

STATE OF NEW YORK

9151

IN ASSEMBLY

January 31, 2022

Introduced by M. of A. STERN -- read once and referred to the Committee on Insurance

AN ACT to amend the insurance law, in relation to requiring actuarial certification of certain rate determinations made by the superintendent of financial services

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Paragraph 1 of subsection (d) and subparagraph (A) of para-
2 graph 1 of subsection (e) of section 3231 of the insurance law, para-
3 graph 1 of subsection (d) as amended by section 1 of part A of chapter
4 494 of the laws of 2009, and subparagraph (A) of paragraph 1 of
5 subsection (e) as amended by chapter 107 of the laws of 2010 and as
6 further amended by section 104 of part A of chapter 62 of the laws of
7 2011, are amended to read as follows:

8 (1) Notwithstanding any other provision of this chapter to the contra-
9 ry, no policy form subject to this section shall be issued or delivered,
10 nor any insurance contract entered into, unless and until the insurer
11 has filed with the superintendent a schedule of premiums, not to exceed
12 twelve months in duration, to be paid under the policy forms and
13 obtained the superintendent's approval thereof. The superintendent may
14 refuse such approval if he or she finds that such premiums are exces-
15 sive, inadequate, or unfairly discriminatory. The superintendent may
16 consider the financial condition of such insurer in approving or disap-
17 proving any premium. In determining whether to approve the schedule of
18 premiums filed, the superintendent shall, subject to the provisions of
19 section three thousand two hundred thirty-three of this article, consid-
20 er the prior experience of the insurer's community pool and the insur-
21 er's projections relating to claim costs, utilization and administrative
22 expenses and shall not adjust the insurer's rates based upon the rates
23 approved for other insurers. All premium rate determinations shall be
24 certified by an actuary designated by the superintendent who meets the
25 qualification standards established by the American academy of actuar-
26 ies, who shall follow the practice standards established by the actuari-

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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al standards board, and who shall describe in detail the actuarial assumptions and methods used in the superintendent's determination.

(A) An insurer desiring to increase or decrease premiums for any policy form subject to this section shall submit a rate filing or application to the superintendent.

An insurer shall send written notice of the proposed rate adjustment, including the specific change requested, to each policy holder and certificate holder affected by the adjustment on or before the date the rate filing or application is submitted to the superintendent. The notice shall prominently include mailing and website addresses for both the department of financial services and the insurer through which a person may, within thirty days from the date the rate filing or application is submitted to the superintendent, contact the department of financial services or insurer to receive additional information or to submit written comments to the department of financial services on the rate filing or application. The superintendent shall establish a process to post on the department's website, in a timely manner, all relevant written comments received pertaining to rate filings or applications. The insurer shall provide a copy of the notice to the superintendent with the rate filing or application. The superintendent shall immediately cause the notice to be posted on the department of financial services' website. The superintendent shall determine whether the filing or application shall become effective as filed, shall become effective as modified, or shall be disapproved. The superintendent may modify or disapprove the rate filing or application if the superintendent finds that the premiums are unreasonable, excessive, inadequate, or unfairly discriminatory, and may consider the financial condition of the insurer when approving, modifying or disapproving any premium adjustment. The determination of the superintendent shall be supported by sound actuarial assumptions and methods, and shall be rendered in writing between thirty and sixty days from the date the rate filing or application is submitted to the superintendent. Should the superintendent require additional information from the insurer in order to make a determination, the superintendent shall require the insurer to furnish such information, and in such event, the sixty days shall be tolled and shall resume as of the date the insurer furnishes the information to the superintendent. If the superintendent requests additional information less than ten days from the expiration of the sixty days (exclusive of tolling), the superintendent may extend the sixty day period an additional twenty days to make a determination. The application or rate filing will be deemed approved if a determination is not rendered within the time allotted under this section. All rate determinations shall be certified by an actuary designated by the superintendent who meets the qualification standards established by the American academy of actuaries and who shall follow the practice standards established by the actuarial standards board. An insurer shall not implement a rate adjustment unless the insurer provides at least sixty days advance written notice of the premium rate adjustment approved by the superintendent to each policy holder and certificate holder affected by the rate adjustment.

