

State of Rhode Island and Providence Plantations
DEPARTMENT OF BUSINESS REGULATION
Division of Insurance
1511 Pontiac Avenue, Bldg. 69-2
Cranston, Rhode Island 02920

Public Notice of Proposed Rule-Making

Pursuant to the provisions of R.I. Gen. Laws § 27-6-14, 27-7.1-6.2, 27-9-13, 27-44-6 and 42-14-17 and 2003 P.L. ch. 410, and in accordance with the Administrative Procedures Act Chapter 42-35 of the General Laws, the Department of Business Regulation hereby gives notice of its intent to amend **Insurance Regulation 20 – Consent to Rate**.

The purpose of this amendment is to specifically identify all statutes concerning consent to rate and to update the requirements under those statutes.

The proposed amended regulation and concise summary of non-technical amendments are available for public inspection at www.dbr.ri.gov, in person at Department of Business Regulation, 1511 Pontiac Avenue, Cranston, Rhode Island 02920, or by email edwyer@dbr.state.ri.us or by calling Elizabeth Kelleher Dwyer at (401) 462 9520.

In the development of the proposed amendment consideration was given to: (1) alternative approaches; (2) overlap or duplication with other statutory and regulatory provisions; and (3) significant economic impact on small business. No alternative approach, duplication, or overlap was identified based upon available information.

All interested parties are invited to submit written or oral comments concerning the proposed regulations by March 23, 2009 to Elizabeth Kelleher Dwyer, Department of Business Regulation, 1511 Pontiac Avenue, Cranston, Rhode Island 02920, edwyer@dbr.state.ri.us. A public hearing to consider the proposed amendment shall be held on March 23, 2009 at 10:00 am at 1511 Pontiac Avenue, Cranston, Rhode Island 02920 at which time and place all persons interested therein will be heard. The room is accessible to the disabled and interpreter services for the hearing impaired will be provided if requested 48 hours prior to the hearing. Requests for this service can be made in writing or by calling (401) 462 9520 or TDD 711.

A. Michael Marques
Director, Department of Business Regulation

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Concise Summary of Proposed Non-technical Amendments
to
Insurance Regulation Number 20 – Consent to Rate

In accordance with the Administrative Procedures Act, Section 42-35-3(a)(1) of the General Laws of Rhode Island, following is a concise summary of proposed non-technical amendments:

1. Section 1 makes the regulation explicitly applicable to policies issued under R.I. Gen. Laws § 27-7.1-6.2, 27-44-6(e) and 2003 P.L. ch. 410 and notes that the purpose is to assure that rates are neither excessive nor unfairly discriminatory.
2. Section 2 adds the regulation authority for the chapters listed in section 1.
3. Section 3 adds definitions for Consent to Rate and Department, amends the definitions of Insurer and Risk and deletes the definition of Insurance Commissioner.
4. Section 4 rewrites the requirements for purposes of clarity and adds the requirement of a statement regarding excessiveness and unfair discrimination. The section further indicates that if there is no rejection of the filing the risk may be written as filed, that the filing shall be made electronically and maintenance of documentation requirements.
5. Section 6 regarding the effective date of the regulation has been added.

State of Rhode Island and Providence Plantations
DEPARTMENT OF BUSINESS REGULATION
Division of Insurance
233 Richmond Street
Providence, RI 02903

INSURANCE REGULATION 20

CONSENT-TO-RATE FILING

Table of Contents

Section 1	Purpose s
Section 2	Authority
Section 3	Requirements for Filing <u>Definitions</u>
Section 4	Requirements for Filing <u>Definitions</u>
Section 5	Severability
<u>Section 6</u>	<u>Effective Date</u>

Section 1 *Purpose~~s~~*

The purposes of this Regulation ~~are to promote the general welfare of the people of the State of Rhode Island, to protect the rights of any applicant for a policy of insurance by inhibiting excessive or unfair discriminatory rating procedures and is~~ to provide a method of securing insurance under consent-to-rate filings in accordance with R.I. Gen. Laws §§ 27-6-14, ~~27-7.1-6.2~~ and 27-9-13, ~~27-44-6(e) and 2003 P.L. ch.410.~~, at rates in excess of those filed with and approved by the ~~Insurance Commissioner~~ Department while assuring that those rates are not excessive or unfairly discriminatory.

