

INSURANCE

DEPARTMENT OF BANKING AND INSURANCE

DIVISION OF PROPERTY CASUALTY

Personal Lines: Rate Filing Review Procedures

Proposed Amendments: N.J.A.C. 11:1-45.1, 45.3 and 45 Appendix

Proposed New Rule: N.J.A.C. 11:1-45 Appendix Exhibit B

Authorized By: Thomas B. Considine, Commissioner, Department of Banking and Insurance.

Authority: N.J.S.A. 17:1-8, 17:1-15e, 17:29A et seq. and 52:27EE-46 et seq.

Calendar Reference: See Summary below for explanation of the exceptions to the calendar requirement.

Proposal Number: PRN 2011-074.

Submit comments by May 20, 2011 to:

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The agency proposal follows:

Summary

The Department of Banking and Insurance (Department) is proposing amendments to its rules on Personal Lines and Private Passenger Automobile Insurance Rate Filing Review Procedures in order to clarify the requirement that an insurer provide notice to the Division of Rate Counsel of certain rate filings as set forth in N.J.S.A. 52:27EE-1 et seq., and when notice of such filings shall be provided to policyholders of personal lines insurance rate increases.

On September 20, 2010, the Department adopted amendments to N.J.A.C. 11:1-2A.1, 2A.2, 2A.3 and 2A.4; 11:1-45.1, 45.2 and 45.3; and 11:3-18.1, 18.2, 18.3 and 18.4. The notice of adoption of these amendments appeared in the October 18, 2010 New Jersey Register (see 42 N.J.R. 2425(a)) and the amendments became effective on that date. One comment submitted on the notice of proposal of the now adopted amendments suggested that the industry would like to know if the Department will be revising the Appendix in N.J.A.C. 11:1-45 to include language to use when an insurer has filed for one or more prior approval rate filings for implementation within a 12-month period and the combined filings have an overall impact of an increase exceeding seven percent. As noted in its Response to that Comment in the adoption notice, the Department could not make a change to address this issue upon adoption because it would have been a substantive change requiring additional public notice and comment. See N.J.A.C. 1:30-6.3.

The proposed amendment at N.J.A.C. 11:1-45.1(c) provides guidance to insurers for issuing a notice as required by N.J.A.C. 11:1-45 when an insurer has filed for more than one prior approval rate increase as referenced in N.J.S.A.52:27EE-46 et seq. for implementation within a 12-month period and the combined filings have an overall impact of an increase exceeding seven percent. Three pertinent examples of how the proposed amendment to N.J.A.C 11:1-45.1(c) applies are described as follows:

1. An insurer submits a filing requesting a +7 percent rate increase with no consumer notice required, and the filing is approved. If the insurer submits an additional filing requesting an additional +5 percent rate increase to be effective within 12 months of the first filing's effective date, the insurer is required to send out a notice (see proposed N.J.A.C. 11:1-45 Appendix Exhibit B) since the combined overall increase is more than +7 percent within a 12-month period.
2. An insurer submits a filing requesting a +15 percent rate increase, sends the required Consumer Notice (N.J.A.C. 11:1-45 Appendix Exhibit A), and is granted a +10 percent rate increase. If the insurer subsequently files for an additional +6 percent rate increase to be effective within 12 months of the first filing's effective date, because the +16 percent combined total of the two filings is greater than the increase referenced in the original Consumer Notice (of +15 percent), the insurer is required to send out a second notice (see Exhibit B).
3. An insurer submits a filing requesting a +15 percent rate increase, sends the required Consumer Notice (Exhibit A), and is granted a +10 percent rate increase. If the insurer subsequently files for an additional +3 percent rate increase to be effective within 12 months of the first filing's effective date, because the +13 percent combined total of the two rate filings is less than or equal to the increase referenced in the original Consumer Notice (of +15 percent), the insurer is not required to send out a second notice.

N.J.A.C. 11:1-45.3 is being amended to reflect the addition of Appendix Exhibit B as a form of notice required.

A 60-day comment period is provided for this notice of proposal and, therefore, pursuant to N.J.A.C. 1:30-3.3(a)5, the proposal is not subject to the provisions of N.J.A.C. 1:30-3.1 and 3.2 governing rulemaking calendars.

Social Impact

The Department's proposed amendments and new Appendix Exhibit B clarify when notice is required to be provided to policyholders by insurers filing for personal lines prior approval rate increases. This will have a favorable social impact by better assuring that the affected policyholders will be fully informed of potential rate increases in excess of seven percent within a 12-month period and better able to shop for lower rates or to influence the filing carrier's decision to continue with the application to increase its rates.

