

SUBCHAPTER W. CONSUMER PROTECTION REQUIREMENTS
Consumer Bills of Rights
28 TAC §5.9970

1. INTRODUCTION. The Texas Department of Insurance (TDI) proposes amendments to Subchapter W, §5.9970, concerning the Consumer Bills of Rights. TDI received petitions from the Office of Public Insurance Counsel (OPIC), requesting the adoption of revised Consumer Bills of Rights for Personal Automobile Insurance (BRPA) and Homeowners, Dwelling, and Renters Insurance (BRHO). 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. An insurer must distribute the appropriate bill of rights to each policyholder upon issuance of a policy under TDI rules.

The revised BRPA and BRHO are necessary to ensure that insurers distribute up-to-date consumer rights information to current and future policyholders. The Spanish language translations of the revised BRPA and BRHO ensure that the information is available to policyholders whose primary language is Spanish. The revised bills of rights are set forth in FIGURE 1: 28 TAC §5.9970(b), FIGURE 2: 28 TAC §5.9970(b), FIGURE 1: 28 TAC §5.9970(d), and FIGURE 2: 28 TAC §5.9970(d) of this proposal. TDI adopted the current versions of the BRPA and BRHO on April 19, 2005. The revisions contain changes due to legislative acts and regulatory actions that affect the rights of insurance consumers. The proposal also incorporates nonsubstantive editorial changes.

You may review copies of the petitions at the Office of the Chief Clerk, Texas Department of Insurance, 333 Guadalupe Street, Austin, Texas 78714-9104. OPIC filed

the final amended petitions on August 14, 2009, under file number A-0308-06 for BRPA and file number P-0808-14 for BRHO. After amending the figures at TDI's request, OPIC submitted the final figures on April 10, 2012. OPIC completed its review of the Spanish translations of the final figures on April 17, 2012. To request copies of the petitions, please contact the Office of the Chief Clerk.

2. FISCAL NOTE. Marilyn Hamilton, Director of the Personal and Commercial Lines Office for the Property and Casualty Section, has determined that, for each year of the first five years the proposed section is in effect, there will be no fiscal impact to state and local governments as a result of the enforcement or administration of this proposal. Ms. Hamilton does not anticipate any measurable effect on local employment or the local economy as a result of the proposal.

3. PUBLIC BENEFIT/COST NOTE. Ms. Hamilton has also determined that, for each year of the first five years the proposed amendments are in effect, there will be significant public benefits as a result of enforcing or administering the proposed amendments. The expected benefits include the provision of an accurate summary of current and future policyholders' rights with regard to their personal automobile insurance and homeowners, dwelling, and renters insurance policies; and the facilitation of public awareness of insurance consumer rights.

Insurers are required to comply with the proposal and deliver the BRPA and BRHO to current and future policyholders. Because the proposed amendments update existing documents already required to be provided with insurance policies, they do not

impose any new duties with regard to new policies. If an insurer has an existing stock of the previously adopted versions of the BRPA and BRHO, TDI expects the cost to replace the existing stock to be between \$0.06 and \$0.08 per page for printing and paper. The total cost to insurers will depend on the amount of existing stock. TDI 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 BRPA and BRHO at the first renewal after the proposal goes into effect. Because the BRPA and BRHO are each about 10 pages long, TDI estimates that the cost per renewal will be between \$0.60 and \$0.80 plus any marginal increase in postage. An insurer's cost of complying with this requirement will vary depending on the number of renewals that the insurer provides.

4. ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS FOR SMALL AND MICRO BUSINESSES.

As stated in the cost note, TDI has determined that the proposed amendments to §5.9970 will result in minimal additional costs per policy. TDI estimates that there are approximately 25-50 affected small or micro businesses. The total cost to an insurer in providing the updated BRPA and BRHO to its policyholders is not wholly dependent on the size of the insurer. Instead, it depends on the insurer's number of current and future policyholders.

In accordance with Government Code §2006.002(c-1), TDI has determined that even though the proposal may have an adverse economic effect on small or micro businesses that are required to comply with the proposal, the proposal does not require a regulatory flexibility analysis under §2006.002(c)(2). Section 2006.002(c-1) requires that an agency consider alternative regulatory methods only if the alternative methods would be consistent with the health, safety, and environmental and economic welfare of the state.

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, and it requires that the bills of rights be distributed on issuance of a policy by an insurer under TDI rules. Therefore, it is neither legal nor feasible to exempt small or micro businesses or to waive their compliance with §5.9970. Additionally, the purpose of the consumer bills of rights is to notify each policyholder of the rights applicable to each personal line of insurance. Any variance from the statutory purpose of informing policyholders of their rights would not be consistent with the health, safety, and environmental and economic welfare of the state, and TDI has not considered alternative regulatory methods.

5. TAKINGS IMPACT ASSESSMENT. 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. Therefore, this proposal does not constitute a taking or require a takings impact assessment under Government Code §2007.043.

