

Automobile Burglary and Theft Prevention Authority  
Chapter 57, Automobile Burglary and Theft Prevention Authority

Proposed Preamble

The Automobile Burglary and Theft Prevention Authority (ABTPA) proposes amendments to §57.9, Nonsupplanting Requirement; §57.14, Approval of Grant Projects; §57.18, Grant Projects; §57.48, Motor Vehicle Years of Insurance Calculations; and, §57.51, Refund Determinations.

EXPLANATION OF PROPOSED AMENDMENTS

Amendments to §57.9, Nonsupplanting Requirement, are proposed to add language which defines and clarifies "supplanting."

An amendment to §57.14, Approval of Grant Projects, is proposed to remove the category, Public Awareness, Crime Prevention, and Education; and add Educational Programs and Marketing as stated in statute to the program categories eligible for consideration for funding.

Amendments to §57.18, Grant Adjustments, are proposed to clarify grant adjustments for overtime, job positions, and out-of-state travel and to add that notification is to be provided to the ABTPA director of changes of designated officials.

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1 Amendments to §57.48, Motor Vehicle Years of Insurance  
2 Calculations, are proposed to update and clarify the rule with  
3 current statute.

4  
5 Amendments are proposed to §57.51, Refund Determinations, to  
6 change the time period a claim can be filed for determination or  
7 a refund from six-months to four years and amendments to clarify  
8 the section.

9  
10 Proposed amendments are made throughout the sections to revise  
11 terminology for consistency with Texas Department of Motor  
12 Vehicle (TxDMV) rules and with current ABTPA practice. In  
13 addition, nonsubstantive amendments are proposed to correct  
14 punctuation, grammar, capitalization, and references throughout  
15 the proposed amended sections.

16  
17 FISCAL NOTE

18 Linda M. Flores, Chief Financial Officer, has determined that  
19 for each of the first five years the amendments as proposed are  
20 in effect, there will be no fiscal implications for state or  
21 local governments as a result of enforcing or administering the  
22 amendments.

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2 Bryan Wilson, Director of ABTPA, has certified that there will  
3 be no significant impact on local economies or overall  
4 employment as a result of enforcing or administering the  
5 proposed amendments.

6

7 PUBLIC BENEFIT AND COST

8 Mr. Wilson has also determined that for each year of the first  
9 five years the amendments are in effect, the public benefit  
10 anticipated as a result of enforcing or administering the  
11 amendments will be simplification and clarification of the  
12 agency's rules. There are no anticipated economic costs for  
13 persons required to comply with the amendments as proposed.  
14 There will be no adverse economic effect on small businesses or  
15 micro-businesses.

16

17 TAKINGS IMPACT ASSESSMENT

18 The ABTPA has determined that this proposal affects no private  
19 real property interests and that this proposal does not restrict  
20 or limit an owner's right to property that would otherwise exist  
21 in the absence of government action, and so does not constitute  
22 a taking or require a takings impact assessment under the

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1 Government Code, §2007.043.

2

3 SUBMITTAL OF COMMENTS

4 Written comments on the proposed amendments may be submitted to  
5 David Richards, General Counsel, Automobile Burglary and Theft  
6 Prevention Authority, 4000 Jackson Avenue, Building 1, Austin,  
7 Texas 78731 or by email to *rules@txdmv.gov*. The deadline for  
8 receipt of comments is 5:00 p.m. on November 23, 2015.

9

10 STATUTORY AUTHORITY

11 The amendments and repealed sections are proposed under Texas  
12 Civil Statutes, Article 4413(37), Section 6(a), which provides  
13 the Board of the Automobile Burglary and Theft Prevention  
14 Authority with the authority to adopt rules that are necessary  
15 and appropriate to implement the powers and the duties of the  
16 authority.

17

18 CROSS REFERENCE TO STATUTE

19 Texas Civil Statutes, Article 4413(37).

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§57.9. Nonsupplanting Requirement.

(a) ~~State [Texas Civil Statutes, Article 4413(32a),~~  
~~§6(a)(7), requires that state]~~ funds provided by this Act  
shall not be used to supplant state or local funds.

(b) Supplanting means the replacement of other funds with  
ABTPA grant funds or using existing resources as cash match.

(c) Positions which existed prior to new grant award  
approval and were funded from any source other than ABTPA  
grant funds are not eligible for grant funding or to be used  
as cash match.

(d) If a grant program is reduced by 20% or more from the  
previous year, and as a result, grant funded or match  
positions are transferred to other duties for the grant year,  
they may be returned to grant funding in the subsequent grant  
year. This exception is not available for any positions that  
have not been grant funded or used as match for more than one  
grant year.

(e) [(b)] Each grantee shall certify that ABTPA funds  
have not been used to replace state or local funds that would  
have been available in the absence of ABTPA funds. The  
certification shall be incorporated in each grantee's ~~[report~~  
~~of]~~ expenditure report. ~~[and status of funds referred to under~~  
~~§57.3(6) of this title (relating to Compliance Adoption by~~  
~~Reference).]~~

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2 §57.14. Approval of Grant Projects.

