
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 a new section to part I of article 14 to be
3 appropriately designated and to read as follows:

4 "§431:14- Publication of homeowners insurance premium
5 information. (a) Upon the commissioner's request, all
6 homeowners insurers shall provide homeowners insurance premium
7 information to the commissioner within thirty days of the
8 request.

9 (b) The commissioner shall publish annually, by electronic
10 or online publication on the official website of the insurance
11 division, a list of all homeowners insurers with representative
12 annual premiums for homeowners insurance.

13 (c) As used in this section:

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

16 (1) Indemnity from destruction or damage of the insured's
17 property by various designated perils; 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 431:10C-210, Hawaii Revised Statutes,
8 is amended to read as follows:

9 **"§431:10C-210 Publication of premium [~~rates-~~] information.**

10 (a) Upon the commissioner's request, all motor vehicle insurers
11 shall provide motor vehicle insurance premium information to the
12 commissioner within thirty days of the request.

13 (b) The commissioner shall publish annually, [~~in a~~
14 newspaper of general circulation in the State, notice of
15 availability of] by electronic or online publication on the
16 official website of the insurance division, a list of all motor
17 vehicle insurers with representative annual premiums for motor
18 vehicle insurance. The commissioner shall have information on
19 premiums for motor vehicle insurance, which shall be available
20 to the public on request."

21 SECTION 3. Section 431:14-103.3, Hawaii Revised Statutes,
22 is amended to read as follows:



1 "~~§~~431:14-103.3 **Rate adjustment mandates.**~~§~~ (a)

2 Except as otherwise provided by law, the commissioner may
3 mandate insurers to submit new filings for any type of insurance
4 under section 431:14-102 when the commissioner has actuarially
5 sound information that current rates may be excessive,
6 inadequate, or unfairly discriminatory.

7 (b) Insurers shall submit the new rate filings within one
8 hundred twenty days of the commissioner's mandate.

9 (c) The new rate filings shall be subject to the rate
10 filing requirements under section 431:14-104.

11 (d) After the commissioner reviews the new rate filings
12 submitted under this section, if the commissioner finds that the
13 rates are excessive, inadequate, or unfairly discriminatory, the
14 commissioner may adjust the rates for any class of insurance for
15 any insurer pursuant to subsections (e) and (f).

16 (e) If, any time subsequent to the applicable review
17 period provided for in sections 431:14-104 and 431:14-120, the
18 commissioner does not approve a new rate filing by an insurer,
19 the commissioner shall issue a written notice of disapproval of
20 the filed rate to the insurer. The written notice shall set
21 forth the commissioner's proposed rate and the actuarial,
22 statutory, factual, and legal bases for both the disapproval of



1 the rate filed by the insurer and the commissioner's proposed
2 rate. Within thirty days of the commissioner's written notice
3 of disapproval, the insurer may file a written request to the
4 commissioner for a hearing pursuant to subsection (f); provided
5 that:

6 (1) If the insurer fails to file a written request for
7 hearing, the commissioner's proposed rate shall become
8 effective sixty days after the expiration of the
9 deadline to file a written request for a hearing; and

10 (2) If the insurer files a written request for a hearing,
11 the existing effective rate shall remain in effect
12 until sixty days after the final order is rendered by
13 the director of commerce and consumer affairs and the
14 appeals process has been exhausted.

15 (f) The hearing allowed under subsection (e) shall be
16 conducted under the following procedure:

17 (1) The hearing shall commence within twenty days of
18 receipt of the written demand for a hearing, and
19 written notice of the hearing shall be provided to the
20 parties not less than ten days prior to the hearing;



- 1 (2) The commissioner shall present the commissioner's
- 2 proposed rate and the insurer shall present its rate
- 3 filing, in addition to other relevant evidence;
- 4 (3) Within fifteen days after the conclusion of the
- 5 hearing, the hearings officer shall issue a proposed
- 6 decision; and
- 7 (4) The rate found to be in compliance with this article
- 8 shall be effective sixty days after the final order is
- 9 rendered by the director of commerce and consumer
- 10 affairs and the appeals process has been exhausted."

11 SECTION 4. Section 431:14-104, Hawaii Revised Statutes, is
 12 amended as follows:

13 1. By amending subsections (f) and (g) to read:

14 "(f) Specific inland marine rates on risks specially
 15 rated, made by a rating organization[~~7~~] or advisory
 16 organization, shall be filed with the commissioner.

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



1 requiring any insurer to become a member of or a subscriber to
2 any rating organization[-] or advisory organization."

3 2. By amending subsections (j), (k), and (l) to read:

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

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



- 1 (1) Specific inland marine rates on risks specially rated
- 2 by a rating organization[+] or advisory organization;
- 3 (2) Any special filing with respect to a surety or
- 4 guaranty bond required by law or by court or executive
- 5 order or by order or rule of a public body, not
- 6 covered by a previous filing; and
- 7 (3) Any special filing with respect to any class of
- 8 insurance, subdivision, or combination thereof [~~which~~]
- 9 that is subject to individual risk premium
- 10 modification and has been agreed to by an insured
- 11 under a formal or informal bid process.

