

Regular Session, 2010

HOUSE BILL NO. 460

BY REPRESENTATIVE KLECKLEY

INSURANCE/RATES: Allows for the use of flex-rating for personal lines property and casualty insurance

1 AN ACT

2 To amend and reenact R.S. 22:1451(C)(1), (E), and (F) and to enact R.S. 22:1451(G),  
3 relative to systems for ratemaking; to allow for a flex-rating system for personal lines  
4 property and casualty insurance; and to provide for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. R.S. 22:1451(C)(1), (E), and (F) are hereby amended and reenacted and  
7 R.S. 22:1451(G) is hereby enacted to read as follows:

8 §1451. Systems for ratemaking

9 \* \* \*

10 C.(1) Subject to the ~~exception~~ exceptions specified in ~~Subsection~~  
11 Subsections D and E of this Section, each filing submitted to the commissioner shall  
12 be on file for a waiting period of forty-five days before it becomes effective. Upon  
13 written application by such insurer or rating organization, the commissioner may  
14 authorize a filing which he has reviewed to become effective before the expiration  
15 of the waiting period. A filing shall be deemed to meet the requirements of this  
16 Subpart unless disapproved in writing by the commissioner within the forty-five-day  
17 waiting period. The commissioner may by rule, regulation, or order reduce or  
18 eliminate the waiting period specified in this Subsection. For any filing that is  
19 disapproved, the insurer may appeal such disapproval to the Nineteenth Judicial  
20 District Court within fifteen days from the receipt of written notice of disapproval.

21 \* \* \*

1           E.(1) Short title. This Subsection shall be known and may be cited as "The  
2           Property/Casualty Flex-Rating Regulatory Improvement Model Act".

3           (2) Notwithstanding the requirements of Subsection C of this Section, a  
4           filing made by an insurer under this Section that provides for an overall statewide  
5           rate increase or decrease of no more than twelve percent in the aggregate for all  
6           coverages that are subject to the filing may take effect on the date it is filed. The  
7           twelve percent shall not apply on an individual insured basis. No more than one rate  
8           filing may be made by an insurer pursuant to the expedited process provided for in  
9           this Subsection during any twelve-month period, unless a rate filing, when combined  
10           with any other rate filing or filings made by an insurer within the preceding twelve  
11           months does not result in an overall statewide increase or decrease of more than  
12           twelve percent in the aggregate for all coverages that are subject to the filing.

13           (3) Rate filings falling outside of the limitation provided for in this  
14           Subsection shall be subject to Subsection C of this Section, unless those filings are  
15           otherwise exempt from those provisions pursuant to another Section of this Title.

16           (4) A filing submitted pursuant to this Subsection is presumed to comply  
17           with state law. If, however, the commissioner determines that the filing is  
18           inadequate or unfairly discriminatory, he shall issue a written order specifying in  
19           detail the provisions of this Title that the insurer has violated and the reason the  
20           filing is inadequate or unfairly discriminatory and stating a reasonable future date on  
21           which the filing is to be considered no longer effective. An order by the  
22           commissioner pursuant to this Subsection is prospective only and shall not affect any  
23           contract issued or made before the effective date of the order. For purposes of this  
24           Subsection, "unfairly discriminatory" means a rate for a risk that is classified in  
25           whole or in part on the basis of race, color, creed, or national origin.

26           (5) No rate increase within the limitation specified in this Subsection may  
27           be implemented with regard to an individual existing policy unless the increase is  
28           applied at the time of a renewal or conditional renewal of an existing policy and the  
29           insurer, at least thirty days in advance of the end of the insured's policy period, mails

1 or delivers to the named insured, at the address shown in the policy, a written notice  
 2 that clearly and conspicuously discloses its intention to change the rate. A notice of  
 3 renewal or conditional renewal that clearly and conspicuously discloses the renewal  
 4 premium applicable to the policy shall be deemed to be in compliance with this  
 5 Subsection.

6 (6) Scope. This Subsection shall apply to personal lines insurance written  
 7 on property and casualty risks in this state by an insurer authorized to do business in  
 8 this state.

