

INSURANCE CODE

TITLE 10. PROPERTY AND CASUALTY INSURANCE

SUBTITLE D. FIRE INSURANCE AND ALLIED LINES,

INCLUDING RESIDENTIAL PROPERTY INSURANCE

CHAPTER 2002. POLICY PROVISIONS AND FORMS FOR FIRE INSURANCE AND

ALLIED LINES, INCLUDING RESIDENTIAL PROPERTY INSURANCE

SUBCHAPTER A. POLICY PROVISIONS

Sec. 2002.001. POLICY FORM OR ENDORSEMENT MAKING MATERIAL CHANGE TO POLICY. (a) In this section, "material change" means a change to a policy that, with respect to a prior or existing policy:

- (1) reduces coverage;
- (2) changes conditions of coverage; or
- (3) changes the duties of the insured.

(b) An insurer may not use a policy form or endorsement to a policy form to which Article 5.35, Subchapter B of this chapter, or Subchapter B, Chapter 2301, applies that makes a material change to the policy unless:

- (1) the insured requests the material change; or
- (2) the insurer provides the policyholder in a written notice an explanation of the material change that:

(A) appears in a conspicuous place on the notice of the material change;

(B) clearly indicates each material change to the policy;

(C) is written in plain language; and

(D) is provided to the policyholder not later than the 30th day before the date on which the policy expires.

(c) Notice required by Subsection (b) may be provided to the policyholder in a notice of renewal.

(d) In addition to the notice to the policyholder provided under Subsection (b), if an insurer elects to make a material change to a policy form or use an endorsement to make a material change to a policy form, not later than the 30th day before the earliest date on which the new policy form or endorsement is used, the insurer shall provide written notice to each agent of the insurer that clearly

indicates each material change being made to the policy form. An insurer may provide the notice to the agents in a single notice given to each agent of the insurer that summarizes substantially similar material changes to more than one policy form.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1018 (H.B. 2655), Sec. 1, eff. September 1, 2011.

Acts 2017, 85th Leg., R.S., Ch. 60 (S.B. 417), Sec. 4, eff. September 1, 2017.

Sec. 2002.002. LIEN ON INSURED PROPERTY. A provision in an insurance policy issued by an insurer subject to this subtitle or Subchapter C, Chapter 5, is void if the provision states that the encumbrance of the insured property by a lien of any character at the time of or after the policy's issuance renders the policy void. Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Sec. 2002.003. COVERAGES FOR SPOUSES AND FORMER SPOUSES. A homeowners insurance policy or fire insurance policy promulgated under Article 5.35 or filed and in effect as provided by Subchapter B, Chapter 2301, may not be delivered, issued for delivery, or renewed in this state unless the policy contains the following language: "It is understood and agreed that this policy, subject to all other terms and conditions contained in this policy, when covering residential community property, as defined by state law, shall remain in full force and effect as to the interest of each spouse covered, irrespective of divorce or change of ownership between the spouses unless excluded by endorsement attached to this policy until the expiration of the policy or until canceled in accordance with the terms and conditions of this policy."

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Sec. 2002.004. JEWELRY COVERAGE. (a) In this section,

"personal property insurance" means insurance against damage to or loss of tangible personal property, including coverage provided in a homeowners insurance policy, residential fire and allied lines insurance policy, or farm and ranch owners insurance policy.

(b) This section applies to each insurer that provides personal property insurance in this state, including a county mutual insurance company, farm mutual insurance company, Lloyd's plan, and reciprocal or interinsurance exchange.

(c) An insurer that provides personal property insurance coverage in this state for jewelry may elect to pay either:

(1) the stated value of the jewelry item; or

(2) the actual cost of replacing the jewelry item with one of like kind and quality.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Sec. 2002.005. COINSURANCE CLAUSES. (a) Except as otherwise provided by this section, an insurer subject to this subtitle or Subchapter C, Chapter 5, may not issue an insurance policy or contract covering property in this state that contains a clause that:

(1) requires the insured to obtain or maintain a larger amount of insurance than expressed in the policy or contract; or

(2) in any way provides that the insured is liable as a coinsurer with the insurer issuing the policy or contract for any part of the loss or damage that may be caused by fire to the property described in the policy or contract.

(b) A clause described by Subsection (a) is void.

(c) A coinsurance clause may be included in an insurance policy written on cotton, grain, or other products in the process of marketing, shipping, storing, or manufacturing.

