

R590. Insurance, Administration.

R590-127. Rate Filing Exemptions.

R590-127-1. Authority.

This rule is promulgated by the Insurance Commissioner pursuant to the general authority granted under Section 31A-2-201(3), to adopt rules for the implementation of the Utah Insurance Code, and pursuant to Section 31A-19a-103, which specifically authorizes the commissioner to exempt any market segment from any or all of the provisions of Chapter 19a of Title 31A.

R590-127-2. Purpose.

Section 31A-19a-203 requires that all insurers and rate service organizations to which Chapter 19a applies file all rates and supplementary rate information, which includes any manual or plan of rates, classification, rating schedule, rating rule, and rate-related underwriting rule, with the Insurance Commissioner within 30 days of the designated effective date. No exception is made in the statute for "(a) rates" or "refer to company" rates or rating plans for specialized or individual risks. All insurers using any of these types of rates or plans would be doing so in violation of the statute.

The purpose of this rule is to define these rates and plans, to make certain exemptions with regards to the filing requirements of Section 31A-19a-203, and to establish certain procedures for that market segment which uses these types of rates or plans.

R590-127-3. Scope.

This rule applies to all insurers licensed to write liability insurance, professional liability insurance, property insurance, vehicle liability and physical damage insurance and workers' compensation insurance, as defined in Section 31A-1-103.

R590-127-4. Definitions.

This rule is concerned with terminology which is commonly used in the insurance industry but for which no decisive definitions have been established. To promote understanding, some explanation is required.

Manual classifications, prospective loss costs and rates are developed by pooling vast amounts of statistical data. They are, by nature, average. For many types of risks there does not exist enough statistical data to develop credible prospective loss costs, manual rates and classifications. Over time the industry has developed ways of dealing with these unconventional risks. The procedure for rating an exposure that does not have a published prospective loss cost or manual rate is termed "(a) rating". The term is derived from the fact that the manual

contains the symbol "(a)" or the words "refer to company" opposite the applicable code number instead of a specific dollar and cent rate. There are generally three types of situations which require (a) rates: (1) For a class in which the risks are so different from each other that no single manual rate could be representative of all of them; (2) where a class does not develop enough experience to warrant any credibility for ratemaking purposes; or (3) risks that involve a new product or coverage for which there is no past experience nor appropriate analogy to similar exposures for ratemaking purposes.

For the purpose of this rule the commissioner adopts the definitions as particularly set forth in Section 31A-1-301, Section 31A-19a-103, and in addition, the following:

(1) "(a) rate" means a rating rule or a rate expressed as the symbol "(a)" or the words "refer to company" listed opposite a classification code on the manual rule and rate pages of the Commercial Lines Manual.

(2) "(a) rating," special risk rating, means the procedure an underwriter uses for classifying and rating any risk which presents unique or unusual conditions, exposures or hazards for which he feels a commercial lines manual classification or rate is not appropriate.

(3) "Commercial Lines Manual" means the manual of rates, classifications and underwriting rules for commercial lines insurance, including the plan known as the Highly Protected Risk Plan, filed with the commissioner by the Insurance Services Office, Inc. For the purpose of this rule, this term shall include any similar rating plan or manual, including Highly Protected Risk Plans or large risk property rating plans, filed with the commissioner by other rate service organizations or individual insurers.

(4) "Excess Insurance" means a coverage designed to be in excess over one or more primary coverages or a Self-Insured Retention and which does not pay a loss until the loss amount exceeds a certain sum.

(5) "Guide (a) Rates" means advisory (a) rates that have been developed by rate service organizations or company home office underwriters. They represent a rough average and are used as guides or signposts.

(6) "Guide (a) Manual" means a collection of Guide (a) Rates with rules and procedures for their use.

(7) "Increased Limits Factor" means a rating factor used to adjust a manual rate to limits higher than the basic manual limits.

(8) "Individual Risk Filing" means a filing of the insurance policy of an individual risk which is submitted to the commissioner. It shall consist of a copy of the Declarations

Page, copies of any pertinent coverage forms and rating schedules, the underwriter's explanation for the filing, premium development, and the appropriate filing transmittal forms and filing fee.

(9) "Self-Insured Retention" means that portion of a risk or potential loss which is assumed by an insured. It may be in the form of a deductible, self-insurance, or no insurance. For the purpose of this rule, "self-insured retention" is limited to amounts of at least \$50,000 or more.

(10) "Umbrella Liability Insurance" means a coverage basically affording high limit coverage in excess of the limits of the primary policies as well as additional liability coverages. These additional coverages are usually subject to a substantial self-insured retention. The term "umbrella" is derived from the fact that it is a separate policy over and above any other basic liability policies the insured may have.

R590-127-5. Filing of Procedures.

Each insurer to which this rule applies shall maintain on file with the commissioner a general statement of company policies and procedures for underwriting and developing (a) rates and (a) rating. This statement shall include a delineation of the extent of home office and branch office authority with regards to the promulgation of (a) rates. This statement should include any formal guidelines established by the insurer for these situations. Any changes in general policy made subsequent to this initial filing will be subject to filing at the time of the change.

R590-127-6. (a) Rates.

(1) All (a) rates shall be exempt from the filing requirements of Section 31A-19a-203.