Section 2 *Authority*

This Regulation is issued pursuant to the authority vested in the Insurance Commissioner by R.I. Gen. Laws §§ ~~27-6-13, 27-6-44, 27-9-12, 27-9-41 27-44-19 and 42-14-17~~ and is in addition to, and not in lieu of, 27-6-11 and 27-9-10.

Section 3 *Requirements for Filing* *Definitions*

A. “Consent to Rate” means an agreement filed with and approved by the Department between an insurer and an insured to issue an insurance policy at rates in excess of those on file with the Department. No insurer may Consent to Rate to a premium lower than filed rates for an individual insured. Individual risks priced according to a filed scheduled rating plan do not constitute “Consent to Rate.”

- B. “Department” means the Insurance Division of the Department of Business Regulation.
- ~~1C.~~ "Insurer" means an insurance company chartered, licensed, or authorized to do an insurance business in the state pursuant to Title 27 of the Rhode Island General Laws or 2003 P.L. ch.410.
- ~~2.~~ ~~“Insurance Commissioner” means the duly appointed insurance commissioner of this state.~~
- ~~3D.~~ "Risk" means any applicant seeking insurance in accordance with R.I. Gen. Laws §§ 27-6-14, 27-7.1-6.2, and 27-9-13, 27-44-6(e) and 2003 P.L. ch.410.

Section 4 *Definitions-Requirements for Filing*

1. Each ~~risk insurer~~ submitting a consent-to-rate filing for an individual risk shall include the following information as a minimum:
 - a. The location of the risk;
 - b. The type of insurance;
 - c. The limits of liability;
 - d. The classifications included in the risk;
 - e. The filed rates for the classification, plus limits;
 - f. The percentage of increase above the filed rates;
 - g. The increased rates, plus limits;
 - h. Premium at increased rates and limits;
 - i. A statement of declination by at least one insurer who has declined the risk at regular rates, other than the insurer willing to assume the risk;
 - j. ~~Insured's r~~Reason for issuance and acceptance of risk at rates in excess of those filed.
 - k. A statement from the insurer as to why the rates consented to are not excessive or unfairly discriminatory.

2. Any risk that is to be insured for a period of thirty (30) days or more, and which will develop a premium of ~~one-ten~~ thousand dollars (\$10,000) or more during its policy term, must include in the statement the actual experience of the risk subject

to the most recent two (2) year period as a minimum period and five (5) years as a maximum period preceding the desired effective date of the policy.

3. The actual experience shall include the number of claims paid and the amount of damages paid for each claim, and may also include the number of claims incurred and/or awaiting settlement for which reserves have been established and the amount of such reserves.
4. A consent-to-rate filing submitted for a corporate risk to be insured for a period of thirty (30) days or more and which will develop a premium of ~~one-ten~~ thousand dollars (\$10,000) or more during its policy term shall contain a letter from the Board of Directors of the corporation authorizing the filing.
5. Any risk which is to be insured for a period of thirty (30) days or more and which will develop a premium of ~~one-ten~~ thousand dollars (\$10,000) or more during its policy term shall submit the consent-to-rate filing to the ~~Insurance Commissioner~~ **Department** no less than thirty (30) days prior to the desired effective date of the policy.
- ~~6. The Department will inform the insurer if the consent to rate is not accepted prior to the effective date of the policy. If no such notice is received the insurer may issue the insurance policy based upon the consent to rate.~~
- ~~67. The original consent-to-rate shall be filed with the Department electronically via SERFF.~~
- ~~8. Copies of the consent to rate shall be retained by shall be issued in triplicate, one (1) for the producer's records, one (1) for, if applicable, and the insurer's records, and one (1) for the Insurance Commissioner's records. All copies The consent-to-rate must be signed contain by the applicant/risk's agreement indicating acceptance of the rate proposed for the coverage.~~

Section 5 *Severability*

If any provision of this Regulation or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Regulation which can be given effect without the invalid provision or application, and to that end the provisions of this regulation are severable.

Section 6 *Effective Date*

This Regulation and the amendment thereto shall be effective as indicated below.

EFFECTIVE DATE:	November 17, 1975.
REFILED:	December 19, 2001
<u>AMENDED:</u>	<u>March , 2009</u>