

JAN 25 2012

A BILL FOR AN ACT

RELATING TO INSURANCE.

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

1 SECTION 1. Chapter 431, Hawaii Revised Statutes, is
2 amended by adding to part I of article 14 a new section to be
3 appropriately designated and to read as follows:

4 "§431:14- Publication of homeowners insurance premium
5 rates. (a) The commissioner shall publish annually, in a
6 newspaper of general circulation in the State, notice of
7 availability of a list of all homeowners insurers with
8 representative annual premiums for homeowners insurance.

9 (b) Upon the request of the insurance commissioner, all
10 homeowners insurers shall provide homeowners insurance premium
11 information to the insurance commissioner within thirty days of
12 the request. The commissioner shall make this information
13 available to the public upon request.

14 (c) As used in this section:

15 "Homeowners insurance" means an insurance policy for any
16 residential property in the State that combines:

17 (1) Indemnity from destruction or damage by various perils
18 of the insured's property; and

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1 (2) Indemnity for legal liability of the insured for
2 death, injury, or disability of any human being or for
3 damage to property.

4 "Homeowners insurer" means an insurer holding a valid
5 certificate of authority to engage in the business of making
6 contracts of homeowners insurance in this State."

7 SECTION 2. Section 431:14-104, Hawaii Revised Statutes, is
8 amended as follows:

9 (1) By amending subsections (f) and (g) to read as
10 follows:

11 (f) Specific inland marine rates on risks specially
12 rated, made by a rating organization~~[-]~~ or advisory
13 organization, shall be filed with the commissioner.

14 (g) An insurer may satisfy its obligation to make the
15 filings by becoming a member of, or a subscriber to, a licensed
16 rating organization ~~[which]~~ or advisory organization that makes
17 the filings except for those lines of insurance for which the
18 commissioner determines individual insurer rate filings shall be
19 made. Nothing contained in this article shall be construed as
20 requiring any insurer to become a member of or a subscriber to
21 any rating organization~~[-]~~ or advisory organization."

1 (2) By amending subsections (j), (k), and (l) to read as
2 follows:

3 "(j) Except as provided herein and in subsections (k) and
4 (l) and section 431:14-120, each filing shall be on file for a
5 waiting period of thirty days before the filing becomes
6 effective. The period may be extended by the commissioner for
7 an additional period not to exceed fifteen days if the
8 commissioner gives written notice within the waiting period to
9 the insurer, rating organization, or advisory organization that
10 made the filing that the commissioner needs the additional time
11 for the consideration of the filing. Upon the written
12 application by the insurer, rating organization, or advisory
13 organization, the commissioner may authorize a filing [~~which~~
14 that 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, as provided in
18 section 431:14-106, within the waiting period or any extension
19 thereof.

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

21 (1) Specific inland marine rates on risks specially rated
22 by a rating organization[+] or advisory organization;

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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) The commissioner, by written order, may suspend or
14 modify the requirement of filing as to any class of insurance,
15 subdivision, or combination thereof, or as to classes of risks,
16 the rates for which cannot practicably be filed before they are
17 used. The orders shall be made known to the affected insurers
18 ~~[and]~~, rating organizations[-], and advisory organizations. The
19 commissioner may make examinations as the commissioner may deem
20 advisable to ascertain whether any rates affected by the order
21 meet the standards set forth in section 431:14-103(a)(1)."

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1 SECTION 3. Section 431:14-106, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§431:14-106 Disapproval of filings. (a) If, within the
4 waiting period or any extension of the waiting period as
5 provided in section 431:14-104(j), the commissioner finds that a
6 filing does not meet the requirements of this article, the
7 commissioner shall send to the insurer, rating organization, or
8 advisory organization ~~[which]~~ that made the filing, written
9 notice of disapproval of the filing specifying in what respects
10 the filing fails to meet the requirements of this article,
11 specifying the actuarial, statutory, and regulatory basis for
12 the disapproval, including an explanation of the application
13 thereof that resulted in disapproval, and stating that the
14 filing shall not become effective.

