

SB 2769

Measure Title: RELATING TO INSURANCE.

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.

Companion: HB2507

Package: Gov

Current Referral: CPN, WAM

Introducer(s): TSUTSUI (BR)

Sort by Date		Status Text
1/25/2012	S	Introduced.
1/25/2012	S	Passed First Reading.
1/25/2012	S	Referred to CPN, WAM.
1/27/2012	S	The committee(s) on CPN has scheduled a public hearing on 02-02-12 9:00AM in conference room 229.



NEIL ABERCROMBIE
GOVERNOR

BRIAN SCHATZ
LT. GOVERNOR

**STATE OF HAWAII
INSURANCE DIVISION
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS**

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GORDON I ITO
INSURANCE COMMISSIONER

**TO THE SENATE COMMITTEE ON COMMERCE AND
CONSUMER PROTECTION**

**TWENTY-SIXTH LEGISLATURE
Regular Session of 2012**

Thursday, February 2, 2012
9:00 a.m.

TESTIMONY ON SENATE BILL NO. 2769 – RELATING TO INSURANCE.

TO THE HONORABLE ROSALYN H. BAKER, CHAIR, AND MEMBERS OF THE
COMMITTEE:

My name is Gordon Ito, State Insurance Commissioner ("Commissioner"),
testifying on behalf of the Department of Commerce and Consumer Affairs
("Department"). Thank you for hearing this bill. The Department strongly supports this
Administration bill.

The purpose of this bill is to make it easier for Hawaii homeowners to purchase
homeowners insurance by making premium information available to the public upon
request and by publishing premium information annually.

On January 3, 2012, the Department released homeowners premium
information, which was voluntarily provided by 14 insurers and similar to what is
required by this bill. This information enabled consumers to compare insurance rates
for homeowners, condominium owners, and renters. The Department believes that
requiring all homeowners insurers to provide similar information would help drive down
premiums and keep the marketplace competitive.

S.B. No. 2769
DCCA Testimony of Gordon Ito
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Hawaii Revised Statutes ("HRS") § 431:10C-210 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.

This bill also allows the Commissioner to specify interim rates upon disapproval of insurance rate filings for property and casualty insurance and to require that the aggrieved filer bear the burden of proving the filing meets the ratemaking standards in HRS § 431:14-103(a)(1). Existing law provides for prior approval of insurance rate filings for property and casualty insurance. Authorizing the 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 would help to ensure that rates are fair, reasonable, and nondiscriminatory.

We thank this Committee for the opportunity to present testimony on this matter and ask for your favorable consideration.

TESTIMONY OF MICHAEL TANOUE

SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION
Senator Rosalyn H. Baker, Chair
Senator Brian T. Taniguchi, Vice Chair

Thursday, February 2, 2012
9:00 a.m.

SB 2769

Chair Baker, Vice Chair Taniguchi, and members of the Committee, my name is Michael Tanoue, counsel for Hawaii Insurers Council. Hawaii Insurers Council is a non-profit trade association of property and casualty insurance companies licensed to do business in Hawaii. Member companies underwrite approximately 40% of all property and casualty insurance premiums in the state.

Hawaii Insurers Council **opposes Section 3** of HB 2507, which amends Section 431:14-106 regarding disapproval of filings. The bill inserts a new phrase "regulatory basis" into subsection (a) of Section 431:14-106. This phrase is vague and ambiguous, so HIC requests its deletion or clarification.

The bill also inserts a brand new subsection (d) into Section 431:14-106, which essentially allows the Insurance Commissioner to establish rates without appeal. This unilateral power violates the rights of insurers to have a full and fair hearing on their rate filings.

In the summer of 2011, the Insurance Commissioner mandated all insurers re-file their homeowners rates, citing excessive profits. Insurers have complied with the Insurance Commissioner's mandated rate filing. Members of HIC are committed to continuing to work on a more efficient rate approval process with the Insurance Division. To this end,

we have submitted a revision of this bill to the Insurance Commissioner for his consideration, which we have attached for the Committee's review. We ask the Committee for additional time to work on an amendment to the bill.

