

SENATE BILL NO. 295

BY SENATOR CLOUD

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AN ACT

To amend and reenact R.S. 22:1451, 1464(A)(2) and (D), and 1465(A)(2) and (B)(1) and to enact R.S. 22:1465(A)(4) and (D), relative to rate making; to provide for the process whereby the commissioner reviews rate filings; to provide for the approval of rate filings; to provide for certain rate filings to be deemed approved; to provide for incomplete or disapproved rate filings; to provide for effectiveness; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 22:1451, 1464(A)(2) and (D), and 1465(A)(2) and (B)(1) are hereby amended and reenacted and R.S. 22:1465(A)(4) and (D) are hereby enacted to read as follows:

§1451. Systems for ratemaking

A. ~~As used in this Subpart, the term "commissioner" shall mean the commissioner of insurance.~~ **The provisions of this Subpart apply to all lines of property and casualty insurance.**

B. ~~The commissioner shall have the exclusive authority to accept, review, and approve any application for insurance rates or rate changes for all lines of property and casualty insurance. The commissioner shall exercise his authority in accordance with the provisions of this Section.~~

C. ~~(1) Subject to the exception specified in Subsection D of this Section, each filing submitted to the commissioner shall be on file for a waiting period of forty-~~

1 ~~five days before it becomes effective. Upon written application by the insurer or~~
 2 ~~rating organization, the commissioner may authorize a filing which the~~
 3 ~~commissioner has reviewed to become effective before the expiration of the waiting~~
 4 ~~period. At the expiration of the forty-five day waiting period, the filing shall be~~
 5 ~~deemed approved unless prior to day forty-five the filing has been affirmatively~~
 6 ~~approved or disapproved by order of the commissioner. Approval of any such filing~~
 7 ~~by the commissioner shall constitute a waiver of any unexpired portion of this~~
 8 ~~waiting period. The commissioner may by rule, regulation, or order reduce or~~
 9 ~~eliminate the waiting period specified in this Subsection. For any filing that is~~
 10 ~~disapproved, the insurer may appeal the disapproval to the Nineteenth Judicial~~
 11 ~~District Court within fifteen days from the receipt of written notice of disapproval.~~

12 ~~(2) Unless notified by the commissioner that a filing is disapproved pursuant~~
 13 ~~to this Subpart, the insurer or rating organization may commence use of the filed~~
 14 ~~rates upon expiration of forty-five days from the date of receipt by the commissioner.~~

15 **Except as provided for in Subsection C of this Section, every authorized insurer**
 16 **shall file with the commissioner all rates, supplementary rate information, and**
 17 **all supporting information for risks to be written by the insurer in this state.**
 18 **The rates and information submitted pursuant to this Subpart are deemed**
 19 **approved unless the insurer is notified otherwise by the commissioner within**
 20 **thirty days of the rate filing.**

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

28 ~~E.D.~~ All provisions of this **This** Section shall be applicable when a
 29 competitive market in property and casualty lines insurance exists. The
 30 commissioner may determine if there exists a competitive or noncompetitive market

1 pursuant to the provisions of R.S. 22:1453, ~~including requiring reasonable notice~~
 2 ~~and a public hearing prior to determining a market to be noncompetitive.~~ If, after a
 3 public hearing, the commissioner determines the market to be noncompetitive, all
 4 rate filings shall follow the provisions of Subsection C of this Section without regard
 5 to the exception specified in Subsection D of this Section. An aggrieved party
 6 affected by the commissioner's decision, act, or order may demand a hearing in
 7 accordance with Chapter 12 of this Title, R.S. 22:2191 et seq. **be deemed approved**
 8 **unless the insurer is notified otherwise by the commissioner within sixty days**
 9 **of the rate filing.**

10 **E. Nothing in this Section shall be construed to prohibit the**
 11 **commissioner from approving a rate filing prior to the expiration of the**
 12 **notification periods provided for in this Section.**

13 F. ~~No provision of~~ **Nothing in** this Section shall **be construed to** prohibit the
 14 commissioner from conducting market conduct exams to ensure the rates being
 15 charged by insurers are not inadequate, excessive, or unfairly discriminatory.

16 G. The commissioner shall not disapprove a **rate** filing that is in compliance
 17 with ~~Subsection C~~ **the provisions** of this Section **Subpart** on the basis of time that
 18 has elapsed since the most recent ~~rate approval by the commissioner~~ **rate filing by**
 19 **the insurer.**

20 * * *

21 §1464. Rate filing

22 A.(1) * * *

23 (2) ~~When~~ **If** a filing made pursuant to this Subsection is not accompanied by
 24 the information upon which the insurer or rating organization supports the rate filing,
 25 and the commissioner does not have sufficient information to determine whether the
 26 rate filing meets the requirements of this Subpart, it **he** shall require ~~such~~ **the** insurer
 27 or rating organization to ~~furnish~~ **provide** the information upon which it supports its
 28 filing, and the ~~waiting~~ periods provided in R.S. 22:1451 ~~(C)(1)~~ shall commence as of
 29 the date the information is furnished to complete the filing.

30 * * *

D. All rates, supplementary rate information, and any supporting information filed ~~under~~ **pursuant to** this Subpart shall be open to public inspection upon expiration of the ~~forty-five-day~~ **notification** period as ~~set forth in~~ **applicable pursuant to** R.S. 22:1451~~(C)(1)~~, or upon disapproval, except for information which is deemed confidential, trade secret, or proprietary by the insurer or filer.

* * *

§1465. Disapproval of filings; rates; procedures

A.(1) * * *

(2) If within the ~~forty-five-day waiting period or any extension of this~~ **notification** period as provided in R.S. 22:1451, the commissioner finds that a **rate** filing does not meet the requirements of this Subpart, he shall send to the insurer or rating organization which made such filings written notice of disapproval of ~~such the~~ **rate** filing, ~~specifying wherein he finds such~~ **specify the reasons why the rate** filing fails to meet **is not in compliance with** the requirements of this Subpart, and ~~stating that such~~ **state that the rate** filing shall ~~not become effective.~~ **become ineffective as of the date the written notice is sent, at which time the insurer's or rating organization's most recently approved rate filing shall resume effectiveness.**

* * *

(4) If a rate filing is determined to be inadequate or unfairly discriminatory pursuant to the provisions of this Subpart, the commissioner may direct the insurer to collect additional premiums to ensure that the rate is adequate or to require a refund of any sums deemed to be discriminatory.

B.(1) Any insurer whose rate filing is returned as incomplete more than once or ~~is~~ disapproved or ~~not acted upon within forty-five days from the date of receipt by the commissioner under this Subsection~~ shall be given **provided** a public hearing upon written request made within thirty days of the return of the rate filing, disapproval of the rate filing, or inaction of the commissioner.

* * *

D. Nothing in this Section shall be interpreted to create a private cause of action.

1 Section 2. This Act shall become effective upon signature by the governor or, if not
2 signed by the governor, upon expiration of the time for bills to become law without signature
3 of the governor as provided by Article III, Section 18 of the Constitution of Louisiana. If
4 vetoed by the governor and subsequently approved by the legislature, this Act shall become
5 effective on the day following such approval.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____