

No. **2021-6915**

**Official Order  
of the  
Texas Commissioner of Insurance**

**Date: 07/09/2021**

**Subject considered:**

**Amendment to the *Texas Statistical Plan for Residential Risks***

**NUNC PRO TUNC ORDER**

The Texas Department of Insurance (TDI) considered an amendment to correct the effective date on Exhibit A to Commissioner's Order No. 2021-6765. The order adopted amendments to the *Texas Statistical Plan for Residential Risks* (Plan) under Texas Insurance Code Article 5.96.

The amended Plan, attached as Exhibit A to Order No. 2021-6765, mistakenly had an effective date of January 1, 2022, when the order specified an effective date of July 1, 2022.

TDI orders that Commissioner's Order No. 2021-6765 be amended nunc pro tunc to correct the effective date of the amended Plan as found on page 1 in Exhibit A of Order No. 2021-6765 and change the effective date to "July 1, 2022."

The corrected amended Plan is attached to this order as Exhibit A. The text of the original order remains the same and reads as follows:

The Commissioner adopts the amended Plan as proposed on December 25, 2020, under Texas Insurance Code Article 5.96, with no changes. A copy of the amended Plan is attached as Exhibit A.

**Background**

The Plan instructs residential property insurers how to report premium and loss experience data. Since 2003, the residential property insurance market has changed with respect to the rating variables insurers use and how insurers rate residential property policies. The Texas Department of Insurance (TDI) last updated the Plan in 2017 to address

# 2021-6915

Commissioner's Order

Amendments to the Texas Statistical Plan for Residential Risks – Nunc Pro Tunc Order

Docket No. 2825

Page 2 of 6

depopulation of the Texas Windstorm Insurance Association and to add reporting codes made available by the statistical agent.

The Plan must be updated because it still contains coding and references to the benchmark rating system, as well as discount and rating factors contained in the Texas Personal Lines Manual (TPLM). The TPLM became obsolete when the Texas Legislature eliminated the benchmark rating system.

On December 10, 2020, TDI filed a petition to propose amendments to the Plan and assigned the filing petition number I-1220-12. TDI filed notice of the petition with the secretary of state on December 15, 2020, and the notice appeared in the December 25, 2020, issue of the *Texas Register*, 45 TexReg 9597. The notice included a comment deadline of January 31, 2021.

As amended consistent with the petition, the Plan will:

1. eliminate obsolete submission methods, references, and coding;
2. add coding that reflects changes in the residential property market and provides information about claims reported, closed with payment, and closed without payment;
3. eliminate the requirement that insurers report certain individual optional credits, and instead require insurers to report information about certain rating variables; and
4. make nonsubstantive changes to reflect current practices and clarify how insurers should report data in certain circumstances.

The notice filed with the *Texas Register* provided information to the public about how to comment on the filing and set a public hearing for January 27, 2021. No comments were presented at the hearing. However, TDI received written comments on the proposal from Chubb, Ltd. (Chubb), the United Services Automobile Association (USAA), and the National Association of Mutual Insurance Companies (NAMIC).

## Comments

### Chubb Comment

Chubb commented that implementing the reporting changes by January 1, 2022, would be difficult and that migration to the proposed Plan should be based on policy effective date rather than accounting date.

### TDI Response

TDI will implement the changes on an accounting date and not a policy effective date as suggested. Migrating to the new plan on a policy effective date would

## 2021-6915

Commissioner's Order

Amendments to the Texas Statistical Plan for Residential Risks – Nunc Pro Tunc Order

Docket No. 2825

Page 3 of 6

make reporting unnecessarily complicated for a year or more because the carriers will have to report two different sets of data for parts of the year where the new Plan is effective and parts of the year under the current Plan. Most companies would have to dual-report for at least a year. Not only would that increase the burden for companies but it would also increase the data collection and reporting burden for TDI and its statistical agent.

### **USAA Comment**

USAA commented that it would be difficult to provide a true "Reopened Claim Count" because USAA companies constantly reopen and reclose claims.

USAA also expressed concern that "Position 175" in the premium record of the proposed Plan requires companies to assign a code indicating how the age of home affects rating of the policy being reported. USAA advises that its reporting systems do not identify or capture whether the age of home results in a surcharge or discount. USAA suggests adding a new code that would identify when it is not possible to determine an overall rating factor when rating age of home.

### **TDI Response**

TDI recognizes that some companies may reopen and reclose claims for technical or internal reasons that do not reflect an actual change in the expectation for making additional indemnity payments. Therefore, the Plan does not require a cumulative count of the total number of times a claim has been reopened.

TDI disagrees that adding a code is necessary because there is already a code (Code 4) in the Plan that a company can use to report that no specific factor was applied to a policy but the variable was used to place the policy in a rating tier. Having two codes with overlapping meanings is undesirable because it will lead to inconsistent reporting. Adding a code for USAA's specific situation would not add enough benefit to justify the additional complexity for reporting this distinction.