6. REQUEST FOR PUBLIC COMMENT. If you wish to comment on the proposal, or to request a public hearing, you must do so in writing no later than 5:00 p.m. on June 4, 2012. A hearing request must be on a separate page from any written comments. TDI requires two copies of your comments or hearing request. Send one copy to the Office of the Chief Clerk, Mail Code 113-2A, Texas Department of Insurance, P. O. Box 149104, Austin, Texas 78714-9104. Send the other copy to Marilyn Hamilton, Director, Personal and Commercial Lines Office, Property and Casualty Section, Mail Code 104-PC, Texas Department of Insurance, P.O. Box 149104, Austin, Texas 78714-9104.

7. STATUTORY AUTHORITY. TDI proposes the amendments pursuant to Insurance Code §§501.156, 2301.052, 2301.055, and 36.001. Section 501.156 requires OPIC to submit to TDI for adoption a consumer bill of rights appropriate to each personal line of insurance TDI regulates. These bills of rights are to be distributed on issuance of a policy by an insurer to each policyholder under TDI rules. Section 2301.052(a) states that, notwithstanding any other provision of the Insurance Code and except under specific circumstances, Chapter 2301, Subchapter A applies to an insurer with respect to insurance policy forms and endorsements for personal automobile insurance and residential property insurance. Section 2301.055 grants the Commissioner the authority to adopt reasonable and necessary rules to implement Subchapter A. 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.

8. CROSS REFERENCE TO STATUTE. The proposal relates to the following statutes:

<u>Rule</u>	<u>Statute</u>
§5.9970	Insurance Code §§501.156, 2301.052, 2301.055, and 36.001

9. TEXT.

§5.9970. Responsibility and Obligation of Insurers To Provide Copies of the Consumer Bills of Rights to Each Insured for Personal Automobile Insurance and for Homeowners, Dwelling and Renters Insurance.

(a) For purposes of this section, insurer(s) 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 or residential property insurance in this state. The term includes an affiliate, as described by §823.003(a) of the Insurance Code, if that affiliate is authorized to write and is writing personal automobile insurance or residential property insurance in this state.

(b) The Texas Department of Insurance adopts the "Consumer Bill of Rights Personal Automobile Insurance" (BRPA – Revised 2012[~~2005~~]), and the Spanish language translation:[,]

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 BRPA – Revised

2012.~~["Consumer Bill of Rights Personal Automobile Insurance."] The insurer must provide the BRPA – Revised 2012 [The Consumer Bill of Rights shall accompany] with each renewal notice for personal automobile insurance unless the insurer has previously provided the insured with the BRPA – Revised 2012~~[the adopted version of the Consumer Bill of Rights as set forth in subsection (b) of this section has been previously provided to the insured by the insurer].~~ The BRPA – Revised 2012 ~~[Consumer Bill of Rights]~~ must appear in no less than 10 point type and be on separate pages with no other text on those pages. The insurer must provide the Spanish language version of the BRPA – Revised 2012 ~~[Consumer Bill of Rights Personal Automobile Insurance must be provided]~~ to any consumer who requests it from the insurer. You may request a^A copy of the BRPA – Revised 2012 ~~[Consumer Bill of Rights Personal Automobile Insurance can be obtained]~~ from the Texas Department of Insurance, Mail Code ~~[MC]~~ 104-1A, P.O. Box 149104, Austin, Texas 78714-9104 or from the Texas Department of Insurance website at www.tdi.texas.gov~~[www.tdi.state.tx.us]~~.~~

(d) The Texas Department of Insurance adopts the "Consumer Bill of Rights Homeowners, Dwelling and Renters Insurance" (BRHO – Revised 2012~~[2005]~~), and the Spanish language translation:

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

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

(e) All insurers writing homeowners, renters, or dwelling insurance must provide with each new policy of any such insurance a copy of the BRHO – Revised 2012. ~~["Consumer Bill of Rights Homeowners, Dwelling and Renters Insurance."] The insurer~~

must provide the BRHO – Revised 2012 ~~[The Consumer Bill of Rights shall accompany]~~
with each renewal notice for any such insurance unless the insurer has previously
provided the insured with the BRHO – Revised 2012~~[the adopted version of the~~
~~Consumer Bill of Rights as set forth in subsection (d) of this section has been previously~~
~~provided to the insured by the insurer]~~. The BRHO – Revised 2012 ~~[Consumer Bill of~~
~~Rights]~~ must appear in no less than 10 point type and be on separate pages with no
other text on those pages. The insurer must provide the Spanish language version of
the BRHO – Revised 2012 ~~[Consumer Bill of Rights Homeowners, Dwelling and~~
~~Renters Insurance must be provided]~~ to any consumer who requests it from the insurer.
You may request a~~[A]~~ copy of the BRHO – Revised 2012 ~~[Consumer Bill of Rights~~
~~Homeowners, Dwelling and Renters Insurance can be obtained]~~ from the Texas
Department of Insurance, Mail Code ~~[MG]~~ 104-1A, P.O. Box 149104, Austin, Texas
78714-9104 or from the Texas Department of Insurance website at
www.tdi.texas.gov~~[www.tdi.state.tx.us]~~.