(2) Whenever an (a) rate is used the underwriting file shall contain full and supporting factual documentation verifying that it is an (a) rate as defined and showing the development of the (a) rate assigned by the underwriter:

(a) If the insurer has a Guide (a) Manual, the underwriter must start with the Guide (a) Rate suggested in the manual. If the underwriter feels adjustments to the suggested rate are appropriate, he shall document the steps in the development of the adjusted rate and show that he has followed the insurer's established procedure in the (a) rate development.

(b) If no Guide (a) Rate is available, the underwriter shall document the steps in the development of the (a) rate. This development should contain an analysis of such things as the specific definable loss potential characteristics, a comparison to similar risks and their manual rates, available loss frequency and severity data, an analysis of current engineering reports, and any other pertinent underwriting criteria.

(c) As individual risk experience and characteristics are considered by the underwriter in developing the (a) rate, the only rate modification factors that may be applied to an (a) rate are Increased Limits Factors, package factors, premium size factors, expense modification factors and deductible factors. If automated rating procedures automatically apply other modification factors, this fact should be considered in the development of the initial rate.

(3) If an underwriter determines to use an Increased Limits Factor which is different from the Guide (a) Increased Limits Factors of the Commercial Lines Manual, the underwriting file shall contain full and supporting factual data justifying the change in the Guide (a) Increased Limits Factor.

(4) Whenever an insurer renews a risk which contains (a) rates the underwriting file shall contain documentation of the underwriter's reevaluation of the (a) rate assigned and justification for the continuation of the (a) rate or the development of any new (a) rate. If the (a) rate previously assigned is revised more than +/- 25%, the underwriter shall submit an individual risk filing to the commissioner within 30 days of the effective date of the policy. This filing shall contain the underwriter's documentation of the (a) rate development for the prior year and the development and explanation for the new (a) rate.

R590-127-7. (a) Rating, Special Risk Rating.

(1) Rates that are developed by an underwriter through an (a) rating process are exempt from the filing requirements of Section 31A-19a-203.

(2) An underwriter is permitted to use (a) rating only in the following circumstances:

(a) When it can be clearly demonstrated that a risk described by specific classifications in the Commercial Lines Manual presents unique or unusual conditions of exposure or hazard such that the application of the normal manual rate for that classification does not produce a reasonable and equitable rate for the risk. The underwriter should bear in mind that manual classifications are understood to be general in nature and, thus, may not exactly describe the risk being considered. For this reason (a) rating is not to be used simply because the risk does not exactly match the manual classification description, but must be substantially different.

(b) When the coverage to be written is broader or more restricted than that provided for by the manual definition of coverage as limited by applicable manual exclusions.

(c) When the insurer has developed a program for types of risks or coverages that are not included in the Commercial Lines

Manual and for which there is limited statistical data for ratemaking purposes. or

(d) When a risk develops more than \$100,000 in annual manual basic limits unmodified premium for automobile liability, general liability, glass and theft insurance, individually, or \$250,000 in any combination. Boiler and machinery risks may be (a) rated provided the one-year deposit premium charged for the coverages afforded is \$50,000 or more.

(3) Whenever an underwriter uses (a) rating (special risk rating) the underwriting file shall contain a full explanation showing that the risk fits one of the circumstances described in Subsection (2). The file shall also contain full and supporting factual documentation showing the development of the rates assigned by the underwriter. This development should contain an analysis of such things as the specific definable loss potential characteristics, a comparison to similar risks and their manual rates, available loss frequency and severity data, an analysis of current engineering reports, and any other pertinent underwriting criteria.

(4) Whenever an insurer renews a risk which has been (a) rated according to this section, the underwriting file shall contain documentation of the underwriter's reevaluation of the (a) rating and justification for the continuation of the (a) rating. Except for changes in premium basis, if the (a) rating produces a renewal premium which varies more than +/- 25% from the expiring policy premium, the underwriter shall submit an individual risk filing to the commissioner within 30 days of the effective date of the policy. This filing shall contain the underwriter's documentation of the rate development for the prior term and the renewal term and an explanation for the change in premium.

R590-127-8. Commercial Excess and Umbrella Liability Insurance.

(1) Rates and rating plans for commercial excess insurance and umbrella liability insurance are exempt from the filing requirements of Section 31A-19a-203.

(2) The underwriting files of all excess insurance and umbrella liability insurance risks must contain full and supporting factual documentation justifying the rate and showing the development of the rate. This development should contain an analysis of such things as the specific definable loss potential characteristics with regards to its excess exposure and any other pertinent underwriting criteria.

(3) Whenever an insurer renews a commercial excess or umbrella liability policy the underwriting file shall contain documentation of the underwriter's reevaluation of the rate assigned and justification for the continuation of the rate or the development of any new rate.

R590-127-9. Penalties.

Failure to comply with this rule and to maintain the documentation as outlined shall be deemed a violation of this rule. Pursuant to Section 31A-2-308, any person found to be in violation shall forfeit to the state not more than \$1,000 for each violation.

R590-127-10. Separability.

If any provision of this rule or the application of it to any person is for any reason held to be invalid, the remainder of the rule and the application of any provision to other persons or circumstances may not be affected.

KEY: insurance companies

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Authorizing, and Implemented or Interpreted Law: 31A-2-201; 31A-19a-103