15 (b) If within thirty days:

16 (1) After a specific inland marine rate on a risk
17 specially rated by a rating organization or advisory
18 organization subject to section 431:14-104(k) has
19 become effective; or

20 (2) After a special surety or guaranty filing subject to
21 section 431:14-104(k) has become effective;

1 the commissioner finds that such filing does not meet the
2 requirements of this article, the commissioner shall send to the
3 insurer, rating organization, or advisory organization that made
4 the filing, written notice of disapproval of the filing
5 specifying in what respects the filing fails to meet the
6 requirements of this article and stating when, within a
7 reasonable period thereafter, the filing shall be deemed no
8 longer effective. The disapproval shall not affect any contract
9 made or issued prior to the expiration of the period set forth
10 in the notice.

11 (c) If any time subsequent to the applicable review period
12 provided for in subsections (a) or (b), the commissioner finds
13 that a filing does not comply with the requirements of this
14 article, the commissioner shall order a hearing upon the filing.
15 The hearing shall be held upon not less than ten days' written
16 notice to every insurer and rating organization or advisory
17 organization ~~who~~ that made such a filing. The notice shall
18 specify the matters to be considered at the hearing[-] and
19 specify the factual and legal bases for the commissioner's
20 finding of noncompliance. If, after a hearing the commissioner
21 finds that a filing does not meet the requirements of this
22 article, the commissioner, within thirty days of the hearing,

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1 shall issue an order specifying in what respects the filing
2 fails to meet such requirements, and stating when, within a
3 reasonable period thereafter, the filing shall be deemed no
4 longer effective. Copies of the order shall be sent to every
5 such insurer and rating organization[-] or advisory
6 organization, whose filing is affected by the order. The order
7 shall not affect any contract or policy made or issued prior to
8 the expiration of the period set forth in the order.

9 (d) Whenever the commissioner issues a written notice of
10 disapproval of a filing to an insurer, rating organization, or
11 advisory organization, the commissioner may establish, within
12 ten days thereof, interim rates sufficient to protect the
13 interests of the insurer and its policyholders and ensure the
14 solvency of the insurer. When a new rate becomes legally
15 effective and the new rate is higher than the interim rate, the
16 commissioner shall allow the insurer to retroactively adjust the
17 premiums to the time when the interim rate was first imposed.
18 If the new rate is lower than the interim rate, the commissioner
19 may order that the difference be applied to stabilize future
20 rates or be refunded to current policyholders.

21 (e) If a filing is disapproved, in whole or in part, a
22 petition and demand for a contested case hearing may be filed in

1 accordance with chapter 91. The insurer shall bear the burden
2 of proving that the filing meets the requirements of this
3 article.

4 ~~[(d)(1)]~~ (f) Any person or organization aggrieved with
5 respect to any filing ~~[which]~~ that is in effect may make written
6 demand to the commissioner for a hearing thereon; provided~~[-~~
7 ~~however, that the]~~ that:

8 (1) The insurer ~~[or]~~, rating organization ~~[which]~~, or
9 advisory organization that made the filing shall not
10 be authorized to proceed under this subsection~~[-]~~;

11 (2) The demand shall specify the grounds to be relied upon
12 by the aggrieved person or organization and such
13 demand ~~[must]~~ shall show that such person or
14 organization has a specific economic interest affected
15 by the filing~~[-]~~;

16 (3) If the commissioner finds that the demand is made in
17 good faith, that the applicant would be so aggrieved
18 if the person's or organization's grounds are
19 established, and that the grounds otherwise justify
20 ~~[such]~~ a hearing, the commissioner shall, within
21 thirty days after receipt of the demand, hold a
22 hearing. The hearing shall be held upon not less than

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1 ten days' written notice to the aggrieved party and to
2 every insurer and rating organization [~~which~~] or
3 advisory organization that made such filing. The
4 aggrieved party shall bear the burden of proving that
5 the filing fails to meet the standards set forth in
6 section 431:14-103(a)(1); and

- 7 (4) If, after the hearing, the commissioner finds that the
8 filing does not meet the requirements of this article,
9 the commissioner shall issue an order specifying in
10 what respects the filing fails to meet the
11 requirements of this article, and stating when, within
12 a reasonable period, the filing shall be deemed no
13 longer effective. Copies of the order shall be sent
14 to the applicant and to every such insurer and rating
15 organization[~~-~~] or advisory organization. The order
16 shall not affect any contract or policy made or issued
17 prior to the expiration of the period set forth in the
18 order.

