

September 15, 2025

Office of the Chief Clerk
MC: GC-CCO
Texas Department of Insurance
P.O. Box 12030
Austin, Texas 78711-2030
Via email: ChiefClerk@tdi.texas.gov

Re: Comments on Proposed Administrative Rule, 28 TAC § 5.7015 - Unearned Premium Refunds

On behalf of our member insurers, the Insurance Council of Texas (ICT) appreciates the opportunity to submit comments on the proposed rule relating to unearned premium refunds. Our members include over 400 insurance companies doing business in Texas providing insurance policies and coverage, including the personal automobile and residential property policies to which these rules would apply.

In the rule preamble, TDI comments that these amendments "...prohibit insurers from using a "short rate" provision or otherwise retaining any unearned premium." In addition, the preamble notes that the proposed amendments "...remove any uncertainty about the amount that insurers must return..." Our comments will focus on these issues and proposed rule language to lessen any confusion or unintended consequences related to this attempt to clarify questions regarding retention of unearned premium.

Allowance in the rule for minimum retained premium or other amounts

The preamble and accompanying explanation to the proposed amendments to §5.7015 state that the amendments would "not prohibit insurers from having a minimum retained premium." ICT commends the inclusion of this statement in the preamble language. The discussion of this issue in the preamble acknowledges that there may be nonrefundable expenses incurred in writing a policy and for which a pro-rata refund may not be appropriate. However, the proposed rule itself does not explicitly address this issue.

ICT respectfully requests that TDI add language to the proposed rule that is consistent with the comments TDI included in the preamble. This could be accomplished by adding a subsection (e) to proposed § 5.7015 to read as follows:

"(e) This requirement does not prohibit a policy from including a minimum retained premium or other earned amount that is retained for nonrefundable expenses incurred in writing a policy."

Clarification of applicability to insurer collection of other payments

ICT requests clarification and verification that the proposed rule applies only to premiums and not to other non-premium fees and surcharges. Some examples of these include the Motor Vehicle Crime Prevention Authority (MVCRA) fee (see Transportation Code Ch. 1006 and 28 TAC 5.205 (pass through for MVCRA fees)), surcharges to recoup FAIR Plan assessments (see Texas Insurance Code 2211.104), surcharges to collect volunteer fire assessments (see Texas Insurance Code Ch. 2007), and surcharges to recoup the cost of state financing arrangement for the Texas Windstorm Insurance Association, as

approved this legislative session in HB 3689 (89th Texas Legislature, Regular Session, 2025) (see Insurance Code Ch. 2210, Subchapter M-2). In addition, there may be other payments that are not considered premiums and should not be subject to the proposed “short rate” prohibition.

ICT maintains that, in each of these cases and for any other similar fees or surcharges, these amounts should not be included in any calculation of a pro rata refund of unearned premium. None of these amounts constitutes premium, as that term is used to describe the price for insurance coverage for a particular risk for a particular period of time. ^[11] Consistent with this understanding, existing interpretations already exclude these amounts from refunds. For example, under HB 3689 (89th Texas Legislature, Regular Session, 2025), the statute explicitly provides that a “catastrophe surcharge is not refundable if the policy is canceled or terminated.” Ins. Code § 2210.6435(h). Likewise, TDI has taken a similar position regarding FAIR Plan surcharges. *See* Bulletin B-0020-24, item 14. ^[2]

ICT respectfully requests that the proposed rule language be revised to clearly state what appears to be intended in prohibiting short-rates and limited to premiums only. Refunds of unearned premium do not include earned amounts or specific fees identified in the policy. We included a suggested new subsection (e) above, and that language would address this issue.

Implementation timeframe

While ICT recognizes the benefit of an 180-day delayed effective date, we suggest that TDI consider a longer implementation period. Extending the effective date beyond 180 days could help ensure a smoother transition, reduce compliance burdens, and minimize the potential for unintended disruptions for those companies who may have to make systems changes to comply. We also note that this rule implementation would occur at the same time as other statutorily required changes made by the 89th Legislature, placing demands on the same company compliance and programming resources.

Thank you for your time and consideration of these comments. Please feel free to contact us if you have any questions.

Respectfully,



Albert Betts
ICT Executive Director

Cc: ICT staff
ICT legal counsel

^[1] The Insurance Code acknowledges the distinction between premium and fees in Sec. 550.001(a), which lists “premium” as a separate category of payments that may be made on a policy, distinguishing it from other non-premium charges and fees.

^[2] In response to the question, “Must an insurer refund surcharges in the event of mid-term cancellations or policy changes?,” the bulletin noted, “No. Insurance Code § 2211.104 does not specifically require refunds in the event of mid-term cancellations or policy changes.”