

2023 Regular Session

HOUSE BILL NO. 489

BY REPRESENTATIVE HUVAL AND SENATOR TALBOT

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

INSURANCE: Provides relative to ratemaking systems utilized by insurers and rate service organizations

1 AN ACT

2 To amend and reenact R.S. 22:1451(B) through (F) and to enact R.S. 22:1451(G) through
3 (L), relative to insurers and rate service organizations; to provide for a ratemaking
4 system; to provide for prospective loss costs and loss costs adjustments; to provide
5 for rates and rate changes for competitive and noncompetitive markets; and to
6 provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 22:1451(B) through (F) are hereby amended and reenacted and R.S.
9 22:1451(G) through (L) are hereby enacted to read as follows:

10 §1451. Systems for ratemaking

11 * * *

12 ~~B.(1) The commissioner shall have the exclusive authority to accept, review,~~
13 ~~and approve any application for insurance rates or rate changes for all lines of~~
14 ~~property and casualty insurance. The commissioner shall exercise his authority in~~
15 ~~accordance with the provisions of this Section. Except as provided in Subsections~~
16 ~~G and H of this Section, every authorized insurer and every rate service organization~~
17 ~~designated by an insurer for the filing of rates pursuant to this Section shall file with~~
18 ~~the commissioner all rates and any supplementary rate information and all changes~~
19 ~~and amendments made by it for use in this state within thirty days after it becomes~~
20 ~~effective.~~

1 (2)(a) If a rate service organization files prospective loss costs on behalf of
2 a member insurer with the commissioner, each member insurer that adopts the rate
3 service organization's prospective loss costs shall file, on a form approved by the
4 commissioner, the loss cost adjustment and loss cost modification factors applicable
5 to the prospective loss costs filed by the rate service organization.

6 (b) Each member insurer that does not adopt or that delays adoption of the
7 loss costs filed by the rate service organization shall notify the commissioner of that
8 decision, in a form acceptable to the commissioner, within thirty days after the
9 effective date of the prospective loss costs.

10 (3) The provisions of this Section shall not apply to marine, inland marine
11 and transportation risks, which by general custom of the business are not written
12 according to manual rates and rating plans.

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

24 ~~(2) Unless notified by the commissioner that a filing is incomplete, or that~~
25 ~~the filing is disapproved pursuant to this Subpart, the insurer or rating organization~~
26 ~~may commence use of the filed rates upon expiration of forty-five days from the date~~
27 ~~of receipt by the commissioner. For any filing made in accordance with Subsection~~
28 ~~B of this Section, the commissioner may require the filing of supporting data~~
29 ~~including all of the following:~~

1 (1) The experience and judgment of the filer.

2 (2) The experience and judgment of other insurers or rate service
3 organizations.

4 (3) The filer's interpretation of any statistical data relied upon.

5 (4) A description of the methods used in making the rates.

6 (5) A description of the methods used and statistics relied on by the insurer
7 in developing a loss cost modification factor and providing a loss cost adjustment.

8 (6) A description of the methods used and statistics relied on by the rate
9 service organization in developing its prospective loss costs filing.

10 D. The commissioner shall not require an insurer to file the insurer's final
11 rate pages that combine the prospective loss costs separately filed by the rate service
12 organization with the loss cost modification factor filed by the insurer.

13 E. For purposes of this Section, the commissioner shall not require an insurer
14 to file the insurer's rate pages that combine the prospective loss costs with the loss
15 cost adjustments.

16 F. On written consent of the insured stating the insured's reasons, the insurer
17 may use a rate in excess of that provided by an otherwise applicable filing on a
18 specific risk, if the rate is filed with the commissioner pursuant to Subsection A of
19 this Section.

20 G. The commissioner may exempt from the requirements of this Section any
21 insurance rate, rating class, rating rule or rating program, or type of filing which in
22 his opinion is not desirable or necessary for the protection of the public.

23 ~~D.~~ H. Insurers negotiating with and insuring commercial entities, except with
24 regard to workers' compensation and medical malpractice insurance, with at least ten
25 thousand dollars in annual insurance premiums, shall be required to file insurance
26 rates or rate changes for such entities with the commissioner for informational
27 purposes only. The commissioner may by rule, regulation, or order reduce or
28 eliminate the annual premium threshold for those entities that enables rate filings to
29 be made under this Subsection.

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

11 I. If, after a hearing, the commissioner finds that a particular market is
12 noncompetitive, the commissioner shall order that all rates or rate changes and any
13 supplementary rate information in the noncompetitive market be filed with the
14 commissioner at least thirty days before the effective date. The order shall remain
15 in effect until the commissioner determines that a competitive market has been
16 restored.

