

JAN 18 2012

S.B. NO. 2006

A BILL FOR AN ACT

RELATING TO INSURANCE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that all states have
2 various methods designed to regulate insurance rates. Rating
3 laws in each state govern how insurers can change rates and are
4 categorized according to whether approval is required and when
5 approval must be obtained before insurance premiums can be
6 changed.

7 In a state with prior approval rating laws, property and
8 casualty insurers must receive approval from the state's
9 insurance department before changing insurance rates. File and
10 use rating laws are similar to prior approval but require
11 insurers to file rates with the insurance department before the
12 rates are used. States with use and file laws allow insurers to
13 use a new set of rates without prior approval from the insurance
14 department, but insurers must file the new rate within a
15 specified time.

16 In states with flex-rating systems, insurers are able to
17 implement modest rate changes within a specified percentage band
18 without approval from the insurance department. Insurance rates



1 that fall within the pre-set percentage rate are subject to
2 either file and use or use and file requirements, rather than
3 strict prior approval.

4 The legislature finds that Hawaii is a prior approval
5 state. In Hawaii, property and casualty insurers are not
6 allowed to change their rates without the prior approval of the
7 insurance commissioner. The legislature also finds that a prior
8 approval system can lead to a less competitive marketplace, as
9 it is more difficult for insurers to quickly respond to changing
10 market conditions. In contrast, flex-rating systems can lessen
11 regulatory burdens for insurers and regulators, while still
12 maintaining sufficient consumer protection. The legislature
13 finds that Hawaii would benefit from a general casualty and
14 property insurance rating system that is less restrictive than
15 the prior approval system currently in place.

16 The purpose of this Act is to modernize Hawaii's rate
17 filing process for general casualty and property insurance by
18 permitting rate change filings that fall within a specified per
19 cent to be made on a use and file basis.

20 SECTION 2. Section 431:14-104, Hawaii Revised Statutes, is
21 amended to read as follows:



1 "**§431:14-104 Rate filings.** (a) Every insurer shall file
2 with the commissioner every manual of classifications, rules,
3 and rates, every rating plan, every other rating rule, and every
4 modification of any of the foregoing that it proposes to use;
5 provided that filings with regard to specific inland marine
6 risks, which by general custom of the business are not written
7 according to manual rate or rating plans, and bail bonds,
8 subject to section 804-62, shall not be required pursuant to
9 this subsection.

10 Every filing shall:

- 11 (1) State its proposed effective date;
- 12 (2) Indicate the character and extent of the coverage
13 contemplated;
- 14 (3) Include a report on investment income; and
- 15 (4) Be accompanied by a \$50 fee, payable to the
16 commissioner, to be deposited in the commissioner's
17 education and training fund.

18 (b) For each filing, an insurer shall submit to the
19 commissioner:

- 20 (1) An electronic copy of the filing; or
- 21 (2) Two printed copies of the filing.



1 The commissioner may also request a printed version of an
2 electronic filing to be submitted pursuant to paragraph (1).

3 (c) At the same time as the filing of the rate, every
4 insurer shall file all supplementary rating and supporting
5 information to be used in support of or in conjunction with a
6 rate. The insurer may satisfy its obligation to file
7 supplementary rating and supporting information by reference to
8 material which has been approved by the commissioner. The
9 information furnished in support of a filing may include or
10 consist of a reference to:

11 (1) The prospective loss cost filing made by a rating
12 organization or an advisory organization and approved
13 by the commissioner;

14 (2) The experience or judgment of the insurer or
15 information filed by the rating organization or
16 advisory organization on behalf of the insurer as
17 permitted by section 431:14-104.5;

18 (3) Its interpretation of any statistical data upon which
19 it relies;

20 (4) The experience of other insurers, rating
21 organizations, or advisory organizations; or

22 (5) Any other relevant factors.



1 (d) When a filing is not accompanied by the information
2 upon which the insurer supports the filing, and the commissioner
3 does not have sufficient information to determine whether the
4 filing meets the requirements of this article, the commissioner
5 shall require the insurer to furnish additional information and,
6 in that event, the waiting period shall commence as of the date
7 the information is furnished. Until the requested information
8 is provided, the filing shall not be deemed complete or filed
9 nor available for use by the insurer. If the requested
10 information is not provided within a reasonable time period, the
11 filing may be returned to the insurer as not filed and not
12 available for use.

13 (e) Except for rates filed in accordance with subsections
14 (k), [~~(l)~~, and ~~(m)~~], (o), and (p), a filing and any supporting
15 information shall be open to public inspection upon filing with
16 the commissioner.

17 (f) Specific inland marine rates on risks specially rated,
18 made by a rating organization, shall be filed with the
19 commissioner.

20 (g) An insurer may satisfy its obligation to make the
21 filings by becoming a member of, or a subscriber to, a licensed
22 rating organization which makes the filings except for those



1 lines of insurance for which the commissioner determines
2 individual insurer rate filings shall be made. Nothing
3 contained in this article shall be construed as requiring any
4 insurer to become a member of or a subscriber to any rating
5 organization.

