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National Council of Insurance Legislators (NCOIL)

Property/Casualty Flex-Rating Regulatory Improvement Model Act

**Adopted by the NCOIL Executive Committee on February 27, 2004 and re-adopted on November 20, 2011, July 17, 2016, and July 17, 2021.*

Drafting Note: This model is intended for consideration in jurisdictions with a more restrictive rate-filing and review system than outlined in this bill. The model is intended to serve as an interim approach to enactment of an open competition-based system, as endorsed by the National Conference of Insurance Legislators (NCOIL) Property/Casualty Insurance Modernization Act.

Section 1. Short Title

This Act shall be known as the Property/Casualty Flex-Rating Regulatory Improvement Model Act.

Section 2. Scope

This Act applies to personal lines insurance written on risks in this state by any insurer authorized to do business in this state.

Section 3. Flex-Rating Provisions

A. Notwithstanding the requirements of [insert citations of state laws providing for the filing, review, approval, and/or disapproval of rates for property and casualty insurance], a filing made by an insurer under this section that provides for an overall statewide rate increase or decrease of no more than twelve (12) percent in the aggregate for all coverages that are subject to the filing may take effect the date it is filed. The twelve (12) percent limitation does not apply on an individual insured basis. No more than one rate filing may be made by an insurer pursuant to the expedited process provided in this subsection during any twelvemonth period, unless a rate filing, when combined with any other rate filing or filings made by an insurer within the preceding twelve (12) months, does not result in an overall statewide increase or decrease of more than twelve (12) percent in the aggregate for all coverages that are subject to the filing.

B. Rate filings falling outside of the limitation provided for in subsection (A) of this section shall be subject to [insert citations to the appropriate filing and review provisions of the insurance code], unless those filings are otherwise exempt from those provisions pursuant to another section of the insurance code.

C. A filing submitted pursuant to subsection (A) of this section is considered to comply with state law. However, if the Commissioner of Insurance determines that the filing is inadequate or unfairly discriminatory, he/she shall issue a written order specifying in detail the provisions of the insurance code the insurer has violated and the reasons the filing is inadequate or unfairly discriminatory and stating a reasonable future date on which the filing is to be considered no longer effective. An order by the Commissioner pursuant to this subsection that is issued more than thirty (30) days from the date on which the Commissioner received the rate filing is prospective only and does not affect any contract issued or made before the effective date of the order. For purposes of this Act, “unfairly discriminatory” means a rate for a risk that is classified in whole or in part on the basis of race, color, creed, or national origin.

D. No rate increase within the limitation specified in subsection (A) of this section 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 thirty (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. A notice of renewal or conditional renewal that clearly and conspicuously discloses the renewal premium applicable to the policy shall be deemed to be in compliance with this subsection.

Section 4. Effective Date

This Act shall take effect thirty (30) days after its approval by the Governor.