

§ 58-36-30. Deviations.

(a) Except as permitted by G.S. 58-36-100 for workers' compensation loss costs filings, no insurer and no officer, agent, or representative of an insurer shall knowingly issue or deliver or knowingly permit the issuance or delivery of any policy of insurance in this State that does not conform to the rates, rating plans, classifications, schedules, rules and standards made and filed by the Bureau. An insurer may deviate from the rates promulgated by the Bureau if the insurer has filed the proposed deviation with the Bureau and the Commissioner, if the proposed deviation is based on sound actuarial principles, and if the proposed deviation is approved by the Commissioner. Amendments to deviations are subject to the same requirements as initial filings. An insurer may terminate a deviation only if the deviation has been in effect for a period of six months before the effective date of the termination and the insurer notifies the Commissioner of the termination no later than 15 days before the effective date of the termination.

(b) This subsection applies to insurance against loss to automobile physical damage and related expenses. A rate in excess of that promulgated by the Bureau may be charged by an insurer on any specific risk if the higher rate is charged in accordance with rules adopted by the Commissioner. An insurer shall give notice to the insured that the rates used to calculate the premium for the policy are greater than those rates that are applicable in the State of North Carolina by including the following language in the policy on page one of the declarations page or on a separate page before the declarations page, in at least 14 point type or in a font size larger than the remainder of the document whichever is larger, bolded, and all capitalized:

NOTICE: THE PREMIUM THAT WE ARE CHARGING FOR AUTOMOBILE PHYSICAL DAMAGE AND RELATED EXPENSES THAT COVERS THE DAMAGE TO YOUR COVERED VEHICLE(S) EXCEEDS THE PREMIUM BASED UPON THE APPROVED RATES IN NORTH CAROLINA, IN ACCORDANCE WITH G.S. 58-36-30(b).

The disclosure statement noted above in this subsection shall be included on any renewal of or endorsement to the policy when the rates charged exceed the approved manual rate. The insurer shall retain consent to rate information for each insured and make this information available to the Commissioner, upon request of the Commissioner. This subsection may also be used to provide motor vehicle liability coverage limits above those required under Article 9A of Chapter 20 of the General Statutes and above those that could be ceded to the North Carolina Reinsurance Facility under Article 37 of this Chapter to persons whose personal excess liability insurance policies require that they maintain specific higher liability coverage limits. Any data obtained by the Commissioner under this subsection is proprietary and confidential and is not a public record under G.S. 132-1 or G.S. 58-2-100.

(b1) This subsection applies only to insurance against loss to residential property with not more than four housing units. A rate in excess of that promulgated by the Bureau may be charged by an insurer on any specific risk if the higher rate is charged in accordance with rules adopted by the Commissioner. An insurer shall give notice to the insured that the rates used to calculate the premium for the policy are greater than those rates that are applicable in the State of North Carolina by including the following language in the policy on page one of the declarations page or on a separate page before the declarations page, in at least 14 point type or in a font size larger than the remainder of the document whichever is larger, bolded, and all capitalized:

NOTICE: IN ACCORDANCE WITH G.S. 58-36-30(b1), THE PREMIUM BASED UPON THE APPROVED RATES IN NORTH CAROLINA FOR RESIDENTIAL PROPERTY INSURANCE COVERAGE APPLIED FOR WOULD BE \$ _____. OUR PREMIUM FOR THIS COVERAGE IS \$ _____.

The disclosure statement noted above in this subsection shall be included on any renewal of or endorsement to the policy when the rates charged exceed the approved manual rate. The insurer shall retain consent to rate information for each insured and make this information available to the Commissioner, upon request of the Commissioner. Any data obtained by the G.S. 58-36-30

Commissioner under this subsection is proprietary and confidential and is not a public record under G.S. 132-1 or G.S. 58-2-100.

(b2) Notwithstanding subsection (b1) of this section, the Commissioner shall collect annually from all insurers and publish on the Department's Web site no later than July 1 the following data aggregated across all insurers for each geographical rate-making territory:

- (1) The percentage of policies for which a consent to rate has been obtained.
- (2) The average difference between the approved premium and the consented premium.

The Commissioner shall designate the format and manner to collect the data to be published.

Any nonaggregated data obtained by the Commissioner, including data identifying individual insurers or insureds, under this subsection is proprietary and confidential and is not a public record under G.S. 132-1 or G.S. 58-2-100. This subsection applies only to insurance against loss to residential real property with not more than four housing units.

(c) This subsection applies only to workers' compensation and employers' liability insurance written in connection therewith. A rate in excess of that promulgated by the Bureau may be charged by an insurer on any specific risk if the higher rate is charged in accordance with rules adopted by the Commissioner.

(d) Notwithstanding any other provision of law prohibiting insurance rate differentials based on age, with respect to nonfleet private passenger motor vehicle insurance under the jurisdiction of the Bureau, any member of the Bureau may apply for and use in this State, subject to the Commissioner's approval, a downward deviation in the rates for insureds who are 55 years of age or older. A member of the Bureau may condition a deviation under this subsection or a deviation under subsection (a) of this section on the successful completion of a motor vehicle accident prevention course that has been approved by the Commissioner of Motor Vehicles, as designated in the deviation.

(e) Each insurer shall collect the following consent to rate data for nonfleet private passenger motor vehicle physical damage and homeowners residential property with not more than four housing units (all forms, excluding HO4 and HO6) and transmit the data electronically for each policy to the Commissioner on a semi-annual basis in a format prescribed and designated by the Commissioner:

- (1) NAIC Company Code.
- (2) Company Name.
- (3) Policy Number.
- (4) Amount of Coverage A Insurance (Homeowners).
- (5) Effective Date.
- (6) Expiration Date.
- (7) Zip Code.
- (8) Actual Homeowners Full Term Premium.
- (9) Actual Automobile Physical Damage Full Term Premium.
- (10) NC Rate Bureau Homeowners Full Term Premium.
- (11) NC Rate Bureau Automobile Physical Damage Full Term Premium excluding SDIP charges.
- (12) New Policy or Renewal Policy.
- (13) Such other information that may be required by any rule adopted by the Commissioner. (1977, c. 828, s. 6; 1983, c. 162, ss. 1, 2; 1985, c. 666, s. 1; 1987, c. 869, s. 1; 1993, c. 409, s. 25; 1995, c. 517, ss. 20, 21; 1995 (Reg. Sess., 1996), c. 668, s. 1; 1999-132, ss. 3.7, 3.8; 2001-423, s. 1; 2016-78, s. 1.3(a); 2018-120, s. 3.1(a); 2019-179, s. 4(a)-(d).)