

CTR Attachment

Overview of the amendments to the Consent to Rate Laws

N.C.G.S. 58-36-30 Deviations

- The amendments to N.C.G.S. 58-36-30 Deviations
 - Removes the requirement that the insurance carrier obtain written consent of the policyholder prior to utilizing consent to rate. (See “A” below)
 - Requires automobile insurance carriers to include a disclosure statement either on the policy’s declarations page or on a separate page before the declarations page notifying a policyholder that the premium he or she is being charged is greater than the approved North Carolina rate. The disclosure is included on any new, renewal or endorsement when the premium charged exceeds the approved rate. (See “B” below)
 - Amends the disclosure statement language currently being used in residential property insurance policies to notify the policyholder that the rate being charged is higher than the approved rate and removes the 30-day notification requirement for all written consents to rate. The disclosure statement should be included either on the policy’s declarations page or on a separate page before the declarations page and is applicable on all new, renewal, and endorsements to the policies. (See “C” Below)
 - Requires the Commissioner of Insurance to collect and publish annually on the Department’s website, residential property insurance consent to rate data aggregated across all insurers for each geographical ratemaking territory. The data will show the percentage of policies for which consent to rate has been used and the average difference between the approved premium and the consented premium. (See “D” below)
 - Information identifying individual insurers or policyholder will remain confidential and proprietary and not a public record.
 - Requires each insurance carrier to collect consent to rate data for automobile physical damage and homeowners’ property insurance (all forms excluding HO4 and HO6) and transmit the data for each policy to the Commissioner on a semi-annual basis. (See “E” below)
 - Information identifying individual insurers or policyholder will remain confidential and proprietary and not a public record.

The edits made to N.C.G.S. 58-36-30 Deviations effective January 1, 2019 with reference to the above back to the above overview.

AMEND CONSENT TO RATE LAWS

§ 58-36-30. Deviations.

- (a) Except as permitted by G.S. 58-36-100 for workers' compensation loss costs filings, no insurer and no officer, agent, or representative of an insurer shall knowingly issue or deliver or knowingly permit the issuance or delivery of any policy of insurance in this State that does not conform to the

rates, rating plans, classifications, schedules, rules and standards made and filed by the Bureau. An insurer may deviate from the rates promulgated by the Bureau if the insurer has filed the proposed deviation with the Bureau and the Commissioner, if the proposed deviation is based on sound actuarial principles, and if the proposed deviation is approved by the Commissioner. Amendments to deviations are subject to the same requirements as initial filings. An insurer may terminate a deviation only if the deviation has been in effect for a period of six months before the effective date of the termination and the insurer notifies the Commissioner of the termination no later than 15 days before the effective date of the termination.

(b) This subsection applies only to insurance against loss to automobile physical damage and related expenses. A rate in excess of that promulgated by the Bureau may be charged by an insurer on any specific risk if the higher rate is charged in accordance with rules adopted by the Commissioner and with the knowledge and written consent of the insured. 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. The insurer shall retain the signed consent form and other policy information for each insured and make this information available to the Commissioner, upon request of the Commissioner. This subsection may be used to provide motor vehicle liability coverage limits above those required under Article 9A of Chapter 20 of the General Statutes and above those cedable to the Facility under Article 37 of this Chapter to persons whose personal excess liability insurance policies require that they maintain specific higher liability coverage limits. Any data obtained by the Commissioner under this subsection is proprietary and confidential and is not a public record under G.S. 132-1 or G.S. 58-2-100. Commissioner. An insurer shall give notice to the insured that the rates used to calculate the premium for the policy are greater than those rates that are applicable in the State of North Carolina by including the following language in the policy on page one of the declarations page or on a separate page before the declarations page, in at least 14 point type or in a font size larger than the remainder of the document whichever is larger, bolded, and all capitalized: (B)

NOTICE: THE PREMIUM THAT WE ARE CHARGING FOR AUTOMOBILE PHYSICAL DAMAGE AND RELATED EXPENSES THAT COVERS THE DAMAGE TO YOUR COVERED VEHICLE(S) EXCEEDS THE PREMIUM BASED UPON THE APPROVED RATES IN NORTH CAROLINA, IN ACCORDANCE WITH G.S. 58-36-30(b).

The disclosure statement noted above in this subsection shall be included on any renewal of or endorsement to the policy when the rates charged exceed the approved manual rate. The insurer shall retain consent to rate information for each insured and make this information available to the Commissioner, upon request of the Commissioner. This subsection may be used to provide motor vehicle liability coverage limits above those required under Article 9A of Chapter 20 of the General Statutes and above those that could be ceded to the North Carolina Reinsurance Facility under Article 37 of this Chapter to persons whose personal excess liability insurance policies require that they maintain specific higher liability coverage limits. Any data obtained by the Commissioner under this subsection is proprietary and confidential and is not a public record under G.S. 132-1 or G.S. 58-2-100.