Thank you for the opportunity to testify.

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 article:

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

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;

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)."

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 and statutory basis for the
12 disapproval, including an explanation of the application thereof
13 that resulted in disapproval, and stating that the filing shall
14 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
12 period provided for in subsections (a) or (b), the commissioner
13 finds that a filing does not comply with the requirements of
14 this article on grounds other than disapproval of a rate filing
15 for homeowners insurance, the commissioner shall order a hearing
16 upon the filing. The hearing shall be held upon not less than
17 ten days' written notice to every insurer and rating
18 organization or advisory organization [who] that made such a
19 filing. The notice shall specify the matters to be considered
20 at the hearing and specify the factual and legal bases for the
21 commissioner's finding of noncompliance. If, after a hearing
22 the commissioner finds that a filing does not meet the

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

10 (d) If, any time subsequent to the applicable review
11 period provided for in subsection (a), the commissioner does not
12 approve a homeowners insurance rate filing by an insurer, rating
13 organization, or advisory organization, the commissioner shall
14 issue a written notice of disapproval of the filed rate to such
15 insurer, rating organization, or advisory organization. The
16 written notice, sent by certified mail, return receipt
17 requested, shall set forth the commissioner's proposed
18 homeowners insurance rate and the actuarial, statutory, factual,
19 and legal bases for both the disapproval of the homeowners
20 insurance rate filed by the insurer, rating organization, or
21 advisory organization and the commissioner's proposed homeowners
22 insurance rate. The insurer, rating organization, or advisory

1 organization may file, within thirty days of the acknowledged
2 receipt of the commissioner's written notice, a petition and
3 demand for a contested case hearing in accordance with chapter
4 91, in lieu of a written request for hearing pursuant to section
5 431:14-118.

6 (1) If the insurer, rating organization, or advisory
7 organization does not timely file a petition and demand for a
8 contested case hearing, the commissioner's proposed homeowners
9 insurance rate shall become effective thirty days after the
10 expiration of the deadline by which to file a petition and
11 demand for a contested case hearing.

12 (2) If the insurer, rating organization, or advisory
13 organization does timely file a petition and demand for a
14 contested case hearing, the homeowners insurance rate previously
15 approved by the commissioner shall remain in effect until the
16 date the director renders the decision and order after the
17 contested case in accordance with section 91-12.

18 (e) The contested case hearing allowed under subsection
19 (d) shall be conducted pursuant to the following procedures in
20 addition to the procedures set forth in chapter 91:

21 (1) The contested case hearing shall be given
22 preference over other contested case hearings.

1 (2) In the contested case, the commissioner shall
2 present the commissioner's proposed homeowners insurance rate,
3 and the insurer, rating organization, or advisory organization
4 shall present its homeowners insurance rate filing, in addition
5 to any other evidence and argument allowed by chapter 91.

6 (3) Within thirty days after the conclusion of the
7 contested case hearing, the hearing officer shall issue a
8 proposal for decision in accordance with section 91-11. The
9 proposal for decision shall find which one of the two presented
10 homeowners insurance rates complies with the requirements of
11 this article.

12 (4) The rate found to be in compliance with this
13 article shall then be effective on the date the decision and
14 order is rendered by the director in accordance with section
15 91-12.

16 (f) In the event an aggrieved party seeks judicial review
17 of the director's decision and order rendered pursuant to
18 subsection (e), then, after all judicial review has been
19 concluded and upon remand, the commissioner may:

20 (1) Allow the insurer, rating organization, or
21 advisory organization to retroactively adjust premiums and
22 surcharge policyholders; or

1 (2) Order the insurer, rating organization, or
2 advisory organization to retroactively apply any difference to
3 stabilize future rates or be returned to policyholders in the
4 form of a rebate or credit.

5 Such adjustments shall be calculated retroactively to the
6 date the decision and order was rendered by the director in
7 accordance with section 91-12.

