

TITLE 11 – DEPARTMENT OF INSURANCE

Notice is hereby given in accordance with G.S. 150B-21.2 that the Department of Insurance intends to amend the rule cited as 11 NCAC 10 .0602.

Link to agency website pursuant to G.S. 150B-19.1(c): https://www.ncdoi.gov/insurance-industry/rules-and-rules-review

Proposed Effective Date: April 1, 2020

Public Hearing:

Date: January 14, 2020

Time: 11:00 a.m.

Location: 1st Floor Hearing Room, Room 131 (Albemarle Building) located at 325 N. Salisbury Street, Raleigh, NC 27603

Reason for Proposed Action: This rule is being amended to include necessary language regarding Worker's Compensation and Employers' Liability Insurance.

Comments may be submitted to: Loretta Peace-Bunch, NC Department of Insurance, 1201 Mail Service Center, Raleigh, NC 27699-1201; phone (919) 807-6004; email loretta.peace-bunch@ncdoi.gov

Comment period ends: February 14, 2020

Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

Fiscal impact. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.

- State funds affected
Local funds affected
Substantial economic impact (>= \$1,000,000)
Approved by OSBM
No fiscal note required

CHAPTER 10 - PROPERTY AND CASUALTY DIVISION

SECTION .0600 - CONSENT TO RATE

11 NCAC 10 .0602 CONSENT TO RATE PROCEDURES: RATE BUREAU COVERAGES

(a) Automobile Physical Damage, Excess Motor Vehicle Liability Coverage and Residential Property With Not More than Four Housing Units. Insurers may charge a premium in excess of that promulgated by the North Carolina Rate Bureau by instituting a consent to rate procedure that meets the requirements of G.S. 58-36-30(b), (b1) and this Rule.

(b) Residential Property With Not More than Four Housing Units:

- (1) The premium to be charged against loss to residential property with not more than four housing units shall be presumed reasonable if it does not exceed 250 percent of the premium based upon the approved rates in North Carolina.
(2) Any proposed premium in excess of 250 percent of the premium based upon the approved rates in North Carolina shall be filed with the Commissioner for his review and approval in accordance with the procedures set forth in G.S. 58-36-30(a).

(c) Workers' Compensation and Employers' Liability Insurance. An initial (first time) application to effect consent to rate, pursuant to G.S. 58-36-30(c), for workers' compensation or employers' liability insurance in excess of the rate promulgated by the North Carolina Rate Bureau, shall contain the following:

- (1) a description of the insurance proposed, including primary and excess limits, the amount of coverage, the deductible, and any other factor used for rating, where applicable;
(2) the rate and premium that would be charged without application of consent to rate;
(3) the proposed rate and premium;
(4) the percent increase. The rate to be charged shall be presumed reasonable if it does not exceed 250 percent of the rate that would be charged without application of consent to rate. Any proposed rate in excess of 250 percent must be explained fully and shall be subject to review and approval of the Commissioner;
(5) the names and addresses of the insurer, the writing agent, and the insured;
(6) the effective date of the proposed rate;
(7) the policy period;

- (8) the policy number; and
(9) a letter signed by the insured acknowledging and consenting to the proposed rate. If coverage for the specific risk written on consent to rate is available through a residual market (North Carolina Workers Compensation Insurance Plan), a statement signed by the insured acknowledging that fact must also be executed. This letter shall be retained in the insurer's office and be made available to the Commissioner upon request.

The insurer is not required to obtain the written consent of the insured on any renewal of or endorsement to the policy if the policy renewal or endorsement states that the rates are greater than those rates that are applicable in the State of North Carolina.

~~(e)(d)~~ All records generated under G.S. 58-36-30(b), ~~(b1)~~(c) and this Rule shall be maintained in accordance with the requirements of 11 NCAC 19 .0100.

*History Note: Authority G.S. 58-2-40(1); 58-36-30(b);
Eff. February 1, 1976;
Readopted Eff. July 11, 1978;
Amended Eff. August 3, 1992; February 1, 1990; January 1, 1989;
Temporary Amendment Eff. November 8, 1996;
Amended Eff. July 1, 1998;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest January 3, 2017;
Amended Eff. April 1, 2020; December 1, 2018.*