### **NAMIC Comment**

NAMIC believes that many of the changes proposed will require programming and testing before data can be reported. Some of the changes will require reporting of data in a way that is not captured or classified by all companies in a compatible format and will increase Texas-specific reporting for companies operating in multiple states. NAMIC proposes that TDI hold another informal process after the legislative session or for TDI to give companies as much time as possible to implement the changes, such as an implementation date of January 1, 2023.

# 2021-6915

Commissioner's Order

Amendments to the Texas Statistical Plan for Residential Risks – Nunc Pro Tunc Order

Docket No. 2825

Page 4 of 6

## TDI Response

TDI proposed this plan informally in 2018 and 2020, along with the formal proposal in 2020. All stakeholders have had several opportunities to comment. TDI believes an implementation date of July 1, 2022, will give companies enough time to prepare.

The following findings of fact and conclusions of law are adopted:

### Findings of Fact

1. On December 10, 2020, TDI filed a petition to propose amendments to the Plan.
2. TDI assigned petition number I-1220-12 to the filing.
3. A copy of the full text of the staff petition, proposed amended Plan, and related exhibits have been on file with the TDI chief clerk since December 10, 2020.
4. TDI filed notice of the petition with the secretary of state on December 15, 2020, and the notice appeared in the December 25, 2020, issue of the *Texas Register*, 45 TexReg 9597. The notice provided information to the public about how to comment on the filing.
5. On January 27, 2021, TDI held a hearing for public comment, and no comments were presented at the hearing. However, TDI did receive written comments from Chubb, USAA, and NAMIC before the January 31, 2021, deadline.

### Conclusions of Law

1. TDI is authorized to adopt the proposed Plan under Texas Insurance Code Article 5.96 and Texas Insurance Code §§38.202, 38.204(a), 38.205, 38.207, and 36.001.
2. Texas Insurance Code Article 5.96(a) authorizes the Commissioner to promulgate, adopt, approve, or amend standard and uniform manual rules, rating plans, classification plans, statistical plan, and policy and endorsement forms for various lines of insurance, including fire and allied lines insurance.
3. Texas Insurance Code §38.202 allows the Commissioner, for a line or subline of insurance, to designate or contract with a qualified organization to serve as the statistical agent for the Commissioner to gather data relevant for regulatory purposes.
4. Texas Insurance Code §38.204(a) provides that a designated statistical agent must collect data from reporting insurers under a statistical plan adopted by the Commissioner.

# 2021-6915

Commissioner's Order

Amendments to the Texas Statistical Plan for Residential Risks – Nunc Pro Tunc Order

Docket No. 2825

Page 5 of 6

5. Texas Insurance Code §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.
6. Texas Insurance Code §38.207 authorizes the Commissioner to adopt rules necessary to accomplish the purposes of Texas Insurance Code Chapter 38, Subchapter E, relating to statistical data collection.
7. Texas 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.
8. Texas Insurance Code Article 5.96 exempts action taken under this article from the requirements of the Administrative Procedure Act (Government Code, Title 10, Chapter 2001).

## Order

It is ordered that:

1. The obsolete submission methods, references, and coding are eliminated as described in Section III (1) of the petition and reflected in the attached amended Plan.
2. New codes are added as described in Section III (2) of the petition and reflected in the attached amended Plan.
3. Entities are no longer required to report certain individual optional credits, and instead are required to report information about certain rating variables as described in Section III (3) of the petition and reflected in the attached amended Plan.
4. Nonsubstantive changes to reflect current TDI style and to clarify how insurers should report data in certain circumstances are adopted as described in Section III (4) of the petition and reflected in the attached amended Plan.
5. TDI adopts the changes to the Texas Statistical Plan for Residential Risks, under Texas Insurance Code Article 5.96.
6. TDI adopts the changes to Texas Statistical Plan for Residential Risks as proposed on December 10, 2020, by TDI staff Petition No. I-1220-12 with effective reporting periods beginning on or after July 1, 2022. Reports required to be filed with TDI for reporting periods before that date are governed by the Plan in effect on the starting date of the reporting period.

# 2021-6915

Commissioner's Order

Amendments to the Texas Statistical Plan for Residential Risks – Nunc Pro Tunc Order

Docket No. 2825

Page 6 of 6

Commissioner of Insurance

DocuSigned by:

By:

*Doug Slape*

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Doug Slape

Chief Deputy Commissioner

Tex. Gov't Code §601.002

Commissioner's Order No. 2018-5528

Recommended by:

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*Mark Worman*

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Mark Worman, Deputy Commissioner

Reviewed by:

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*Richard Gober*

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Richard Gober, Staff Attorney