(b1) This subsection applies only to insurance against loss to residential real property with not more than four housing units. A rate in excess of that promulgated by the Bureau may be charged by an insurer on any specific risk if the higher rate is charged in accordance with rules adopted by the Commissioner and is charged with the knowledge and written consent of the insured. Commissioner. An insurer shall give reasonable notice to the insured that the rates used to calculate the premium for the policy are greater than those rates that are applicable in the State of North Carolina by including the following language on the insured's written consent to rate form in at least 14 point type, bolded, and underlined: (A) in the policy on page one of the declarations page or on a separate page before the declarations page, in at least 14 point type or in a font size larger than the remainder of the document whichever is larger, bolded, and all capitalized: (C)

NOTICE: IN ACCORDANCE WITH G.S. 58-36-30(b1), THE PREMIUM USING NORTH CAROLINA RATE BUREAU'S APPROVED RATES FOR THE HOMEOWNER'S INSURANCE COVERAGE I APPLIED FOR IS \$ THE PREMIUM FOR THIS COVERAGE IS \$ _____. THE TOTAL PERCENTAGE INCREASE ABOVE THE APPROVED RATES IS ____%. BASED UPON THE APPROVED RATES IN NORTH CAROLINA FOR RESIDENTIAL PROPERTY INSURANCE COVERAGE APPLIED FOR WOULD BE \$ _____. OUR PREMIUM FOR THE COVERAGE IS \$ _____

~~The insurer shall provide the rate information on the disclosure statement above, as applicable, to the insured. The disclosure statement noted above in this subsection shall be included on any renewal of or endorsement to the policy manual rate following the initial written consent of an insured. However, once an initial written consent to rate is received, the insurer is not required to obtain the written consent of the insured on any renewal of or endorsement to the policy. The insurer shall give at least 30 days' notice to the insured for all written consents to rate and notices required under this subsection on all policy renewals and endorsements, when the rates charged exceed the approved manual rate. The insurer shall retain the signed consent form and other policy to rate (A) information for each insured and make this information available to the Commissioner, upon request of the Commissioner. Any data obtained by the Commissioner under this subsection is proprietary and confidential and is not a public record under G.S. 132-1 or G.S. 58-2-100.~~

(b2) Notwithstanding subsection (b1) of this section, the Commissioner shall collect annually from all insurers and publish on the Department's Web site no later than July 1 the following data aggregated across all insurers for each geographical rate-making territory: (D)

- (1) The percentage of policies for which a consent to rate has been obtained.
- (2) The average difference between the approved premium and the consented premium.

The Commissioner shall designate the format and manner to collect the data to be published.

Any nonaggregated data obtained by the Commissioner, including data identifying individual insurers or insureds, under this subsection is proprietary and confidential and is not a public record under G.S. 132-1 or G.S. 58-2-100. This subsection applies only to insurance against loss to residential real property with not more than four housing units.

(c) Any approved rate under subsection (b) of this section with respect to workers' compensation and employers' liability insurance written in connection therewith shall be furnished to the Bureau.

(d) Notwithstanding any other provision of law prohibiting insurance rate differentials based on age, with respect to nonfleet private passenger motor vehicle insurance under the jurisdiction of the Bureau, any member of the Bureau may apply for and use in this State, subject to the Commissioner's approval, a downward deviation in the rates for insureds who are 55 years of age or older. A member of the Bureau may condition a deviation under this subsection or a deviation under subsection (a) of this section on the successful completion of a motor vehicle accident prevention course that has been approved by the Commissioner of Motor Vehicles, as designated in the deviation.

(e) Each insurer shall collect consent to rate data for nonfleet private passenger motor vehicle physical damage and homeowners residential property (all forms excluding HO4 and HO6) with not more than four housing units and transmit the data electronically for each policy to the Commissioner on a semi-annual basis in a format prescribed and designated by the Commissioner: (E)

- (1) NAIC Company Code.
- (2) Company Name.
- (3) Policy Number.
- (4) Amount of Coverage A Insurance (Homeowners).
- (5) Effective Date.
- (6) Expiration Date.
- (7) Zip Code.
- (8) Actual Homeowners Full Term Premium.

- (9) Actual Automobile Physical Damage Full Term Premium.
- (10) NC Rate Bureau Homeowners Full Term Premium.
- (11) NC Rate Bureau Automobile Physical Damage Full Term Premium excluding SDIP charges.
- (12) New Policy or Renewal Policy.
- (13) Such other information that may be required by any rule adopted by the Commissioner."

This section becomes effective January 1, 2019, and applies to policies issued, renewed, or amended on or after that date.