Subchapter G. Taxes, Surcharges, and Fees
28 TAC §6.601

INTRODUCTION. The Texas Department of Insurance (TDI) proposes to amend 28 TAC §6.601, concerning the waiver of workers' compensation surcharge. The amendments to §6.601 implement Senate Bill 1455, 89th Legislature, 2025.

EXPLANATION. Amending §6.601 is necessary to implement SB 1455, which amended the Insurance Code and Labor Code to replace the collection of maintenance taxes for workers' compensation insurance policies with the collection of workers' compensation surcharges.

The amendments to §6.601 add to its title "Surcharges and Fees" to more fully reflect the text of the section, and add "surcharges" to follow "taxes" in addressing what a redomesticating foreign or alien captive insurance company may request the commissioner to waive under subsection (d) and add the phrase "workers' compensation surcharges" to the items in the list that follow it. The amendments also make nonsubstantive changes for plain language and to adhere to current agency style.

FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT. Amy Maddox, chief financial officer of the Financial Services Office in the Administrative Operations Division, has determined that during each year of the first five years the proposed amendments are in effect, there will be no measurable fiscal impact on state and local governments as a result of enforcing or administering the amendments, other than that imposed by statute. Ms. Maddox made this determination because the proposed amendments do not add to or decrease state revenues or expenditures, and because local governments are not involved in enforcing or complying with the proposed amendments.

Ms. Maddox does not anticipate any measurable effect on local employment or the local economy as a result of this proposal.

PUBLIC BENEFIT AND COST NOTE. For each year of the first five years the proposed amendments are in effect, Ms. Maddox expects that administering the proposed amendments will have the public benefits of ensuring that TDI's rules conform to SB 1455 and allow Texas-based workers' compensation insurers to be more competitive out of state.

Ms. Maddox expects that the proposed amendments will not increase the cost of compliance with §6.601 because it does not impose requirements beyond those in the statute. SB 1455 requires that the same maintenance taxes paid as before will now be classified as surcharges for workers' compensation insurance. As a result, the cost associated with the change of terminology required by SB 1455, does not result from the enforcement or administration of the proposed amendments.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS. TDI has determined that the proposed amendments will not have an adverse economic effect on small or micro businesses, or on rural communities. SB 1455 does not change the amount of money insurers must pay under the statute. It only changed the name of maintenance taxes to surcharges. As a result, and in accordance with Government Code §2006.002(c), TDI is not required to prepare a regulatory flexibility analysis.

EXAMINATION OF COSTS UNDER GOVERNMENT CODE §2001.0045. TDI has determined that this proposal does not impose a possible cost on regulated persons. In addition, no rule amendments are required under Government Code §2001.0045 because the proposed amendments to §6.601 are necessary to implement legislation. The proposed rule implements Insurance Code §§201.001(a), 201.051(a) and (d), 251.001(a), 251.002 - 251.004, 255.001 - 255.005, 281.006; and Labor Code §§402.076(b), 403.001 - 403.005, 405.003, 403.0055, 407.103 - 407.104, 407A.252(b), and 407A.301 - 407A.303, as added by SB 1455.

GOVERNMENT GROWTH IMPACT STATEMENT. TDI has determined that for each year of the first five years that the proposed amendments are in effect, the proposed rule:

- will not create or eliminate a government program;

- will not require the creation of new employee positions or the elimination of existing employee positions;

- will not require an increase or decrease in future legislative appropriations to the agency;

- will not require an increase or decrease in fees paid to the agency;

- will not create a new regulation;

- will not expand, limit, or repeal an existing regulation;

- will not increase or decrease the number of individuals subject to the rule's applicability; and

- will not positively or adversely affect the Texas economy.

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. As a result, this proposal does not constitute a taking or require a takings impact assessment under Government Code §2007.043.

REQUEST FOR PUBLIC COMMENT. TDI will consider any written comments on the proposal that are received by TDI no later than 5:00 p.m., central time, on August 31, 2026. Consistent with Government Code §2001.024(a)(8), TDI requests public comments on the proposal, including information related to the cost, benefit, or effect of the proposal and any applicable data, research, and analysis. Send your comments to ChiefClerk@tdi.texas.gov or to the Office of the Chief Clerk, MC: GC-CCO, Texas Department of Insurance, P.O. Box 12030, Austin, Texas 78711-2030.

The commissioner of insurance will also consider written and oral comments on the proposal in a public hearing under Docket No. 2870. This proposal will be part of a rule hearing docket that will begin at 10:00 a.m., central time, on August 25, 2026. TDI will hold the public hearing remotely using online resources and in person at the Barbara Jordan State Office Building, 1601 Congress Avenue, Austin Texas 78701 in Room 2.035. Visit www.tdi.texas.gov/alert/event/index.html for more information on the proposed rule, hearing, and comment submission.

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STATUTORY AUTHORITY. TDI proposes amendments to §6.601 under Insurance Code §§251.001, 964.069, 2051.201, and 36.001. Insurance Code §251.001 requires the commissioner to annually determine the rate of assessment of each maintenance tax or workers' compensation surcharge imposed under Title 3, Subtitle C of the Insurance Code.

Insurance Code §964.069 authorizes the commissioner to adopt reasonable rules as necessary to implement the purposes and provisions of Insurance Code Chapter 964.

Insurance Code §2051.201 authorizes the commissioner to adopt and enforce rules to carry out provisions of law referenced in §2051.002, which includes Insurance Code Chapter 251 as that chapter relates to workers' compensation insurance.

Insurance Code §36.001 authorizes the commissioner to adopt any rules necessary and appropriate to implement the powers and duties of the department under the Insurance Code and other laws of the state.

CROSS-REFERENCE TO STATUTE. Section 6.601 implements SB 1455 and Insurance Code §964.071.

TEXT.

§6.601. Waiver of Taxes<u>, Surcharges, and Fees</u>.

(a) A foreign or alien captive insurance company redomesticating from another jurisdiction may request that the commissioner postpone or waive [~~the imposition of~~] any tax or fee <u>imposed</u> under the Insurance Code for a period not to exceed two tax reporting years from the date of redomestication.

(b) The request must be in writing and submitted to the department with the application.

(c) The request must state and provide support of the benefit that licensing the captive insurance company will have for Texas, including, as applicable, employment of Texas residents, the development of real estate in Texas, economic activity in Texas, and additional taxes that will be paid in Texas.

(d) The commissioner may, in writing, grant or deny the waiver request, in whole or in part, at the commissioner's sole discretion, including granting a waiver for all or part of the two-year period and all or part of one or more of the following taxes or fees:

(1) the maintenance tax;

(2) the premium tax; [~~or~~]

(3) licensing fees<u>; or</u> [~~.~~]

<u>(4) workers' compensation surcharges.</u>

CERTIFICATION. The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Issued in Austin, Texas, on July 16, 2026.

Signed by:
Jessica Barta
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Jessica Barta, General Counsel
Texas Department of Insurance