(d) An insured may be given an option to accept an insurance policy or contract that contains a clause described by Subsection (a) covering a class of property other than the property described by Subsection (c), a private dwelling, or a stock of merchandise offered for sale at retail that has a value of less than \$10,000, if

the insured is allowed a reduction in the premium rate for the policy or contract. A clause to which this subsection applies is valid and binding. The commissioner may promulgate the premium rates that apply to a coinsurance clause under this subsection.

(e) The commissioner by order may authorize or require the use of any form of coinsurance clause in connection with an insurance policy that insures against the hazards of tornado, windstorm, and hail on any class of property. The commissioner may adopt rules with reference to:

(1) coinsurance clauses authorized or required by this subsection and the use of those clauses; and

(2) credits in premium rates for the use of coinsurance clauses authorized or required by this subsection.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Sec. 2002.006. PROVISIONS GOVERNING CERTAIN CONDITIONS OR RISKS. (a) This chapter; Sections 403.002, 2001.001-2001.006, 2001.009, and 2001.010; Subchapter H, Chapter 544; Subchapter D, Chapter 1806; Chapters 2003, 2004, 2006, and 2171; and Articles 5.25, 5.25A, 5.25-3, 5.26, 5.27, 5.28, 5.29, 5.30, 5.31, 5.32, 5.34, 5.35, 5.39, 5.40, and 5.41 govern the following in the same manner and to the same extent those provisions govern fire insurance and fire insurance rates:

(1) insurance coverage for any of the following conditions or risks:

(A) weather or climatic conditions, including lightning, tornado, windstorm, hail, cyclone, rain, or frost and freeze;

(B) earthquake or volcanic eruption;

(C) smoke or smudge;

(D) excess or deficiency of moisture;

(E) flood;

(F) the rising water of an ocean or an ocean's tributary;

(G) bombardment, invasion, insurrection, riot, civil war or commotion, military or usurped power, or any order of a

civil authority made to prevent the spread of a conflagration, epidemic or catastrophe;

(H) vandalism or malicious mischief;

(I) strike or lockout;

(J) explosion, as provided by Subsection (b);

(K) water or other fluid or substance resulting from:

(i) the breakage or leakage of a sprinkler, pump, or other apparatus erected for extinguishing fire, or a water pipe or other conduit or container; or

(ii) casual water entering a building through a leak or opening in the building or by seepage through building walls; or

(L) accidental damage to a sprinkler, pump, fire apparatus, pipe, or other conduit or container described by Paragraph (K)(i);

(2) premium rates in this state for the insurance described by Subdivision (1); and

(3) all matters pertaining to the insurance described by Subdivision (1), except as provided by this section with respect to marine insurance as defined by Section [1807.001](#).

(b) In this section:

(1) "explosion" includes:

(A) the explosion of a pressure vessel, other than a steam boiler of more than 15 pounds pressure, in a building designed and used solely for residential purposes by not more than four families;

(B) an explosion of any kind originating outside of an insured building or outside of the building containing the insured property;

(C) the explosion of a pressure vessel that does not contain steam or that is not operated with steam coils or steam jets; and

(D) an electric disturbance causing or concomitant with an explosion in public service or public utility property; and

(2) insurance coverage for explosion does not include

coverage for loss of or damage to any property of the insured resulting from the explosion of or injury to:

(A) a boiler, heater, or other fired pressure vessel;

(B) an unfired pressure vessel;

(C) a pipe or container connected with a boiler or vessel described by Paragraph (A) or (B);

(D) an engine, turbine, compressor, pump, or wheel;

(E) an apparatus generating, transmitting, or using electricity; or

(F) any other machinery or apparatus connected with or operated by a boiler, vessel, or machine described by Paragraphs (A)-(E).

(c) This section does not apply to:

(1) a farm mutual insurance company operating under Chapter 911;

(2) a county mutual insurance company operating under Chapter 912;

(3) a mutual insurance company engaged in business under Chapter 12, Title 78, Revised Statutes, before that chapter's repeal by Section 18, Chapter 40, Acts of the 41st Legislature, 1st Called Session, 1929, as amended by Section 1, Chapter 60, General Laws, Acts of the 41st Legislature, 2nd Called Session, 1929, that retains the rights and privileges under the repealed law to the extent provided by those sections;

(4) the making of inspections or issuance of certificates of inspections on a boiler, apparatus, or machinery described by Subsection (b)(2), whether insured or otherwise; or

(5) the insurance of a vessel or craft, its cargo, marine builder's risk, marine protection and indemnity, or another risk commonly insured under a marine insurance policy, as distinguished from an inland marine insurance policy.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