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

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



1 advisable to ascertain whether any rates affected by the order
2 meet the standards set forth in section 431:14-103(a)(1)."

3 SECTION 5. Section 431:14-106, Hawaii Revised Statutes, is
4 amended to read as follows:

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

17 (b) If, within thirty days:

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



1 (2) After a special surety or guaranty filing subject to
 2 section 431:14-104(k) has become effective;
 3 the commissioner finds that [~~such~~] the filing does not meet the
 4 requirements of this article, the commissioner shall send to the
 5 insurer, rating organization, or advisory organization that made
 6 the filing, written notice of disapproval of the filing
 7 specifying in what respects the filing fails to meet the
 8 requirements of this article and stating when, within a
 9 reasonable period thereafter, the filing shall be deemed no
 10 longer effective. The disapproval shall not affect any contract
 11 made or issued prior to the expiration of the period set forth
 12 in the notice.

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



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

12 (d) If a filing is disapproved, in whole or in part, a
13 written request for a hearing may be filed pursuant to section
14 431:14-118. The insurer shall bear the burden of proving that
15 the filing meets the requirements of this article.

16 ~~[-(d)-(1)-]~~ (e) Any person or organization aggrieved with
17 respect to any filing ~~[which]~~ that is in effect may make written
18 demand to the commissioner for a hearing thereon; provided~~[-~~
19 ~~however, that the]~~ that:

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



1 (2) The demand shall specify the grounds to be relied upon
2 by the aggrieved person or organization, and ~~[such]~~
3 the demand ~~[must]~~ shall show that ~~[such]~~ the person or
4 organization has a specific economic interest affected
5 by the filing~~[-]~~;

6 (3) If the commissioner finds that the demand is made in
7 good faith, that the applicant would be so aggrieved
8 if the person's or organization's grounds are
9 established, and that the grounds otherwise justify
10 ~~[such]~~ a hearing, the commissioner ~~[shall]~~, within
11 thirty days after receipt of the demand, shall hold a
12 hearing. The hearing shall be held upon not less than
13 ten days' written notice to the aggrieved party and to
14 every insurer ~~[and]~~, rating organization ~~[which]~~, or
15 advisory organization that made ~~[such]~~ the filing.
16 The aggrieved party shall bear the burden of proving
17 that the filing fails to meet the standards set forth
18 in section 431:14-103(a)(1); and

19 (4) If, after the hearing, the commissioner finds that the
20 filing does not meet the requirements of this article,
21 the commissioner shall issue an order specifying in
22 what respects the filing fails to meet the



1 requirements of this article, and stating when, within
 2 a reasonable period, the filing shall be deemed no
 3 longer effective. Copies of the order shall be sent
 4 to the applicant and to every such insurer ~~and~~,
 5 rating organization~~[-]~~, or advisory organization. The
 6 order shall not affect any contract or policy made or
 7 issued prior to the expiration of the period set forth
 8 in the order.

9 ~~[(e)]~~ (f) No manual of classifications, rules, rating plan,
 10 or any modification of any of the foregoing ~~[which]~~ that
 11 establishes standards for measuring variations in hazards or
 12 expense provisions, or both, and ~~[which]~~ that has been filed
 13 pursuant to the requirements of section 431:14-104 shall be
 14 disapproved if the rates thereby produced meet the requirements
 15 of this article.

16 ~~[(f)]~~ (g) The notices, hearings, orders, and appeals
 17 referred to in this section are in all applicable respects
 18 subject to chapter 91, unless expressly provided otherwise."

19 SECTION 6. Section 431:10C-209.5, Hawaii Revised Statutes,
 20 is repealed.

21 ~~["[§431:10C-209.5] Intervention by commissioner to adjust~~
 22 ~~rates.~~ (a) ~~The commissioner, annually, may reduce rates and~~



1 ~~may adjust rates prospectively for any class or type of~~
2 ~~mandatory coverage or optional additional motor vehicle~~
3 ~~insurance coverage for any insurer or group of insurers, if~~
4 ~~rates are excessive, inadequate, or unfairly discriminatory.~~

5 ~~(b) An affected party that objects to a rate adjustment~~
6 ~~pursuant to subsection (a) shall be entitled to a public hearing~~
7 ~~under chapter 91, at which all affected and interested parties~~
8 ~~shall have an opportunity to examine, comment, and present~~
9 ~~testimony on the impact and application of the proposed or~~
10 ~~revised rates."]~~

11 SECTION 7. Statutory material to be repealed is bracketed
12 and stricken. New statutory material is underscored.

13 SECTION 8. This Act shall take effect on July 1, 2012.



Report Title:

Insurance; Publication of Rates; Rate Filings; Rate Intervention

Description:

Requires the Insurance Commissioner to publish a list of homeowners insurers and homeowners insurance annual premiums, and motor vehicle insurers and motor vehicle insurance annual premiums on the Insurance Division's official website. Clarifies the Insurance Commissioner's ability to intervene to adjust insurance rates. Provides for written notice of disapproval and hearing requirements. Includes advisory organizations in the rate filings and regulation process under Article 14, Chapter 431, Hawaii Revised Statutes. (CD1)

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