8 ~~[(d)—(1)]~~ (g) Any person or organization aggrieved
9 with respect to any filing [~~which~~] that is in effect may make
10 written demand to the commissioner for a hearing thereon;
11 provided[, ~~however, that the~~] that:

12 (1) The insurer [~~or~~], rating organization [~~which~~], or
13 advisory organization that made the filing shall not
14 be authorized to proceed under this subsection[.];

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

20 (3) If the commissioner finds that the demand is made in
21 good faith, that the applicant would be so aggrieved
22 if the person's or organization's grounds are

1 established, and that the grounds otherwise justify
2 [~~such~~] a hearing, the commissioner shall, within
3 thirty days after receipt of the demand, hold a
4 hearing. The hearing shall be held upon not less than
5 ten days' written notice to the aggrieved party and to
6 every insurer and rating organization [~~which~~] or
7 advisory organization that made such filing. The
8 aggrieved party shall bear the burden of proving that
9 the filing fails to meet the standards set forth in
10 section 431:14-103(a)(1); and

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

1 [~~e~~] (h) No manual of classifications, rules, rating
2 plan, or any modification of any of the foregoing [~~which~~] that
3 establishes standards for measuring variations in hazards or
4 expense provisions, or both, and [~~which~~] that has been filed
5 pursuant to the requirements of section 431:14-104 shall be
6 disapproved if the rates thereby produced meet the requirements
7 of this article.

8 [~~f~~] (i) The notices, hearings, orders, and appeals
9 referred to in this section are in all applicable respects
10 subject to chapter 91, unless expressly provided otherwise. [L
11 1987, c 347, pt of §2; am L 1990, c 255, §10; am L 2004, c 122,
12 §61]

13 SECTION 4. Statutory material to be repealed is bracketed
14 and stricken. New statutory material is underscored.

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

**SENATE COMMITTEE ON
COMMERCE AND CONSUMER PROTECTION**

February 2, 2012

Senate Bill 2769 Relating to Insurance

Chair Baker and members of the Senate Committee on Commerce and Consumer Protection, I am Rick Tsujimura, representing State Farm Insurance Companies, a mutual company owned by its policyholders.

We offer the following comments on Senate Bill 2769. We are requesting that language be inserted providing for a hearing before an interim rate is set, which is below an existing rate. We believe due process requires this. Secondly, we request that after an interim rate is set by the Commissioner that an affected insurer be allowed a period of time to challenge the rate before it becomes effective. We believe that due process also requires this process.

Thank you for the opportunity to present this testimony.

Testimony of
American Insurance Association
1015 K Street, Suite 200
Sacramento, California 95814 - 3803

TO: Senator Rosalyn H. Baker
Chair, Committee on Commerce and Consumer Protection
Via Email: CPNtestimony@capitol.hawaii.gov

DATE: February 1, 2012

RE: **S.B. No. 2769 – Relating to Insurance**
Hearing Date: Thursday, February 2, 2012 at 9:00 a.m.
Conference Room 229

The American Insurance Association (AIA) respectfully opposes S.B. 2769, Relating to Insurance.

AIA is the leading property-casualty insurance trade organization, representing approximately 300 insurers that write more than \$100 billion in premiums each year. AIA member companies offer all types of property-casualty insurance, including personal and commercial auto insurance, commercial property and liability coverage for small businesses, workers' compensation, homeowners' insurance, medical malpractice coverage, and product liability insurance.

AIA opposes the provisions in S.B. 2769 that require publication of homeowner insurance premiums and that permit the Insurance Commissioner to specify interim insurance rates after disapproval of a rate filing.

Section 1 of S.B. 2769 requires the Insurance Commissioner to annually publish notice of the availability of a list of homeowners insurers, with representative annual premiums. We believe this provision will result in the dissemination of inaccurate and inadequate data. Factors such as property location, age, type of construction and materials, history, and experience, among other things, are essential to accurate pricing for coverage. In the absence of this information, it is impossible for the Commissioner to put forth sufficient information, and this will lead to consumer confusion.