SUBCHAPTER B. POLICY FORMS

Sec. 2002.051. POLICY FORMS AND ENDORSEMENTS FOR RESIDENTIAL PROPERTY INSURANCE. Notwithstanding Subsections (a)-(j), Article 5.35, policy forms and endorsements for residential property insurance in this state are regulated under Subchapter A, Chapter 2301, and Article 5.13-2.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Sec. 2002.052. APPLICABILITY OF OTHER LAW TO RESIDENTIAL PROPERTY INSURANCE. An insurer may continue to use a policy form or endorsement promulgated, approved, or adopted by the commissioner under Article 5.35 before June 11, 2003, on notification in writing to the commissioner that the insurer will continue to use the policy form or endorsement.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

SUBCHAPTER C. ITEMS PROVIDED IN CONNECTION WITH INSURANCE POLICY

Sec. 2002.101. RATE ANALYSIS. (a) On issuing a fire insurance policy, an insurer engaged in the business of fire insurance in this state shall provide the policyholder with a written analysis of the rate or premium charged for the policy showing the items of charge and credit that determine the rate or premium.

(b) Subsection (a) does not apply if the insurer has previously provided the policyholder with an analysis of the rate or premium.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Sec. 2002.102. NOTICE OF RENEWAL. (a) In this section, "material change" means a change to a policy that, with respect to a prior or existing policy:

- (1) reduces coverage;

- (2) changes conditions of coverage; or
- (3) changes the duties of the policyholder.

(b) An insurer, including a farm mutual insurance company, county mutual insurance company, Lloyd's plan, or reciprocal or interinsurance exchange, that renews a homeowners insurance policy, fire and residential allied lines insurance policy, farm and ranch owners insurance policy, or farm and ranch insurance policy must provide the policyholder with written notice in accordance with this section of any material change in each form of the policy offered to the policyholder on renewal from the form of the policy held immediately before renewal.

(c) A notice provided under this section must:

- (1) appear in a conspicuous place in the notice of renewal;
- (2) clearly indicate each material change to the policy being made on renewal;
- (3) be written in plain language; and
- (4) be provided to the policyholder not later than the 30th day before the renewal date.

(d) In addition to the notice to the policyholder provided under this section, if an insurer elects to make a material change to a policy form on renewal, not later than the 30th day before the earliest renewal date on which the new policy form is used, the insurer shall provide written notice to each agent of the insurer that clearly indicates each material change being made to the policy form. An insurer may provide the notice to the agents in a single notice given to each agent of the insurer that summarizes substantially similar material changes to more than one policy form.

(e) The commissioner may adopt rules as necessary to implement this section.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 2, eff. April 1, 2007.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 60 (S.B. 417), Sec. 6, eff. September 1, 2017.



Sec. 2002.103. DISCLOSURE REGARDING FLOOD COVERAGE  
REQUIRED. (a) In this section:

(1) "Commercial property insurance" has the meaning assigned by Section 2301.002, except that the term includes a commercial multiperil insurance policy that provides commercial property insurance coverage.

(2) "Residential property insurance" has the meaning assigned by Section 2301.002, except that the term includes a farm and ranch insurance policy and a farm and ranch owners insurance policy.

(b) This section applies to each insurer authorized to engage in the business of commercial or residential property insurance in this state, including a county mutual insurance company, farm mutual insurance company, Lloyd's plan, and reciprocal or interinsurance exchange.

(c) An insurer that issues or renews a commercial or residential property insurance policy that does not provide coverage against loss caused by flooding shall include with the policy documents provided to the policyholder at the time the policy is issued or renewed the following statement:

"Flood Insurance: You may also need to consider the purchase of flood insurance. Your insurance policy does not include coverage for damage resulting from a flood even if hurricane winds and rain caused the flood to occur. Without separate flood insurance coverage, you may have uncovered losses caused by a flood. Please discuss the need to purchase separate flood insurance coverage with your insurance agent or insurance company, or visit [www.floodsmart.gov](http://www.floodsmart.gov)."

(d) The statement described by Subsection (c) must be conspicuous, as defined by Section 1.201, Business & Commerce Code.

(e) An insurer's failure to comply with this section does not invalidate any exclusion, including a flood exclusion, in an insurance policy subject to this section.

Added by Acts 2019, 86th Leg., R.S., Ch. 332 (S.B. 442), Sec. 1, eff. September 1, 2019.