Economic Impact

Insurers will be required to bear any costs associated with providing the required notice when they submit a personal lines prior approval rate filing that has the effect of imposing a combined overall increase of more than seven percent within a 12-month period. The Department does not believe that the proposed amendments and new rule will impose an undue burden or additional costs on insurers. The amendments and new rule provide language that insurers should use in complying with the notice requirements as suggested by a commenter to the previous proposal (see 42 N.J.R. 2425(a)). The benefit to insurers is that the amendments

and new rule help clarify when a notice is required to be issued, thereby enabling insurers to avoid sending unnecessary notices in an effort to fulfill the statutory notice requirements.

Federal Standards Statement

A Federal standards analysis is not required because the proposed amendments and new rule relate to the business of insurance and are not subject to any Federal requirements or standards.

Jobs Impact

The Department does not believe that these proposed amendments and new rule will cause any jobs to be generated or lost.

Agriculture Industry Impact

The Department does not expect any impact on the agriculture industry as a result of the proposed amendments and new rule.

Regulatory Flexibility Analysis

The proposed amendments and new rule apply to “small businesses” as that term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The “small businesses” to which these amendments and new rule apply are insurers domiciled in this State transacting personal lines property/casualty coverage. As noted above, such small businesses will be required to bear costs associated with providing notice to policyholders and the Division of Rate Counsel when more than one prior approval rate filing has been filed to be implemented within a

12-month period and the filings have a combined overall increase or more than seven percent. The Department does not believe that the hiring of additional staff or professional services will be necessary to comply with the proposed amendments and new rule. As noted above, the Department does not anticipate any undue economic impact on insurers. Small businesses are currently required to incur costs associated with providing notice to the Division of Rate Counsel and policyholders of individual personal lines rate filings that seek increases in excess of seven percent. The Department is clarifying that the notice requirements also apply in certain cases involving multiple filings as stated above. The Department believes that no additional professional services will be required in order to comply with the proposed amendments and new rule.

The proposed amendments and new rule provide no differentiation in compliance requirements based on business size. Any variations in the requirements based upon business size would not be consistent with the intent of N.J.S.A. 52:27EE-46 et seq. of ensuring that the public is adequately informed of applications for substantial rate increases by personal lines insurers and enhancing competition within the market for all personal lines insurance.

Smart Growth Impact

The proposed amendments and new rule will not have an impact on the achievement of smart growth or the implementation of the State Development and Redevelopment Plan.

Housing Affordability Impact

The proposed amendments and new rule will not have an impact on housing affordability because the proposed amendments and new rule relate to all personal lines prior approval rate filing review procedures.

Smart Growth Development Impact

The Department believes that there is an extreme unlikelihood that these proposed amendments and new rule would evoke change in housing production Planning Areas 1 and 2 or within the designated centers under the State Development and Redevelopment Plan in New Jersey because the proposed amendments and new rule address all personal lines and prior approval rate filing review procedures.

Full text of the proposal follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

SUBCHAPTER 45. NOTICE TO POLICYHOLDERS OF PERSONAL LINES INSURANCE RATE INCREASES

11:1-45.1 Purpose and scope

(a) (No change.)

(b) This subchapter shall apply to all insurers and rating organizations that file for a consumer insurance rate increase, as required pursuant to N.J.S.A. 52:27EE-50 and 51. This subchapter shall not apply if the proposed change pertains to:

1. – 4. (No change.)

5. A prior approval rate filing of seven percent or less except when an insurer has filed for one or more prior approval rate filing(s) for implementation within a 12-month period and the impact of the filing(s) is a combined overall increase of more than seven percent, in which case this subchapter shall apply to the filing which causes the combined overall increase to exceed seven percent.

(c) For filings that fall within the exception set forth in (b)5 above, insurers are required to provide the Consumer Notice(s) provided in Appendix Exhibits A and B, as applicable:

1. Appendix Exhibit A is required to be provided to policyholders when a filing has been submitted that requests a rate increase in excess of seven percent.

2. Appendix Exhibit B is required to be provided to policyholders when two or more filings have been submitted and the combined requested rate level impact of the filings exceeds seven percent within a 12-month period.

3. In the event that filings submitted as set forth in (c)1 or 2 above are approved for an increase which is less than the amount requested by the filer, subsequent filings may be submitted without additional notice to policyholders provided that the combined requested rate level impact of all filings effective within a 12-month period does not exceed the amount stated in the notice(s) previously sent to policyholders.