3 (a) The ABTPA board will approve funding for projects on  
4 an annual basis, subject to continuation of funding through  
5 state appropriations and availability of funds.

6 (b) To be eligible for consideration for funding, a  
7 project must be designed to support one of the following ABTPA  
8 program categories:

9 (1) Law Enforcement, Detection and Apprehension;

10 (2) Prosecution, Adjudication and Conviction;

11 (3) Prevention, Anti-Theft Devices and Automobile  
12 Registration;

13 (4) Reduction of the Sale of Stolen Vehicles or  
14 Parts; and

15 (5) Educational Programs and Marketing. [~~Public-~~  
16 ~~Awareness, Crime Prevention, and Education.~~]

17 (c) Grant award decisions by the ABTPA are final and not  
18 subject to judicial review.

19

20 §57.18. Grant Adjustments.

21 (a) The grantee must secure prior written approval from  
22 the ABTPA director for any of the following:

23 (1) changes in the need, objectives, approach, or  
24 geographical location of the grant;

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1           (2) transfers of funds among direct cost categories  
2 exceeding 5.0% of the total grant budget;

3           (3) changes in overtime, confidential funds, the  
4 number of positions or job descriptions of personnel specified  
5 in the grant agreement;

6           (4) changes in equipment amounts, types, or methods  
7 of acquisition;

8           (5) out-of-state travel not specified in the grant  
9 agreement; [changes in the grant or liquidation periods;] or

10           (6) other changes for which the grant agreement or  
11 uniform grant and contract management standards require prior  
12 approval. [~~The grantee must provide written notification to~~  
13 ~~the ABTPA director within five days from the date of any~~  
14 ~~change in the project director, financial officer, or~~  
15 ~~authorized official.~~]

16           (b) The grantee must provide written notification to the  
17 ABTPA director within five days from the date of any change in  
18 the project director, financial officer, or authorized  
19 official.

20  
21 §57.48. Motor Vehicle Years of Insurance Calculations.

22           (a) Each insurer, in calculating the fees established by  
23 Texas Civil Statutes, Article 4413(37), §10, shall comply with  
24 the following guidelines:

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1           (1) The single statutory fee of \$2 [~~\$2.00~~] is  
2 payable on each motor vehicle for which the insurer provides  
3 insurance coverage during the calendar year regardless of the  
4 number of policy renewals; and

5           (2) When more than one insurer provides coverage for  
6 a motor vehicle during the calendar year, each insurer shall  
7 pay the statutory fee for that vehicle.

8           (3) "Motor vehicle" is defined [~~as referred to~~] in  
9 Texas Civil Statutes, Article 4413(37), §1(5), [~~§10(2)~~], means  
10 motor vehicle as defined by the Insurance Code, Article  
11 5.01(e). This definition shall be used when calculating the  
12 fees under this section.

13           (4) All motor vehicle or automobile insurance  
14 policies as defined by Insurance Code, Article 5.01(e),  
15 covering a motor vehicle shall be assessed the \$2 [~~\$2.00~~] fee  
16 except mechanical breakdown policies, garage liability  
17 policies, nonresident policies and policies providing only  
18 non-ownership or hired auto coverages.

19           (b) The Texas Automobile Burglary and Theft Prevention  
20 Authority Assessment Report form and Instructions for the  
21 Computation of the Automobile Burglary and Theft Prevention  
22 Authority Assessment of the Comptroller of Public Accounts are  
23 adopted by reference. The form and instructions are available  
24 from the Comptroller of Public Accounts, Tax Administration,

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1 P.O. Box 149356, Austin, Texas 78714-9356. Each insurer shall  
2 use this form and follow these instructions when reporting  
3 assessment information to the Comptroller.

4  
5 §57.51. Refund Determinations.

6 (a) An insurer that seeks a determination of the  
7 sufficiency or a refund of a semi-annual payment must file  
8 amended reports for each period and a written claim for a  
9 determination or a refund not later than four years [~~six-~~  
10 ~~months~~] after the date the semi-annual payment was made to the  
11 state comptroller.

12 (b) The director or the ABTPA board designee shall review  
13 the claim and obtain from the insurer any additional  
14 information, if any, that may be necessary or helpful to  
15 assist in the ABTPA determination. If an insurer refuses to  
16 provide the requested information, the refund shall [~~may~~] be  
17 denied in whole or in part.

18 (c) The director or the ABTPA board designee is  
19 authorized to employ or retain the services of financial  
20 advisors to assist in the determination. The director or the  
21 designee shall prepare a written report to the ABTPA based on  
22 the director's or the designee's review and shall contain  
23 findings, conclusions, and a recommendation.

24 (d) The ABTPA shall base its determination on the

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1 documentary evidence considered by the director or the board  
2 designee. The ABTPA decision shall be based on a majority vote  
3 of the board. The ABTPA decision is final and is not subject  
4 to judicial review.

5 (e) Upon determining that an insurer is entitled to a  
6 refund, the ABTPA shall notify the comptroller and request the  
7 comptroller to draw warrants [~~on the funds available to the~~  
8 ~~ABTPA for the purpose of refunding monies overpaid~~].