9 E: F. All provisions of this Section shall be applicable when a competitive  
 10 market in property and casualty lines insurance exists. The commissioner may  
 11 determine if there exists a competitive or noncompetitive market pursuant to the  
 12 provisions of R.S. 22:1453, including requiring reasonable notice and a public  
 13 hearing prior to determining a market to be noncompetitive. If, after a public  
 14 hearing, the commissioner determines the market to be noncompetitive, all rate  
 15 filings shall follow the provisions of Subsection C of this Section without regard to  
 16 the exception specified in Subsection D of this Section. An aggrieved party affected  
 17 by the commissioner's decision, act, or order may demand a hearing in accordance  
 18 with Chapter 12 of this Title, R.S. 22:2191 et seq.

19 F: G. No provision of this Section shall prohibit the commissioner from  
 20 conducting market conduct exams to ensure the rates being charged by insurers are  
 21 not inadequate, excessive, or unfairly discriminatory.

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#### DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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Kleckley

HB No. 460

Abstract: Provides for a flex-rating system for personal lines written on property and casualty risks in this state by an insurer authorized to do business in this state.

Present law provides that, for all lines of insurance, except as otherwise provided by present law, each application for a rate change is to be on file with the commissioner of insurance, and unless disapproved in writing within that 45 days, the application is deemed approved.

Also allows the commissioner to reduce or eliminate this waiting period by rule, regulation, or order.

Present law otherwise provides that insurers negotiating with and insuring commercial entities, except with regard to workers' compensation and medical malpractice insurance, with not less than \$10,000 in annual premiums are required to file insurance rates with the commissioner for informational purposes only. Also allows the commissioner to reduce or eliminate the annual premium threshold by rule, regulation, or order.

Present law provides that it shall apply when a competitive market in property and casualty lines exists. Provides that a competitive market for a line of insurance is presumed to exist unless the commissioner, after notice and hearing, rules that a reasonable degree of competition does not exist.

Proposed law provides that it shall be known and may be cited as "The Property/Casualty Flex-Rating Regulatory Improvement Model Act".

Proposed law provides that, notwithstanding the requirements of present law, a filing made by an insurer that provides for an overall statewide rate increase or decrease of no more than 12% in the aggregate for all coverages that are subject to the filing may take effect on the date it is filed. Specifies that the 12% shall not apply on an individual insured basis. Further limits any such rate filing to not more than once during any 12-month period, unless a rate filing, when combined with any other rate filing or filings made by an insurer within the preceding 12 months does not result in an overall statewide increase or decrease of more than 12% in the aggregate for all coverages that are subject to the filing. Specifies that rate filings falling outside of the limitation provided for in proposed law shall be subject to present law relative to rate filing, unless those filings are otherwise exempt from such law pursuant to another provision of present law, the Insurance Code.

Proposed law provides that a filing submitted pursuant to proposed law is presumed to comply with state law. Further provides, however, that if the commissioner determines that the filing is inadequate or unfairly discriminatory, he shall issue a written order specifying in detail the provisions of present law, the Insurance Code, that the insurer has violated and the reason the filing is inadequate or unfairly discriminatory and stating a reasonable future date on which the filing is to be considered no longer effective. Specifies that such an order is prospective only and shall not affect any contract issued or made before the effective date of the order. Defines "unfairly discriminatory" as a rate for a risk that is classified in whole or in part on the basis of race, color, creed, or national origin.

Proposed law additionally provides that no rate increase within the limitation specified in proposed law may be implemented with regard to an individual existing policy unless the increase is applied at the time of a renewal or conditional renewal of an existing policy and the insurer, at least 30 days in advance of the end of the insured's policy period, mails or delivers to the named insured, at the address shown in the policy, a written notice that clearly and conspicuously discloses its intention to change the rate. Provides that such a notice shall be deemed to be in compliance with proposed law.

Proposed law provides that it shall apply to personal lines insurance written on property and casualty risks in this state by an insurer authorized to do business in this state.

(Amends R.S. 22:1451(C)(1), (E), and (F); Adds R.S. 22:1451(G))