6 (h) After reviewing an insurer's filing, the commissioner
7 may require that the insurer's rates be based upon the insurer's
8 own loss and expense information. If the insurer's loss or
9 allocated loss adjustment expense information is not actuarially
10 credible, as determined by the commissioner, the insurer may use
11 or supplement its experience with information filed with the
12 commissioner by a rating organization or advisory organization.
13 At the commissioner's request, each insurer utilizing the
14 services of a rating organization or advisory organization must
15 submit with its rate filing, a description of the rationale for
16 that use, including the insurer's own information and method of
17 utilizing the rating or advisory organization's information.

18 (i) The commissioner shall review filings as soon as
19 reasonably possible after they have been made to determine
20 whether they meet the requirements of this article. The
21 commissioner shall calculate the investment income and accuracy



1 of loss reserves upon which filings are based, and the insurer
2 shall provide the information necessary to make the calculation.

3 (j) Except as provided herein and in subsections (k)
4 [~~and~~], (l), and (o) and section 431:14-120, each filing shall be
5 on file for a waiting period of thirty days before the filing
6 becomes effective. The period may be extended by the
7 commissioner for an additional period not to exceed fifteen days
8 if the commissioner gives written notice within the waiting
9 period to the insurer, rating organization, or advisory
10 organization that made the filing that the commissioner needs
11 the additional time for the consideration of the filing. Upon
12 the written application by the insurer, rating organization, or
13 advisory organization, the commissioner may authorize a filing
14 which the commissioner has reviewed to become effective before
15 the expiration of the waiting period or any extension thereof.
16 A filing shall be deemed to meet the requirements of this
17 article unless disapproved by the commissioner within the
18 waiting period or any extension thereof.

19 (k) The following rates shall become effective when filed:

20 (1) Specific inland marine rates on risks specially rated
21 by a rating organization;



1 (2) Any special filing with respect to a surety or
 2 guaranty bond required by law or by court or executive
 3 order or by order or rule of a public body, not
 4 covered by a previous filing; and

5 (3) Any special filing with respect to any class of
 6 insurance, subdivision, or combination thereof which
 7 is subject to individual risk premium modification and
 8 has been agreed to by an insured under a formal or
 9 informal bid process.

10 The rates shall be deemed to meet the requirements of this
 11 article until the time the commissioner reviews the filing and
 12 so long as the filing remains in effect.

13 (1) A filing with respect to a general casualty insurance
 14 rate filing or a property insurance rate filing in which the
 15 average rate increase or decrease is no more than per
 16 cent, is deemed to meet the requirements of this article until
 17 the time the commissioner reviews the filing and so long as the
 18 filing remains in effect.

19 (m) An insurer must file notice of a rate change for
 20 either a general casualty insurance rate filing or a property
 21 insurance rate filing in which the average rate increase or
 22 decrease is no more than per cent with the commissioner



1 within thirty days after implementing the rate change. The
2 exemption provided in subsection (l) for a general casualty
3 insurance rate change filing or property insurance rate change
4 filing is limited to no more than one filing per calendar year,
5 with a minimum of thirty days between filings in different
6 calendar years.

7 (n) No rate increase within the limitation specified in
8 subsection (l) may be implemented with regard to an individual
9 existing policy, unless the increase is applied at the time of a
10 renewal or conditional renewal of an existing policy and the
11 insurer, at least thirty days before the end of the insured's
12 policy period, mails or delivers to the insured, at the address
13 shown in the policy, a written notice that clearly and
14 conspicuously discloses its intention to change the rate. A
15 notice of renewal or conditional renewal that clearly and
16 conspicuously discloses the renewal premium applicable to the
17 policy shall be deemed to be in compliance with this subsection.

18 [~~(l)~~] (o) The commissioner, by written order, may suspend
19 or modify the requirement of filing as to any class of
20 insurance, subdivision, or combination thereof, or as to classes
21 of risks, the rates for which cannot practicably be filed before
22 they are used. The orders shall be made known to the affected



1 insurers and rating organizations. The commissioner may make
2 examinations as the commissioner may deem advisable to ascertain
3 whether any rates affected by the order meet the standards set
4 forth in section 431:14-103(a)(1).

5 ~~[(m)]~~ (p) The commissioner may approve a rate on any
6 specific risk in excess of that set by an applicable rate
7 filing, provided the insured files with the commissioner a
8 written application stating the insured's reasons for consenting
9 to the excess rate. Upon approval by the commissioner, the rate
10 shall be deemed effective retroactive to the date of the
11 insured's application.

12 ~~[(n)]~~ (q) No insurer shall make or issue a contract or
13 policy except in accordance with filings which are in effect for
14 the insurer as provided in this article or in accordance with
15 subsections (k), (l), ~~[or (m).]~~ (o), or (p). This subsection
16 shall not apply to contracts or policies for inland marine risks
17 as to which filings are not required."

18 SECTION 3. Statutory material to be repealed is bracketed
19 and stricken. New statutory material is underscored.

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S.B. NO. 2006

1 SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY: Rosalyn H. Bahr



S.B. NO. 2006

Report Title:

Insurance; Rate Filings

Description:

Amends rate filing requirements for general casualty and property insurance. Allows general casualty insurance rate filings or property insurance rate filings in which the average rate of increase or decrease is no more than an unspecified per cent to be filed on a use and file basis. Limits insurers filing under this exception to one filing per calendar year. Requires insurers to send written notice of intent to increase rate to existing policyholders.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

