be effective October 1, 1993 (18 TexReg 6546). This proposal to amend §3.6011 is necessary to ensure that current and future policyholders of credit life, credit disability, and credit involuntary unemployment insurance receive accurate information and are properly informed of their rights. Proposed §3.6011 adopts by reference the revised Consumer Bill of Rights.

The updates address legislative changes affecting consumers that have occurred since the adoption of the current version of the Consumer Bill of Rights. The proposed revised Consumer Bill of Rights also adds notice of some rights applicable to credit life, credit disability, and credit involuntary unemployment insurance that are not included in the current version of the Consumer Bill of Rights. Finally, the proposed revised Consumer Bill of Rights updates contact information and makes editorial changes to the text of the current Consumer Bill of Rights.

Amendments to the title of the section and subsections (a) – (c) of §3.6011 are proposed to change references from “involuntary unemployment insurance” to “credit involuntary unemployment insurance.” This non-substantive change is necessary for clarity. A second amendment to §3.6011(a) changes the name of the office and mail code from which the form may be obtained. A third amendment to §3.6011(a) updates the department’s website address.

An amendment to §3.6011(c) adopts by reference the Spanish language version of the Consumer Bill of Rights. A second amendment to §3.6011(c) changes the name of the office from which the Spanish language version of the form may be obtained. A

third amendment to §3.6011(c) updates the department's website address. Finally, some amendments to §3.6011 make editorial changes to the text of the rule.

2. FISCAL NOTE. Jan Graeber, director/chief actuary, Rate and Form Review Office, has determined that, for each year of the first five years the proposed section is in effect, there will be no fiscal impact on state or local government 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. Graeber also has determined that for each year of the first five years the proposed section is in effect, the public benefits anticipated as a result of the proposal are increased consumer education and the facilitation of awareness by current and future policyholders of credit life, credit disability, and credit involuntary unemployment insurance of updated information summarizing their rights regarding the credit insurance. The updated Consumer Bill of Rights will clarify consumer rights and provide updated contact information for the department. These changes will result in greater ease of use and readability of the Consumer Bill of Rights.

Analysis of Potential Costs for Persons Required to Comply with the Proposal

Insurers are required to comply with the proposal and deliver the Consumer Bill of Rights to current and future policyholders and to deliver the Spanish language version of the Consumer Bill of Rights upon a consumer's request. Because the proposed amendments update existing documents already required to be provided with

insurance policies or upon request, they do not impose any new duties. The amendments may result in printing costs for updating the existing Consumer Bill of Rights and mailing costs for any additional postage to the extent the new versions are a different number of pages than the original. If an insurer has an existing stock of the previously adopted versions of the Consumer Bill of Rights, the department expects the cost to replace the existing stock to be between 6 cents and 8 cents per page for printing and paper. The number of pages required will depend on the amount of existing stock. The department expects that the insurer will have the information necessary to determine its individual cost, including the number of pages to be printed, in-house printing costs, and out-of-house printing costs.

Insurers must provide policyholders with copies of the updated Consumer Bill of Rights with each new policy and certificate and upon renewal. Because the Consumer Bill of Rights is about four pages long, the department estimates that the cost per new policy and certificate, renewal, or request for the Spanish language version, will be between 24 cents and 32 cents plus any marginal increase in postage. An insurer's overall cost of complying with this requirement will vary depending on the number of notices that the insurer provides.

4. ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS FOR SMALL AND MICRO BUSINESSES. Government Code §2006.002(c) provides that if a proposed rule may have an economic impact on small businesses, state agencies must prepare as part of the rulemaking process an economic impact statement that assesses the potential impact of the proposed rule on small businesses

and a regulatory flexibility analysis that considers alternative methods of achieving the purpose of the rule. Government Code §2006.001(2) defines “small business” as a legal entity, including a corporation, partnership, or sole proprietorship, that is formed for the purpose of making a profit; is independently owned and operated; and has fewer than 100 employees or less than \$6 million in annual gross receipts. Government Code §2006.001(1) defines a “micro business” as a legal entity, including a corporation, partnership, or sole proprietorship, that is formed for the purpose of making a profit; is independently owned and operated; and has not more than 20 employees. Government Code §2006.002(f) requires a state agency to adopt provisions concerning micro businesses that are uniform with those provisions outlined in Government Code §2006.002(b) – (d) for small businesses.

In accordance with Government Code §2006.002(c), the department has determined that the proposal may have an adverse economic impact on small and micro businesses that sell credit life, credit disability, and credit involuntary unemployment insurance coverage. The department has determined that approximately 56 carriers have filed credit insurance policy forms with the department in the past ten years. The department believes that one or more of the 56 carriers is a small or micro business pursuant to Government Code §2006.002(c). The adverse economic impact results from the costs associated with the requirement to print and distribute the Consumer Bill of Rights. These costs are stated in the public benefit/cost Note part of this proposal.