17 J.(1)(a) If the commissioner finds that a rate is not in compliance with R.S.
18 22:1454, the commissioner shall issue an order specifying in what respect it fails to
19 comply.

20 (b) The order shall be issued along with a statement providing that within
21 seventy-five days after issuance, the rate will no longer be effective.

22 (c) The order shall be served immediately in accordance with R.S.
23 22:1465(A)(2).

24 (2) Any insurer, rate service organization, or advisory organization may
25 request a public hearing pursuant to R.S. 22:1465(B)(1) and have an order issued as
26 provided for in R.S. 22:1465(B)(2).

27 K. The commissioner shall not disapprove a filing that is in compliance with
28 Subsection B of this Section on the basis of time elapsed since the most recent rate
29 approval by the commissioner.

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

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)]

HB 489 Original

2023 Regular Session

Huval

Abstract: Provides relative to a ratemaking system utilized by insurers and rate service organizations.

Present law gives the commissioner of insurance the exclusive authority to accept, review, and approve any application for insurance rates or rate changes for all lines of property and casualty insurance. Present law further provides that the commissioner shall exercise his authority in accordance with present law.

Proposed law repeals present law.

Proposed law provides that every authorized insurer and every rate service organization designated by an insurer for the filing of rates pursuant to proposed law shall file, with the commissioner, all rates and any supplementary rate information and all changes and amendments made by it for use in this state within 30 days after it becomes effective.

Proposed law provides that if a rate service organization files prospective loss costs on behalf of a member insurer with the commissioner, each member insurer that adopts the rate service organization's prospective loss costs shall file the loss cost adjustment and loss cost modification factors applicable to the prospective loss costs filed by the rate service organization. Proposed law further provides that the aforementioned information shall be prescribed on a form approved by the commissioner.

Proposed law requires each member insurer, who does not adopt or who delays adoption of the loss costs filed by the rate service organization, to notify the commissioner of that decision within 30 days.

Proposed law exempts marine, inland marine and transportation risks, which by general custom of business are not written according to manual rates and rating plans.

Present law provides that, upon written application by an insurer or rate service organization, the commissioner may authorize a filing he has reviewed to become effective before the expiration of the waiting period. Present law further provides that a filing shall be deemed to meet the requirements of present law, unless disapproved in writing by the commissioner within the 45 day waiting period.

Proposed law repeals present law.

Present law provides, unless notified by the commissioner that a filing is incomplete or disapproved, the insurer or rating organization may commence use of the filed rates upon expiration of 45 days from the date of receipt from the commissioner.

Proposed law repeals present law.

Proposed law allows the commissioner to require the filing of the following supporting data:

- (1) The experience and judgment of the filer.
- (2) The experience and judgment of other insurers or rate service organizations.
- (3) The filer's interpretation of any statistical data relied upon.
- (4) A description of the methods used in making the rates.
- (5) A description of the methods used and statistics relied on by the insurer in developing a loss cost modification factor and providing a loss cost adjustment.
- (6) A description of the methods used and statistics relied on by the rate service organization in developing its prospective loss costs filing.

Proposed law prohibits the commissioner from requiring an insurer to file the insurer's final rate pages that combine the prospective loss costs separately filed by the rate service organization with the loss cost modification factor filed by the insurer.

Proposed law allows the commissioner to exempt any insurance rate, rating class, rating rule or rating program, or type of filing which in his opinion is not desirable or necessary for the protection of the public.

Present law provides that the commissioner may determine if there is an existing competitive or noncompetitive market and he may require reasonable notice for a public hearing prior to determining if a market is noncompetitive. Present law further provides that if, after a public hearing, the commissioner determines the market to be noncompetitive, all rate filings shall follow the provisions of present law without regard to the exception specified in present law.

Proposed law repeals present law.

Proposed law provides that if, after a hearing, the commissioner declares a particular market to be noncompetitive, the commissioner shall order that all rates or rate changes and all supplementary rate information be filed within 30 days before the effective date. Proposed law further provides that the order shall remain in effect until the commissioner determines that a competitive market has been restored.

Proposed law provides that if the commissioner finds that a rate is not in compliance with present law, he shall issue an order specifying how it is not in compliance. Proposed law further provides that in addition to the order, the commissioner shall issue a statement providing that within 75 days after issuance that the rate will no longer be effective.

Proposed law allows any insurer, rate service organization, or advisory organization to request a public hearing and have an order issued in accordance with the provisions of present law.

Present law provides that no provision of present law shall prohibit the commissioner from conducting market conduct exams to ensure the rates being charged by insurers are not inadequate, excessive, or unfairly discriminatory.

Proposed law retains present law.

(Amends R.S. 22:1451(B)-(F); Adds R.S. 22:1451(G)-(L))