§ 2. Subsection (b) and paragraph 2 of subsection (c) of section 4308 of the insurance law, as amended by chapter 107 of the laws of 2010, and paragraph 2 of subsection (c) as further amended by section 104 of part A of chapter 62 of the laws of 2011, are amended to read as follows:

(b) No corporation subject to the provisions of this article shall enter into any contract unless and until it shall have filed with the superintendent a schedule of the premiums or, if appropriate, rating

1 formula from which premiums are determined, to be paid under the
2 contracts and shall have obtained the superintendent's approval thereof.
3 The superintendent may refuse such approval if he or she finds that such
4 premiums, or the premiums derived from the rating formula, are exces-
5 sive, inadequate or unfairly discriminatory, provided, however, the
6 superintendent may also consider the financial condition of such corpo-
7 ration in approving or disapproving any premium or rating formula. Any
8 adjustments to an approved schedule of premiums or to the approved
9 rating formula for non-community rated contracts shall also be subject
10 to the approval of the superintendent provided, however, such adjust-
11 ments shall not be subject to the requirements of subsection (c) of this
12 section. Any premium or formula approved by the superintendent shall
13 make provision for such increase as may be necessary to meet the
14 requirements of a plan approved by the superintendent in the manner
15 prescribed in section four thousand three hundred ten of this article
16 for restoration of the statutory reserve fund required by such section.
17 Notwithstanding any other provision of law, the superintendent, as part
18 of the rate increase approval process, may defer, reduce or reject a
19 rate increase if, in the judgment of the superintendent, the salary
20 increases for senior level management executives employed at corpo-
21 rations subject to the provisions of this article are excessive or
22 unwarranted given the financial condition or overall performance of such
23 corporation. All rate determinations shall be certified by an actuary
24 designated by the superintendent who meets the qualification standards
25 established by the American academy of actuaries and who shall follow
26 the practice standards established by the actuarial standards board. The
27 superintendent is authorized to promulgate rules and regulations which
28 the superintendent deems necessary to carry out such deferral, reduction
29 or rejection.

30 (2) A corporation desiring to increase or decrease premiums for any
31 contract subject to this subsection shall submit a rate filing or appli-
32 cation to the superintendent. A corporation shall send written notice of
33 the proposed rate adjustment, including the specific change requested,
34 to each contract holder and subscriber affected by the adjustment on or
35 before the date the rate filing or application is submitted to the
36 superintendent. The notice shall prominently include mailing and website
37 addresses for both the department of financial services and the corpo-
38 ration through which a person may, within thirty days from the date the
39 rate filing or application is submitted to the superintendent, contact
40 the department of financial services or corporation to receive addi-
41 tional information or to submit written comments to the department of
42 financial services on the rate filing or application. The superintendent
43 shall establish a process to post on the department's website, in a
44 timely manner, all relevant written comments received pertaining to rate
45 filings or applications. The corporation shall provide a copy of the
46 notice to the superintendent with the rate filing or application. The
47 superintendent shall immediately cause the notice to be posted on the
48 department of financial services' website. The superintendent shall
49 determine whether the filing or application shall become effective as
50 filed, shall become effective as modified, or shall be disapproved. The
51 superintendent may modify or disapprove the rate filing or application
52 if the superintendent finds that the premiums are unreasonable, exces-
53 sive, inadequate, or unfairly discriminatory, and may consider the
54 financial condition of the corporation in approving, modifying or disap-
55 proving any premium adjustment. The determination of the superintendent
56 shall be supported by sound actuarial assumptions and methods, and shall

1 be rendered in writing between thirty and sixty days from the date the
2 rate filing or application is submitted to the superintendent. Should
3 the superintendent require additional information from the corporation
4 in order to make a determination, the superintendent shall require the
5 corporation to furnish such information, and in such event, the sixty
6 days shall be tolled and shall resume as of the date the corporation
7 furnishes the information to the superintendent. If the superintendent
8 requests additional information less than ten days from the expiration
9 of the sixty days (exclusive of tolling), the superintendent may extend
10 the sixty day period an additional twenty days, to make a determination.
11 The application or rate filing will be deemed approved if a determi-
12 nation is not rendered within the time allotted under this section. All
13 rate determinations shall be certified by an actuary designated by the
14 superintendent who meets the qualification standards established by the
15 American academy of actuaries and who shall follow the practice stand-
16 ards established by the actuarial standards board. A corporation shall
17 not implement a rate adjustment unless the corporation provides at least
18 sixty days advance written notice of the premium rate adjustment
19 approved by the superintendent to each contract holder and subscriber
20 affected by the rate adjustment.

21 § 3. This act shall take effect immediately.