

SUBCHAPTER D. FIRE AND ALLIED LINES INSURANCE
DIVISION 5. PREMIUM REDUCTION CERTIFICATE UNDER THE INSURANCE CODE, ARTICLE 5.33A
28 TAC §5.3401

INTRODUCTION. The Texas Department of Insurance proposes the repeal of 28 TAC Chapter 5, Subchapter D, Division 5, §5.3401 concerning premium reduction certificates under Insurance Code, Article 5.33A. The repeal is necessary because Senate Bill 14, 78th Legislature, Regular Session (2003), repealed Article 5.33A, effective June 11, 2003. Former Insurance Code, Article 5.33A formed the statutory basis for 28 TAC Chapter 5, Subchapter D, Division 5, §5.3401.

EXPLANATION. Title 28 TAC Chapter 5, Subchapter D, Division 5, §5.3401 adopted the premium reduction certificate by reference to implement former Insurance Code, Article 5.33A, effective October 1, 1982. Article 5.33A required TDI to issue a premium reduction certificate to a homeowner who submitted an inspection report certifying that the homeowner had installed certain safety and security devices. With the passage of SB 14, 28 TAC Chapter 5, Subchapter D, Division 5, §5.3401 became an obsolete regulation.

FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT. Mark Worman, Associate Commissioner, Regulatory Policy Division, has determined that during each year of the first five years that the proposed repeal is in effect, there will be no fiscal impact on state or local government as a result of enforcing or administering the section. There will be no measurable effect on local employment or the local economy as a result of the proposal.

PUBLIC BENEFIT AND COST NOTE. Mr. Worman has also determined that for each year of the first five years the repeal of 28 TAC Chapter 5, Subchapter D, Division 5, §5.3401 is in effect, the public benefit anticipated as a result of administration and enforcement of the repealed division and section will be the elimination of an obsolete regulation. Additionally, TDI will be able to better utilize agency resources to benefit its customers. There is no anticipated economic cost to persons who are required to comply

with the proposed repeal. There is no anticipated difference in cost of compliance between small and large businesses.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS FOR SMALL AND MICRO

BUSINESSES. In accordance with Government Code §2006.002(c), TDI has determined that this proposed repeal will not have an adverse economic effect on small or micro business carriers because it is simply a repeal of an obsolete rule. Therefore, in accordance with Government Code §2006.002(c), TDI is not required to prepare a regulatory flexibility analysis.

TAKINGS IMPACT ASSESSMENT. TDI has determined that no private real property interests are affected by this proposal and 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.

REQUEST FOR PUBLIC COMMENT. If you wish to comment on this proposal you must do so in writing no later than 5 p.m., Central time, on January 19, 2016. Comments should be mailed to the Texas Department of Insurance, Office of the Chief Clerk, MC-113-2A, P.O. Box 149104, Austin, Texas 78714-9104; or by email to chiefclerk@tdi.texas.gov. You must simultaneously submit an additional copy of the comments to Texas Department of Insurance, Mark Worman, Associate Commissioner, Regulatory Policy Division, MC-104-PC, P.O. Box 149104, Austin, Texas 78714-9104; or by email to mark.worman@tdi.texas.gov. You must separately submit any request for a public hearing to the Texas Department of Insurance, Office of the Chief Clerk, MC-113-2A, P.O. Box 149104, Austin, Texas 78714-9104; or by email to chiefclerk@tdi.texas.gov before the close of the public comment period. If a hearing is held, written and oral comments presented at the hearing will be considered.

STATUTORY AUTHORITY. The repeal of 28 TAC Chapter 5, Subchapter D, Division 5, §5.3401 is proposed under SB 14, 78th Legislature, Regular Session, effective June 11, 2003, and Insurance Code §36.001. SB 14 repealed Article 5.33A, which formed the statutory basis for 28 TAC Chapter 5, Subchapter D, Division 5, §5.3401. 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.

CROSS REFERENCE TO STATUTE. The following statutes are affected by this proposal: Insurance Code §36.001.

TEXT.

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DIVISION 5. PREMIUM REDUCTION CERTIFICATE UNDER THE INSURANCE CODE, ARTICLE 5.33A

§5.3401. Prescribed Certificate under the Insurance Code, Article 5.33A

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

Issued at Austin, Texas, on December 1, 2015.



Norma Garcia
General Counsel
Texas Department of Insurance