



OFFICE OF PUBLIC INSURANCE COUNSEL

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Via Email

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Texas Department of Insurance
333 Guadalupe St.
Austin, Texas 78701

Re: Comments on Informal Working Draft for the Filings Made Easy (FME) Rule Amendments

The Office of Public Insurance Counsel (OPIC) welcomes the opportunity to comment on the Texas Department of Insurance's (TDI) proposed informal working draft for revisions to the Filings Made Easy (FME) rule. OPIC is charged by Insurance Code Chapter 501 with representing the interests of insurance consumers in this state and, among other things, appearing in matters involving rates, rules, and forms affecting property and casualty insurance.

OPIC strongly supports TDI's suggested revisions because these changes will increase transparency, make policies and coverage more understandable, and improve efficiency by making TDI's and OPIC's reviews less complicated and time-consuming. These proposed changes will also further the purposes of Insurance Code §§ 2301.001 ("ensure that the forms are not unjust, unfair, inequitable, misleading, or deceptive"), 2301.053 (ensure that "the form is written in plain language"), and 2251.001 ("prohibit excessive, inadequate, or unfairly discriminatory rates").

The following comments detail our analysis on the sections of the draft rule amendments that will be most beneficial to Texas insurance consumers

Section 5.9327(a)(2): incorporate mandatory endorsements in policy forms within three years.

OPIC supports requiring mandatory endorsements to be incorporated into policy forms within three years. OPIC is, and has been, concerned for years that voluminous and multiple endorsements, combined with the base policy form, are difficult, if not impossible, for a typical policyholder to decipher.

An insurance policy by its very nature is a long document full of technical and legal terminology. When multiple endorsements are added to an already complicated base policy, consumers are left

to sort through a daunting number of new documents full of their own confusing legalese and technical jargon. Moreover, consumers must attempt to understand which provisions are changed by each particular endorsement and struggle to figure out which amendments override which original policy provisions and/or other amendments. Layers upon layers of revisions stretching over years and years greatly reduce the likelihood that a policyholder can understand what is and what is not covered by their policy.

There must be a point at which a consumer's ability to understand the policy they have purchased to protect some of their most important assets outweighs an insurance company's desire to make adding amendments easier and cheaper for itself. Therefore, the proposed rule's requirement that mandatory endorsements be incorporated into the policy within a reasonable time provides both transparency and an important protection for Texas consumers.

Section 5.9327(a)(3): forms with provisions that do not apply to all policies must be filed with brackets and consumers will not see the provisions that do not apply to their policy.

OPIC supports requiring forms with provisions that do not apply to all policies to be filed with TDI with brackets and to only give consumers the provisions that actually apply to their policy.

Consumers must already read through policies replete with confusing legal and technical jargon. Adding endorsements with provisions that do not apply to the consumer's policy, combined with the length and technical terminology of these endorsements, makes it extremely difficult for anyone, even a person with insurance experience, to navigate through a policy and understand the coverage being provided in that policy. The proposed changes help provide Texans with policies that present their policy's coverage in the most straightforward and transparent manner.

Section 5.9327(c): requires personal auto applications to be filed with TDI.

OPIC supports TDI's proposal requiring personal auto applications to be filed with TDI either as part of the policy form, or separately for information purposes.

Many provisions in the policy rely on the information that the consumer provides to the company during the application process. OPIC and TDI must be able to confirm the degree to which the questions asked during the application process adequately assess the coverage a consumer needs. For example, a question on the application about business use needs to clearly reflect what the company considers to be business use. Consequently, requiring applications to be filed would allow OPIC and TDI to more adequately evaluate the interplay between policies and applications.

Sections 5.9332(16), 5.9334(h)(12), 5.9342(c): requiring third-party data and model information.

OPIC supports TDI's proposal requiring certain third-party data and model information to be included with each rate, rule, and underwriting guideline filing submission.

Companies frequently utilize third-party information and models in rating and underwriting. For TDI and OPIC to comprehensively fulfill their statutory duty to determine if proposed rates, rules, and underwriting guidelines meet applicable laws and regulations, they must have access to information about the models and data underlying the filings submitted by the insurers. Reviewers must be able to confirm, to the degree appropriate, that legal requirements were met in the data collection, model construction, and analysis procedures underlying the third-party data and models used. This proposed change furthers that goal. The proposed change also improves the effectiveness and efficiency of the review process by providing the applicable information at the beginning of the review, rather than forcing the agencies and insurers to engage in lengthy back and forth inquiries about the information used in the filing.

Section 5.9342(a): an initial comprehensive set of underwriting guidelines must be filed, and a comprehensive set must be included in any subsequent filing that contains any change to the underwriting guidelines

OPIC supports TDI's proposal requiring the inclusion of a comprehensive set of underwriting guidelines with each personal auto, residential property, or workers' compensation underwriting guideline filing.

Underwriting guidelines often contain interdependent elements, which cannot individually be reviewed for legal compliance. Under the present system, an underwriting guideline filing implementing a change to a portion of the guidelines often contains only the page(s) of the manual containing that component. The proposal will allow a reviewer to efficiently consider the filed change within the full context of the underwriting structure, and better identify and understand any potential legal violations.

Thank you for the opportunity to comment on the draft. OPIC believes this draft is a significant advance in consumer protection, transparency, and efficiency. We appreciate your time and consideration.

Sincerely,



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cc: Chief Clerk, Texas Department of Insurance