Section 3 of the bill, proposes to amend Section 431:14-106 of the Hawaii Revised Statutes, to add a new subparagraph (d) authorizing the Insurance Commissioner to establish interim insurance rates after disapproval of a rate filing. Temporary, interim rates would be costly and impractical for carriers to comply with. Such rates would require system changes to implement, and later change yet again if needed, and would impose further burdens with respect to the collection or refund of amounts to

customers. Further, insurers should not be subject to having rates imposed upon them unilaterally.

For the foregoing reasons, AIA must respectfully oppose S.B. 2769.

Steven Suchil
Assistant Vice President/Counsel
State Affairs
Western Region



Property Casualty Insurers
Association of America

Shaping the Future of American Insurance

1415 L Street, Suite 670, Sacramento, CA 95814 Telephone 916-449-1370 Facsimile 916-449-1378 www.pclaa.net

To: The Honorable Rosalyn Baker, Chair
Senate Committee on Commerce and Consumer Protection

From: Mark Sektnan, Vice President

Re: **SB 2769- Relating to Insurance**
PCI Position: Oppose

Date: Thursday, February 2, 2012
9:00 a.m.; Conference Room 229

Aloha Chair Baker and Members of the Committee:

The Property Casualty Insurers Association of American (PCI) is opposed to SB 2769 which allows the Insurance Commissioner to specify interim rates upon disapproval of insurance rate filings for property and casualty insurance. PCI is a trade association consisting of more than 1,000 insurers of all sizes and types. Its members represent 38.3 percent of the total general business insurance and 31.6 percent of the total homeowners business in the nation. In Hawaii, PCI members represent 15.2 percent of the homeowners market.

Under this proposal, Hawaii would be the first state in the nation to have both a prior approval system which allows the Commissioner to approve rates and the authority to set interim rates upon the Commissioner's disapproval of a rate filing. Hawaii has a prior approval system under which companies must submit their rates, and have the rates approved, prior to using the rates in the marketplace. Two states, Iowa and Indiana which give their commissioner the power to set interim rates have a "file and use" system. Under this type of system, the insurer must file their rates with the Commissioner no later than their proposed effective date; they may then begin to use the filed rates in the marketplace. The Commissioner's review, if any, happens after the rates are in use in the marketplace. If rates are disapproved, they are done so after they have been in effect; hence it is less likely that interim rates will be set.

SB 2769 would establish a rate review process that is unnecessary since the Commissioner currently has the authority to disapprove a rate before it takes effect. Two states, Iowa and Indiana, currently allow their Commissioners authority to establish an interim rate but it is under a 'file and use' rating law, where insurers can use filed rates without waiting for Department of Insurance approval. The benefit to the file and use law, of course is that rate changes, in a competitive market, can be more quickly delivered to consumers.

It has been suggested that SB 2769 grants the Commissioner in Hawaii powers similar to those given the Commissioner in Florida. As the attached analysis of the Florida law shows, the regulatory environment in Florida is much different and in fact Florida does not have a law allowing for the establishment of "interim" rates. It should also be pointed out that the Florida homeowners' insurance market is generally rated one of the worst insurance markets in the nation in terms of affordability and availability of residential property coverage.

In Hawaii, rates must currently be approved by the Commissioner before they take effect prior to an insurer being able to use the rate and in 2011 residential property insurers responded to a call from the Commissioner to update their filed Homeowners rates. Since the authority of the Commissioner, granted by the Legislature, currently allows greater scrutiny and oversight than most other states, including those few states that allow an interim rate to be imposed, we view the provisions of SB 2769 as unnecessary. The Hawaii Insurance Commissioner already enjoys regulatory powers far in excess of those in states which allow the determination of an interim rate. Since the Commissioner must approve rates before they are used now, we feel that this additional authority is unnecessary.

For these reasons, PCI asks the committee to hold this bill in committee.

