
HOUSE BILL 2138

State of Washington

58th Legislature

2003 Regular Session

By Representatives Cooper, McIntire and Campbell

Read first time 02/26/2003. Referred to Committee on Financial Institutions & Insurance.

1 AN ACT Relating to rate filing requirements for casualty insurance;
2 amending RCW 48.19.043; adding a new section to chapter 48.19 RCW; and
3 creating a new section.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** (1) The legislature finds that increases in
6 rate filings in general casualty insurance have widespread impact in
7 diverse areas such as medical malpractice liability insurance, building
8 contractor liability insurance, and long-term care liability insurance.
9 In some cases, excessive rate increases result in limiting the
10 availability of affordable insurance in these markets, which in turn
11 threatens the viability of the services or products that are to be
12 insured. The legislature further finds that while it is in the public
13 interest to maintain an efficient and expeditious regulatory
14 environment in which to conduct the business of insurance, this
15 interest must be balanced by the equally important public interest in
16 promoting greater transparency when excessive rate filings impact the
17 very businesses that are to be insured. Therefore, it is the intent of
18 the legislature to increase consumer access to information regarding

1 excessive rates in general casualty insurance in order to promote
2 greater transparency of the rate filing system.

3 (2) "General casualty insurance" has the same meaning as defined in
4 RCW 48.11.070.

5 (3) "Intervener" means any person, including every individual,
6 firm, company, corporation, association, or organization, engaging in
7 the activities described in section 2(1) of this act.

8 (4) The insurance commissioner shall notify the public of any rate
9 filing by an insurer for a rate change affecting general casualty
10 insurance that exceeds fifteen percent of the then applicable rate.
11 The filing is approved forty-five days after public notice unless:

12 (a) A consumer or his or her representative requests a hearing
13 within thirty days of public notice and the commissioner grants the
14 hearing;

15 (b) The commissioner on his or her own motion determines to hold a
16 hearing; or

17 (c) The commissioner disapproves the filing.

18 (5) If rate hearings are commenced under subsection (4) of this
19 section, the applicant may not use the rates until the commissioner
20 approves the filing, either as originally submitted or as amended.

21 (6) If a judicial proceeding directly involving the rate filing and
22 initiated by the insurer or an intervener begins, the commissioner has
23 thirty days after conclusion of the judicial proceedings to approve or
24 disapprove the rate filing. The commissioner may disapprove an
25 application without a hearing if a stay is in effect barring the
26 commissioner from holding a hearing.

27 (7) Upon a final determination of a disapproval or amendment of a
28 rate filing under this section, the insurer must issue an endorsement
29 changing the rate to comply with the commissioner's disapproval. The
30 endorsement is effective on the date the rate is no longer effective.

31 (8) The public notice required under subsection (4) of this section
32 must be made via distribution to the news media, posting on the web
33 site maintained by the commissioner, and by mail to any member of the
34 public who requests placement on a mailing list maintained by the
35 commissioner for this purpose.

36 (9) All general casualty insurance rate filings and related
37 material submitted to the commissioner by the insurer under this

1 section is available for public inspection pursuant to the public
2 disclosure act, chapter 42.17 RCW.

3 (10) Hearings and other administrative proceedings arising under
4 this section must be conducted under chapter 34.05 RCW.

5 NEW SECTION. **Sec. 2.** A new section is added to chapter 48.19 RCW
6 to read as follows:

7 (1) With respect to administrative or legal proceedings authorized
8 by or arising under section 1 of this act, any person may:

- 9 (a) Initiate or intervene in the proceedings; or
- 10 (b) Challenge any action of the insurance commissioner.

11 (2) The commissioner or a court shall award reasonable advocacy and
12 witness fees and expenses to any person who demonstrates that:

- 13 (a) The person represents the interests of consumers; and
- 14 (b) The person made a substantial contribution to the adoption of
15 any order, rule, or decision by the commissioner or a court.

16 (3) When an award of fees or expenses under this section occurs in
17 a proceeding related to a rate application, the award must be paid by
18 the applicant.

19 **Sec. 3.** RCW 48.19.043 and 1997 c 428 s 2 are each amended to read
20 as follows:

21 (1) It is the intent of the legislature to assist the purchasers of
22 commercial property casualty insurance by allowing policies to be
23 issued more expeditiously and provide a more competitive market for
24 rates.

25 (2) Notwithstanding the provisions of RCW 48.19.040(1), commercial
26 property casualty policies except those under section 2 of this act may
27 be issued prior to filing the rates. All commercial property casualty
28 rates shall be filed with the commissioner within thirty days after an
29 insurer issues any policy using them.

30 (3) If, within thirty days after a commercial property casualty
31 rate has been filed, the commissioner finds that the rate does not meet
32 the requirements of this chapter, the commissioner shall disapprove the
33 filing and give notice to the insurer or rating organization that made
34 the filing, specifying how the filing fails to meet the requirements
35 and stating when, within a reasonable period thereafter, the filing

1 shall be deemed no longer effective. The commissioner may extend the
2 time for review another fifteen days by giving notice to the insurer
3 prior to the expiration of the original thirty-day period.

4 (4) Upon a final determination of a disapproval of a rate filing
5 under subsection (3) of this section, the insurer shall issue an
6 endorsement changing the rate to comply with the commissioner's
7 disapproval from the date the rate is no longer effective.

8 (5) For purposes of this section, "commercial property casualty"
9 means insurance pertaining to a business, profession, or occupation for
10 the lines of property and casualty insurance defined in RCW 48.11.040,
11 48.11.050, 48.11.060, or 48.11.070.

12 (6) Except as provided in subsection (4) of this section, the
13 disapproval shall not affect any contract made or issued prior to the
14 expiration of the period set forth in the notice of disapproval.

15 (7) In the event a hearing is held on the actions of the
16 commissioner under subsection (3) of this section, the burden of proof
17 shall be on the commissioner.

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