

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION

AT RICHMOND, MAY 5, 2016

SCC-CLERK'S OFFICE
DOCUMENT CONTROL CENTER

COMMONWEALTH OF VIRGINIA, *ex rel.*

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STATE CORPORATION COMMISSION

CASE NO. INS-2016-00071

Ex Parte: In the matter of Adopting
New Rules Governing Rate Stabilization
in Property and Casualty Insurance

ORDER TO TAKE NOTICE

Section 12.1-13 of the Code of Virginia ("Code") provides that the State Corporation Commission ("Commission") shall have the power to promulgate rules and regulations in the enforcement and administration of all laws within its jurisdiction, and § 38.2-223 of the Code provides that the Commission may issue any rules and regulations necessary or appropriate for the administration and enforcement of Title 38.2 of the Code.

The rules and regulations issued by the Commission pursuant to § 38.2-223 of the Code are set forth in Title 14 of the Virginia Administrative Code. A copy may also be found at the Commission's website: <http://www.scc.virginia.gov/case>.

The Bureau of Insurance ("Bureau") has submitted to the Commission a proposal to promulgate new rules at Chapter 345 of Title 14 of the Virginia Administrative Code entitled "Rules Governing Rate Stabilization in Property and Casualty Insurance," which are recommended to be set out at 14 VAC 5-345-10 through 14 VAC 5-345-70 with forms.

These proposed new rules are necessary to implement the provisions of § 38.2-1906 F of the Code, in particular the amendments enacted in Chapter 277 of the 2016 Acts of Assembly (HB 324) that allow limits on rate increases and rate decreases. These new rules establish

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standards, filing requirements and prohibited actions for insurers who wish to set limits on rates. The amendments to the Code will go into effect September 1, 2016.

NOW THE COMMISSION is of the opinion that the proposal to adopt new rules recommended to be set out at Chapter 345 in the Virginia Administrative Code as submitted by the Bureau should be considered for adoption with a proposed effective date of September 1, 2016.

Accordingly, IT IS ORDERED THAT:

(1) The proposed new rules entitled "Rules Governing Rate Stabilization in Property and Casualty Insurance," recommended to be set out at 14 VAC 5-345-10 through 14 VAC 5-345-70 with forms, are attached hereto and made a part hereof.

(2) All interested persons who desire to comment in support of or in opposition to, or request a hearing to consider the adoption of proposed Chapter 345 shall file such comments or hearing request on or before July 1, 2016, with Joel H. Peck, Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218. Interested persons desiring to submit comments electronically may do so by following the instructions at the Commission's website: <http://www.scc.virginia.gov/case>. All comments shall refer to Case No. INS-2016-00071.

(3) If no written request for a hearing on the adoption of the proposed new rules as outlined in this Order is received on or before July 1, 2016, the Commission, upon consideration of any comments submitted in support of or in opposition to the proposal, may adopt the rules as submitted by the Bureau.

(4) AN ATTESTED COPY hereof, together with a copy of the proposed new rules, shall be sent by the Clerk of the Commission to the Bureau in care of Deputy Commissioner Rebecca

Nichols, who forthwith shall give further notice of the proposal by mailing a copy of this Order, together with the proposal, to all insurers licensed in Virginia to sell property and casualty insurance, and to all interested persons.

(5) The Commission's Division of Information Resources forthwith shall cause a copy of this Order, together with the proposed rules, to be forwarded to the Virginia Registrar of Regulations for appropriate publication in the *Virginia Register of Regulations*.

(6) The Commission's Division of Information Resources shall make available this Order and the attached proposal on the Commission's website: <http://www.scc.virginia.gov/case>.

(7) The Bureau shall file with the Clerk of the Commission an affidavit of compliance with the notice requirements of Ordering Paragraph (4) above.

(8) This matter is continued.

Project 4678 - none

STATE CORPORATION COMMISSION, BUREAU OF INSURANCE

Rules Governing Rate Stabilization in Property and Casualty Insurance

CHAPTER 345

RULES GOVERNING RATE STABILIZATION IN PROPERTY AND CASUALTY INSURANCE

14VAC5-345-10. Purpose and applicability.

A. The purpose of this chapter is to establish rules for the implementation of the provisions of § 38.2-1906 F of the Code of Virginia that allows an insurer to file with the commission rate or supplementary rate information to limit rate increases or rate decreases on (i) its renewal policies; (ii) policies acquired by an insurer from another insurer pursuant to a written agreement of acquisition, merger, or sale that transfers all or part of the other insurer's book of business; or (iii) policies acquired by an agent book of transfer. This practice shall be known as a rate stabilization plan or capping.

B. This chapter shall apply to the classes of insurance defined in §§ 38.2-110 through 38.2-118, 38.2-120 through 38.2-122, 38.2-124 through 38.2-128 and 38.2-130 through 38.2-133 of the Code of Virginia and all insurers subject to the scope of Chapter 19 of Title 38.2 of the Code of Virginia as identified in § 38.2-1902. This chapter does not apply to workers' compensation and employers' liability insurance.

14VAC5-345-20. Definitions.

"Commission" means the State Corporation Commission.

"Rate" or "rates" means any rate of premium, policy fee, membership fee or any other charge made by an insurer for or in connection with a contract or policy of insurance. The terms

"rate" or "rates" shall not include a membership fee paid to become a member of an organization or association, one of the benefits of which is the purchasing of insurance coverage.