Attachment



**HAWAII HOUSE BILL 2507:
THE USE OF INTERIM RATES IN HOMEOWNERS INSURANCE
* A COMPARISON WITH OTHER STATES ***

Hawaii HB 2507 proposes the following:

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

- Hawaii has a prior approval rating law applicable to homeowners insurance. Two states known to use "interim rates" after a filing is disapproved do not have prior approval laws but instead have "file and use" laws, i.e., typically, these types of laws mean that rates must be filed with the insurance department no later than the proposed effective date; they are subject to review and possible disapproval after they have taken effect.

The two states known to use "interim rates" are Indiana and Iowa. The pertinent parts of their regulations are as follows:

Indiana – Whenever a company has no legally effective minimum premiums or rates as a result of the insurance department's disapproval of minimum premiums or rates or other act, the insurance department shall specify interim minimum premiums or rates for the company that are adequate to protect the interests of all parties and may order that a specified portion of the premiums be placed in an escrow account approved by the insurance department. When new minimum premiums or rates become legally effective, the insurance department shall order the escrowed funds or any overcharge in the interim minimum premiums or rates to be distributed appropriately, except that refunds of less than \$10 per policyholder shall not be required

Iowa – The insurance division will on request of the company work with the company to develop interim rates that are sufficient to protect the interest of all parties. The insurance division may order that a certain portion of the premium be placed in an escrow account. When the new rates become effective, the insurance division will order the escrowed funds or overcharge to be distributed appropriately. Such distribution may be waived if the amount involved would not warrant such action.

- The proposed section on interim rates in Hawaii HB 2507 is not similar to Florida, as its 2011 insurance rate standards (Title XXXVII, 627.062) do not mention "interim rates." According to sections 627.062(2)(a)1. and 2. of the Florida code, Florida's rating law is considered to be either "file and use" or "use and file." Under "file and use," the filing is made at least 90 days before the proposed effective date and is not implemented during the Office of Insurance Regulation's (OIR or office) review of the filing and any proceeding and judicial review. In this case, the office shall finalize its review by issuance of a notice of intent to approve or a notice of intent to disapprove within 90 days after receipt of the filing – *this is more akin to a prior approval law*. Under "use and file," a filing must be made as soon as practicable but within 30 days after the effective date. An insurer making a "use and file" filing is potentially subject to an order by the office to return to policyholders those portions of rates found to be excessive.

However, 627.062(2)(a)3. also states: "For all property insurance filings made or submitted after January 25, 2007, but before May 1, 2012, an insurer seeking a rate that is greater than the rate most recently approved by the office shall make a 'file and use' filing." **Since insurers are not permitted to make "use and file" filings for rate increases, the above provision pertaining to portions of rates found to be excessive being returned to policyholders may only apply to filings for rate decreases (that is, if these rates are found to be excessive).**

627.062(2)(h) goes on to say: "If the office finds that a rate or rate change is excessive, inadequate, or unfairly discriminatory, the office shall issue an order of disapproval specifying that a new rate or rate schedule, which responds to the findings of the office, be filed by the insurer. The office shall further order, for any "use and file" filing made in accordance with subparagraph (a)2., that premiums charged each policyholder constituting the portion of the rate above that which was actuarially justified be returned to the policyholder in the form of a credit or refund. If the office finds that an insurer's rate or rate change is inadequate, the new rate or rate schedule filed with the office in response to such a finding is applicable only to new or renewal business of the insurer written on or after the effective date of the responsive filing."

With respect to objecting to the Florida OIR's decision to disapprove a rate filing, the company may request an administrative hearing, arbitration or modify its current filing. Specifically, 627.062 (6)(a) states: "If an insurer requests an administrative hearing pursuant to s. 120.57 related to a rate filing under this section, the director of the Division of Administrative Hearings shall expedite the hearing and assign an administrative law judge who shall commence the hearing within 30 days after the receipt of the formal request and enter a recommended order within 30 days after the hearing or within 30 days after receipt of the hearing transcript by the administrative law judge, whichever is later."

PCI is a trade association consisting of more than 1,000 insurers of all sizes and types. Its members represent 38.3 percent of the total general insurance business and 31.6 percent of the total homeowners business in the nation. In Hawaii, PCI members represent 15.2 percent of the homeowners market.