



South Carolina Department of Insurance

MARK SANFORD
Governor

ERNST N CSISZAR
Director of Insurance

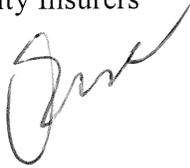
Division of Financial Services
Office of Actuarial Services
300 Arbor Lake Drive, Suite 1200
Columbia, South Carolina 29223

Mailing Address:
P.O. Box 100105, Columbia, S.C. 29202-3105
Telephone: (803) 737-6230

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(Issued upon August 18, 2004)

To: Property and Casualty Insurers

From: Ernst N. Csiszar
Director 

Subject: Property and Casualty Modernization Act Legislation

Act 290 was enacted on July 29, 2004 and this Bulletin will provide an overview of the changes that will be made to implement the provisions of immediate impact to insurers. There are several requirements for insurers to change cancellation and non-renewal forms with an effective date of March 1, 2005 and these changes will be covered in a future bulletin.

Effective July 29, 2004, Act 290 amends South Carolina Code of Laws, Section 38-73-910 and creates Section 38-73-260. Section 38-73-910 was amended to remove from that section references to fire, allied lines and homeowners insurance. Section 38-73-260 is now applicable for personal lines filings regarding fire, allied lines and homeowners insurance. It reads as follows:

(A) Except as provided in subsection (B), overall average rate level increases or decreases, for all coverages combined, of seven percent above or below the insurer's rates then in effect may take effect without prior approval on a file and use basis with respect to rates for fire, allied lines, and homeowner's insurance policies. The seven percent cap does not apply on an individual insured basis.

(B) Notwithstanding another provision of this article, for any policies governed by this section, filings that produce rate level changes within the limitation specified in subsection (A) become effective without prior approval. No more than two rate increases within the limitation specified in subsection (A) may be implemented during a twelve-month period and the second rate increase filing in the twelve-month period is subject to prior approval.

(C) A rate increase or decrease falling within the limitation in subsection (B) may become effective not less than thirty days after the date of the filing with the director. The filing is considered to meet the requirements of this article. If the director finds that this filing is not in compliance with this article, he shall issue a written order specifying in detail the provisions with which the insurer has not

complied and state a reasonable period in which the filing is considered no longer effective. An order by the director pursuant to this section that is issued more than thirty days from the date on which the director received the rate filing is on a prospective basis only and does not affect a contract issued or made before the effective date of the order.

(D) Rate filings falling outside the limitation specified in subsection (B) are subject to the prior approval of the director or his designee. The director or his designee shall approve or disapprove these filings pursuant to the provisions of Sections 38-73-960 and 38-73-990.

(E) With respect to applications for rate increases for fire, allied lines, and homeowner's insurance that exceed the seven percent cap as provided in subsection (A) and if an applicant insurer had earned premiums in this State in the previous calendar year of more than ten million dollars for the line or type of insurance for which the rate increase is sought, the director or his designee shall provide a copy of the filing to the Consumer Advocate or, in the alternative, shall direct the insurer to provide a copy simultaneously to the Consumer Advocate. Within ten business days of the receipt of the filing, the Consumer Advocate may request from the insurer additional information. A copy of the request must be served on the director or his designee. Within ten business days of the receipt of the information sought, the Consumer Advocate shall inform the insurer and the director if, in his opinion, the filing is not in compliance with this article and specify in detail the reason for his opinion. If the filing is accepted by the director and becomes effective, the Consumer Advocate, upon good cause shown, may request a hearing before the Administrative Law Judge Division. An order of the administrative law judge issued pursuant to the provisions of this section is on a prospective basis only and does not affect any contract issued or made before the effective date of the order.

1. Please note that filings cannot be made effective until 30 days after filing with the Department. The Department has available on its website the ability for insurers to determine when a filing is received. Please note that all filings will be reviewed by the Department. Upon successful completion of the review process, filings under the seven percent threshold will be stamped "File and Use". The requirements needed for a filing to be processed have not changed and are not dependent on the rating threshold.
2. Insurers with filings that meet the ten million dollar earned premium threshold in part (E) and exceed the 7% cap must provide to the Department of Insurance proof-of-mailing to the Consumer Advocate of a copy of the filing. Filings made via the SERFF system should include an electronic copy of the proof of mailing. The address for the Consumer Advocate is 3600 Forest Drive, 3rd Floor, P.O. Box 5757, Columbia, SC 29250-5757.

Effective July 29, 2004, Act 290 provides new sections 38-73-325 and 38-73-425 to South Carolina Code of Laws. These new sections are identical and read as follows:

“Absence of credit information may be used by an insurer for underwriting purposes only if the insurer presents information satisfactory to the director that the absence is related to the risk”

Insurers that use absence of credit score information for underwriting purposes must file an underwriting guide with the Department providing support for such action. This does not apply to underwriting based upon poor credit score or high credit score, only the absence of a credit score. This section applies to property and liability insurance. A working group will be formed to provide more information on this guidance on this statute and on other elements of the bill.

To contact the Department of Insurance with questions concerning this bulletin, please E-mail the following address: P&CMail@doi.state.sc.us or call 803-737-6230.