The department, in accordance with Government Code §2006.002(c-1), has considered the following alternative methods of achieving the purpose of the proposed

rule: (i) reduce the length of the Consumer Bill of Rights for small and micro business insurers writing personal lines credit life, credit disability, and credit involuntary unemployment insurance insurance coverage; or (ii) exempt small and micro business insurers from providing copies of the revised Consumer Bill of Rights to existing policyholders upon renewal.

The department has determined that these alternatives for small and micro businesses are neither legal nor feasible because the purpose of the Consumer Bill of Rights is to ensure that current and future policyholders of personal credit life, credit disability, and credit involuntary unemployment insurance receive accurate information and are properly informed of their rights. Providing a shortened version of the Consumer Bill of Rights or not providing a Consumer Bill of Rights at all would leave out important consumer information and impede consumer access to current rights regarding credit insurance. Either alternative would frustrate the purpose of Insurance Code §501.156 and would be inconsistent with the health, safety, environmental, and economic welfare of the state.

5. TAKINGS IMPACT ASSESSMENT. The department 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 and, therefore, does not constitute a taking or require a takings impact assessment under Government Code §2007.043.

6. REQUEST FOR PUBLIC COMMENT. To be considered, written comments on the proposal must be submitted no later than 5:00 p.m., CST on August 6, 2012, to Sara Waitt, General Counsel, by email at: chiefclerk@tdi.state.tx.us or by mail at: Mail Code 113-2A, Texas Department of Insurance, P.O. Box 149104, Austin, Texas 78714-9104. An additional copy of the comments must be submitted simultaneously to Jan Graeber, by email at: LHLcomments@tdi.state.tx.us or by mail at: Rate and Form Review Office, Mail Code 106-1A, Texas Department of Insurance, P.O. Box 149104, Austin, Texas 78714-9104. Any request for a public hearing must be submitted separately to the Office of 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 a hearing is held, written and oral comments presented at the hearing will be considered.

7. STATUTORY AUTHORITY. The amendments are proposed pursuant to Insurance Code §501.156 and §36.001. Section 501.156 requires OPIC to submit to the department for adoption a consumer bill of rights appropriate to each personal line of insurance regulated by the department to be distributed on issuance of a policy by an insurer to each policyholder. Section 36.001 provides that the commissioner of insurance may adopt any rules necessary and appropriate to implement the powers and duties of the department under the Insurance Code and other laws of this state.

8. CROSS REFERENCE TO STATUTE. The proposed amendments implement the following statute:

Rule

Statute

§3.6011

Insurance Code §§501.156

9. TEXT.

§3.6011. Responsibility and Obligation of Insurers to Provide Copies of Consumer Bill of Rights for Credit Life, Credit Disability, and Credit Involuntary Unemployment Insurance to Each Insured.

(a) The commissioner adopts by reference the Consumer Bill of Rights for Credit Life, Credit Disability, and Credit Involuntary Unemployment Insurance form. All insurers writing credit life, credit disability, and credit involuntary unemployment insurance policies must provide with each new policy and certificate of credit life, credit disability, and credit involuntary unemployment insurance a copy of the Texas Department of Insurance Consumer Bill of Rights for Credit Life, Credit Disability, and Credit Involuntary Unemployment Insurance. This form is filed with the Office of the Secretary of State, Texas Register Section. The form can be obtained from the Texas Department of Insurance, Rate and Form Review Office [~~Filings Intake Division~~], MC 106-1A [~~406-4E~~], P.O. Box 149104, Austin, Texas 78714-9104. The form can also be obtained from the department's internet web site at <http://www.tdi.texas.gov> [~~http://www.tdi.state.tx.us~~]. The Consumer Bill of Rights for Credit Life, Credit Disability, and Credit Involuntary Unemployment Insurance shall accompany each renewal notice for credit life, credit disability, and credit involuntary unemployment insurance unless the current version of the form has been previously provided to the insured by the insurer.

(b) Insurers may reproduce the Consumer Bill of Rights for Credit Life, Credit Disability, and Credit Involuntary Unemployment Insurance for the distribution required by subsection (a) of this section. Alternatively, insurers may generate it on their own equipment. If the Consumer Bill of Rights for Credit Life, Credit Disability, and Credit Involuntary Unemployment Insurance is generated by the insurers, it must appear in no less than 10-point type and be on separate pages with no other text on those pages.

(c) The commissioner adopts by reference the Spanish language version of the Consumer Bill of Rights for Credit Life, Credit Disability, and Credit Involuntary Unemployment Insurance form. The Texas Department of Insurance has promulgated a Spanish language version of this form [~~the Consumer Bill of Rights~~], which is filed with the Secretary of State's Office. The Spanish language version of the Consumer Bill of Rights for Credit Life, Credit Disability, and Credit Involuntary Unemployment Insurance [~~Consumer Bill of Rights~~] must be provided to any consumer who requests it from the company. The form can be obtained from the Texas Department of Insurance, Rate and Form Review Office [~~Filings Intake Division~~], MC 106-1A [~~106-1E~~], P.O. Box 149104, Austin, Texas 78714-9104. The form can also be obtained from the department's internet web site at <http://www.tdi.texas.gov> [~~<http://www.tdi.state.tx.us>~~].

(d) (No change.)