11:1-45.3 Form of notice required

(a) Subject to N.J.A.C. 11:1-45.1(b), insurers shall provide notice, in the form set forth in Exhibit A or Exhibit B in the Appendix to this subchapter, incorporated herein by

reference, of any filing for a personal lines prior approval rate increase, as set forth in N.J.S.A. 52:27EE-51, filed directly by the insurer or on its behalf by a rating organization. The notice shall be communicated through either regular or electronic mail to the named policyholders who use the products and services subject to the consumer insurance rate increase, and shall be provided within seven business days of the filing with the Department. In the case of regular mail, the notice shall be sent to the last known address of the named policyholder. The insurer may request policyholders to supply their electronic mail address, if they have one. If the policyholder does not have an electronic mailing address, then the insurer shall use regular mail. Insurers shall, as part of any filing for a consumer insurance rate increase, affirm that they are aware of and will comply with this notice requirement.

(b) (No change.)

(c) Rating organizations shall publish notice, in the form set forth in [Exhibit A in] **the Exhibits to** the Appendix to this subchapter, of any filing for a consumer insurance rate increase, in three newspapers of general circulation in this State, and on the rating organization's website, within seven business days of the filing with the Department.

(d) - (e) (No change.)

APPENDIX

EXHIBIT A

Dear Policyholder:

(Salutation may be omitted by rating organizations.)

This is to provide notice as required pursuant to N.J.S.A. 52:27EE-51 that (COMPANY NAME) filed on (DATE) with the New Jersey Department of Banking and Insurance a request for a rate increase in the amount ____% for (TYPE OF COVERAGE(S)).

[For PPA only] Under the proposed filing, the average liability-only policy would see a rate change of ____%. The average Full Coverage policy (includes comprehensive and collision coverage) will see a rate change of ____%. The impact of the filing on your rates may vary substantially, depending on the terms of your policy and your individual circumstances.

[For homeowners' only] Under the proposed filing, the average Owners policy (or equivalent term used by the filer) will see a rate change of ____%. The average Tenants policy will see a rate change of ____%. The average Condominiums policy (or equivalent term used by the filer) will see a rate change of ____%. The impact of the filing on your rates may vary substantially, depending on the terms of your policy and your individual circumstances.

[For all other personal lines property/casualty coverages] Under the proposed filing, the average policy will see a rate change of ____%. The impact of the filing on your rates may vary substantially, depending on the terms of your policy and your individual circumstances.

The request for a rate increase is subject to review and approval by the Department of Banking and Insurance pursuant to law, and the request ultimately may not be approved or may not be

approved for the full amount requested. If approved in whole or in part, the rate change will not affect existing policies until they come up for renewal.

EXHIBIT B

Dear Policyholder:

This is to provide notice required pursuant to N.J.S.A. 52:27EE-51 of the combined impacts of recent filings to the New Jersey Department of Banking and Insurance by (Insurance Company) seeking rate increases within a 12 month period.

(Insurance Company) was granted an overall rate increase in the amount of +____% effective (xx/xx/xx) for new business and effective (xx/xx/xx) for renewal business for (coverage).

[Add additional descriptions for multiple filings if applicable]

(Insurance Company) subsequently filed on (xx/xx/xx) with the Department of Banking and Insurance a request for an overall rate increase in the amount of ____%, which, when combined with the previously approved rate increase(s), could result in an overall rate increase in excess of +7.0%.

(For PPA only) If the subsequent filing is approved for the full amount requested, when combined with the previously approved rate increase(s) the average liability-only policy

will see a rate change of + ___%. The average full coverage policy (which includes comprehensive and collision coverage) will see a rate change of +___%. The impact of these filings on your rates may vary substantially, depending on the terms of your policy and your individual circumstances.

(For HO only) If the subsequent filing is approved for the full amount requested, when combined with the previously approved rate increase(s), the average homeowners policy (or equivalent term used by the filer) will see a rate change of +___%. The average Tenants policy will see a rate change of +___%. The average Condominiums policy (or equivalent term used by the filer) will see a rate change of ___%. The impact of these filings on your rates may vary substantially, depending on the terms of your policy and your individual circumstances.

(For all other personal lines property/casualty coverages) If the subsequent filing is approved for the full amount requested, when combined with the previously approved rate increase(s), the average policy will see a rate change of +___%. The impact of these filings on your rates may vary substantially, depending on the terms of your policy and your individual circumstances.

The subsequently filed request for a rate increase is subject to review and approval by the Department of Banking and Insurance pursuant to law and the request may not be approved, or may be approved for less than the full amount requested. If approved in

whole or in part, the rate change will not affect existing policies until they come up for renewal.