19 [~~(e)~~] (g). No manual of classifications, rules, rating
20 plan, or any modification of any of the foregoing [~~which~~] that
21 establishes standards for measuring variations in hazards or
22 expense provisions, or both, and [~~which~~] that has been filed

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1 pursuant to the requirements of section 431:14-104 shall be
2 disapproved if the rates thereby produced meet the requirements
3 of this article.

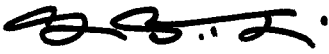
4 [~~f~~] (h) The notices, hearings, orders, and appeals
5 referred to in this section are in all applicable respects
6 subject to chapter 91, unless expressly provided otherwise."

7 SECTION 4. Statutory material to be repealed is bracketed
8 and stricken. New statutory material is underscored.

9 SECTION 5. This Act shall take effect on July 1, 2012.

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INTRODUCED BY: 

12

BY REQUEST

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Report Title:

Insurance; Rate Filings; Disapproval

Description:

Requires the Insurance Commissioner to publish listing of homeowners insurers and homeowners insurance premium rates in a newspaper of general circulation in the State annually; and allows the Insurance Commissioner to specify interim rates upon disapproval of insurance rate filings for property and casualty insurance.

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

JUSTIFICATION SHEET

DEPARTMENT: Commerce and Consumer Affairs

TITLE: A BILL FOR AN ACT RELATING TO INSURANCE.

PURPOSE: To require the Insurance Commissioner to:

1. Publish a listing of homeowners insurers and homeowners insurance premium rates in a newspaper of general circulation in the State annually; and
2. Make information on homeowners insurance premiums available to the public on request.

To allow the Insurance Commissioner to specify interim rates upon disapproval of insurance rate filings for property and casualty insurance and making the aggrieved filer bear the burden of proving the filing meets the ratemaking standards in section 431:14-103(a)(1), Hawaii Revised Statutes (HRS). Further, if an aggrieved person or organization challenges an insurance rate filing, the aggrieved party bears the burden of proving that the filing fails to meet the ratemaking standards in section 431:14-103(a)(1), HRS.

MEANS: Add a new section to part I of article 14 of chapter 431 and amend sections 431:14-104 and 431:14-106, HRS.

JUSTIFICATION: Section 431:10C-210, HRS, currently requires the annual publication of motor vehicle insurers and motor vehicle insurance premium rates. The department believes it would be in the public interest to require the publication of similar information regarding homeowners insurance. Making homeowners insurance information more accessible to the public would help Hawaii consumers make informed decisions when purchasing homeowners insurance.

While existing law provides for prior approval of insurance rate filings for property and casualty insurance, by authorizing the insurance commissioner to specify interim rates upon disapproval of rate filings, and making the filer bear the burden of proving that the filing meets the ratemaking standards in section 431:14-103(a)(1), HRS, the insurance commissioner would be better able to ensure that rates are fair, reasonable, and nondiscriminatory.

Impact on the public: This bill would help Hawaii consumers make informed decisions when purchasing homeowners insurance. This bill would also benefit the public by ensuring that property and casualty insurance rates are fair, reasonable, and nondiscriminatory.

Impact on the department and other agencies:
No significant impact.

GENERAL FUND: None.
OTHER FUNDS: None.
PPBS PROGRAM DESIGNATION: CCA-106.
OTHER AFFECTED AGENCIES: None.
EFFECTIVE DATE: July 1, 2012.