

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009**

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**HOUSE BILL 1439**

Short Title: Reform Insurance Rate Filing Process. (Public)

Sponsors: Representatives Spear; and Wainwright.

Referred to: Insurance, if favorable, Judiciary II.

April 13, 2009

A BILL TO BE ENTITLED  
AN ACT TO INCREASE PUBLIC PARTICIPATION AND INPUT INTO THE SETTING  
OF INSURANCE RATES IN NORTH CAROLINA.

The General Assembly of North Carolina enacts:

**SECTION 1.** Article 36 of Chapter 58 of the General Statutes is amended by adding a new section to read:

**"§ 58-36-18. Public notice and participation in rate filings.**

(a) Within 90 days of any rate filing under G.S. 58-36-15(a) pertaining to insurance against loss to residential real property with not more than four housing units located in this State and any contents thereof and valuable interest therein and other insurance coverages written in connection with the sale of such property insurance, the Bureau and the Commissioner shall jointly conduct no fewer than 12 public hearings. The hearings shall be held in both rural and urban areas and shall be divided evenly among the coastal, piedmont, and mountain regions of North Carolina. Each hearing shall include all of the following:

- (1) A presentation by the Bureau of the methodology and justification for the rate filing.
- (2) A presentation by the Commissioner as to the factors required to be applied to the making and use of rates by G.S. 58-36-10 and any other statutory criteria applicable to the rate filing.
- (3) An opportunity for interested parties to provide oral or written comments on the proposed rate filing.

All comments received at the hearings shall be published by the Bureau on an Internet Web site accessible to the public, and upon completion of the 90-day public hearing period, the Bureau shall accept written comments for an additional 30 days."

**SECTION 2.** G.S. 58-36-20 reads as rewritten:

**"§ 58-36-20. Disapproval; hearing, order; adjustment of premium, review of filing.**

(a) At any time within 50 days after the date of any filing not subject to the public notice and participation requirements of G.S. 58-36-18, the Commissioner may give written notice to the Bureau specifying in what respect and to what extent the Commissioner contends the filing fails to comply with the requirements of this Article and fixing a date for hearing not less than 30 days from the date of mailing of such notice. At the hearing the factors specified in G.S. 58-36-10 shall be considered. If the Commissioner after hearing finds that the filing does not comply with the provisions of this Article, he may issue his order determining wherein and to what extent such filing is deemed to be improper and fixing a date thereafter, within a reasonable time, after which the filing shall no longer be effective. Any order of disapproval under this section must be entered within 210 days after the date the filing is received by the Commissioner.



1        (a) For filings subject to G.S. 36-20-18, at anytime within 20 days after completion of  
2 the public hearings and after giving due consideration to the public comments presented at the  
3 hearings, the Commissioner may give written notice to the Bureau specifying in what respect  
4 and to what extent the Commissioner contends the filing fails to comply with the requirements  
5 of this Article and fixing a date for hearing not less than 60 days from the completion of the  
6 public hearing period set out in G.S. 58-36-18. At the hearing, the factors specified in  
7 G.S. 58-36-10 and the public comments shall be considered. If the Commissioner after hearing  
8 finds that the filing does not comply with the provisions of this Article, he may issue his order  
9 determining wherein and to what extent such filing is deemed to be improper and fixing a date  
10 thereafter, within a reasonable time, after which the filing shall no longer be effective. Any  
11 order of disapproval under this section must be entered within 210 days after the date the filing  
12 is received by the Commissioner.

13        (b) In the event that no notice of hearing shall be issued within 50 days from the date of  
14 any such filing, filing not subject to G.S. 58-36-18, or within 20 days from completion of the  
15 public hearing period for filings subject to G.S. 58-36-18, the filing shall be deemed to be  
16 approved. If the Commissioner disapproves such filing pursuant to subsection (a) as not being  
17 in compliance with G.S. 58-36-10, he may order an adjustment of the premium to be made with  
18 the policyholder either by collection of an additional premium or by refund, if the amount  
19 exceeds five dollars (\$5.00). The Commissioner may thereafter review any filing in the manner  
20 provided; but if so reviewed, no adjustment of any premium on any policy then in force may be  
21 ordered. The failure of the Commissioner to issue a notice of hearing or a premium adjustment  
22 on any filing subject to the public notice and hearing requirements set forth by G.S. 58-36-18  
23 shall be subject to judicial review under G.S. 58-2-75.

24        (c) For workers' compensation insurance and employers' liability insurance written in  
25 connection therewith, the period between the date of any filing and the date the Commissioner  
26 may give written notice as described in subsection (a) of this section and the period between the  
27 date of any filing and the deadline for giving notice of hearing as described in subsection (b) of  
28 this section shall be 60 days."

29        **SECTION 3.** G.S. 58-2-75(a) reads as rewritten:

30        **"§ 58-2-75. Court review of orders and decisions.**

31        (a) Any order or decision made, issued or executed by the Commissioner, except an  
32 order to make good an impairment of capital or surplus or a deficiency in the amount of  
33 admitted assets and except an order or decision that the premium rates charged or filed on all or  
34 any class of risks are excessive, inadequate, unreasonable, unfairly discriminatory or are  
35 otherwise not in the public interest or that a classification assignment is unwarranted,  
36 unreasonable, improper, unfairly discriminatory, or not in the public interest, shall be subject to  
37 review in the Superior Court of Wake County on petition by any person aggrieved filed within  
38 30 days from the date of the delivery of a copy of the order or decision made by the  
39 Commissioner upon such person. In the case of a petition for review of the failure of the  
40 Commissioner to issue a notice of hearing or a premium adjustment pursuant to G.S. 58-36-20,  
41 the petition by any person aggrieved shall be filed within 30 days following the end of the 60-  
42 day period set forth in G.S. 58-36-20(b). A copy of such petition for review as filed with and  
43 certified to by the clerk of said court shall be served upon the Commissioner or in his absence  
44 upon someone in active charge of the Department within five days after the filing thereof. If  
45 such petition for review is not filed within the said 30 days, the parties aggrieved shall be  
46 deemed to have waived the right to have the merits of the order or decision reviewed and there  
47 shall be no trial of the merits thereof by any court to which application may be made by petition  
48 or otherwise, to enforce or restrain the enforcement of the same."

49        **SECTION 4.** The Legislative Research Commission may study the adequacy of  
50 public participation in the setting of rates for homeowners insurance in North Carolina. In its  
51 study, the Commission may consider all of the following:

1           (1)    An examination of the feasibility of establishing a permanent public  
2                    advocate staff to participate and advocate in rate-making proceedings under  
3                    Article 36 of Chapter 58 of the General Statutes.

4           (2)    The need and advisability of including representatives of the general public  
5                    on the Boards of the North Carolina Insurance Underwriting Association and  
6                    the North Carolina Joint Underwriting Association.

7           **SECTION 5.** The Legislative Research Commission shall make its findings and  
8           recommendations in a final report to the 2010 Regular Session of the 2009 General Assembly.

9           **SECTION 6.** From funds appropriated to the General Assembly, the Legislative  
10          Services Commission shall allocate funds for the purpose of conducting the study provided for  
11          in this act.

12          **SECTION 7.** This act is effective when it becomes law.