"Rate stabilization plan" or "capping" means a way to control or cap the impact of premium changes to renewals due to the insurer's (i) revision of its own rating plan; (ii) introduction of a new rating plan that replaces an existing rating plan; (iii) acquisition from another insurer pursuant to a written agreement of acquisition, merger, or sale that transfers all or part of the other insurer's book of business; or (iv) acquisition by an agent book of transfer.

"Rate stabilization rule" means the rating methodology filed by an insurer to describe the application of a rate stabilization plan.

"Renewal" means the continuation of an insurer's current policies; policies acquired by an insurer from another insurer pursuant to a written agreement of acquisition, merger, or sale that transfers all or part of the other insurer's book of business; or policies transferred by an agent or agency pursuant to an agent book of transfer.

"Supplementary rate information" includes any manual or plan of rates, experience rating plan, statistical plan, classification, rating schedule, minimum premium, or minimum premium rule, policy fee, rating rule, rate-related underwriting rule, and any other information not otherwise inconsistent with the purposes of Chapter 19 (§ 38.2-1900 et seq.) of Title 38.2 of the Code of Virginia, this chapter, or as required by the commission.

"Tier" means mutually exclusive pricing levels within the same insurer that are based on an indivisible group of risk characteristics.

14VAC5-345-30. General standards.

A. An insurer may utilize rate capping to stabilize insurance rates charged to (i) its renewal policies; (ii) policies acquired from another insurer pursuant to a written agreement of

acquisition, merger, or sale that transfers all or part of the other insurer's book of business; or (iii) policies acquired by an agent book of transfer.

B. A rate stabilization plan shall be unambiguous and applied uniformly and fairly to all renewal policies affected by such plan.

C. A rate stabilization plan may cap increases in premium only or increases and decreases in premium, but not decreases only. Caps on increases and decreases are not required to be equivalent.

D. A rate stabilization plan is expected to result in individual policy premiums converging with the insurer's uncapped rates. A rate stabilization plan shall achieve this result within five years unless the insurer initially requests a shorter period or justifies a longer period in the rate stabilization plan filing.

E. A rate stabilization rule may be amended within the original rate stabilization plan period.

F. A rate stabilization rule may be filed in conjunction with a routine rate filing or as a separate rule filing.

G. In each rate filing subsequent to the implementation of a rate stabilization plan, the insurer shall demonstrate that the actuarial indication does not redundantly measure rate need by demonstrating that premiums at current rate level underlying the actuarial indication are on an uncapped basis.

H. An insurer may file a rate level change or modify rating factors or other supplementary rate information while a rate stabilization plan is in effect. The insurer shall explain whether:

1. The existing rate stabilization plan will continue to apply for the filed duration; or
2. The rate stabilization plan will be amended.

14VAC5-345-40. Filing requirements.

A. A rate stabilization rule shall be filed as supplementary rate information in accordance with the provisions of § 38.2-1906 of the Code of Virginia.

B. A rate stabilization rule shall detail the application of the rate stabilization plan. This rule shall be clear and shall specify:

1. The source of the renewals subject to the rate stabilization plan;
2. The process to be used for the rate stabilization, including an example to illustrate the process;
3. The amount of the rate increase or increase and decrease to be limited;
4. Whether the rate stabilization plan is designed to converge with uncapped rates in subsequent rate filings;
5. The effect, if any, of the rate stabilization rule on any midterm changes;
6. Any limitations on tier movement that will be utilized for rate stabilization;
7. The commencement date of the rate stabilization plan;
8. The duration of the rate stabilization plan; and
9. The expiration date of the rate stabilization plan.

C. The filing shall clearly identify that a rate stabilization plan is included.

D. The insurer shall file and certify to the commission using the Rate Stabilization Plan Certification (Form 345-A), the impact of the proposed capped rate changes over future renewal periods until the capping period ends. The filing should include projections of the effects of the caps on premiums, percentage changes, dollar changes, and the number of policies impacted for each future renewal period. In calculating the impact, the insurer may make the assumption

that its current book of business is fully retained and renewed into the future until the rate stabilization period ends.

E. If a rate stabilization plan exceeds five years, an explanatory memorandum shall be filed demonstrating the need for such plan. The explanatory memorandum shall contain details to justify the period of time identified in which the uncapped rates for each policyholder will be achieved.

14VAC5-345-50. Prohibited actions.

A. A rate stabilization rule shall not apply to any changes impacting an individual's premium other than insurer initiated rate increases or decreases.

B. A rate stabilization rule shall not apply to any decrease as a result of the application of the provisions of § 38.2-1904 D of the Code of Virginia.

C. A rate stabilization plan shall not be designed to generate more total revenue than would otherwise be generated in the absence of the plan, resulting in an undue benefit to the insurer.

D. A rate stabilization rule shall not apply to any decrease as a result of the application of the provisions §§ 38.2-2126 (property) and 38.2-2234 (personal auto) of the Code of Virginia.

E. A rate stabilization plan shall not apply for an undefined or unlimited period of time.

F. No more than one rate stabilization plan shall apply to any one policy at any given time.

G. A rate stabilization plan shall not be used to control increases or decreases in rates or premium based on predicted price elasticity of demand on individual policyholders.

14VAC5-345-60. Certification.

A. In any filing proposing a rate stabilization plan, the insurer shall complete, certify, and include the Rate Stabilization Plan Certification (Form 345-A).

B. In any rate filing made subsequent to the implementation of a rate stabilization plan where historical premiums have been capped (whether increases or decreases), the insurer's actuary shall provide a signed statement certifying that the actuarial indication does not redundantly measure rate need.

14VAC5-345-70. Severability.

If any provision of this chapter or its application to any person or circumstance is for any reason held to be invalid by a court, the remainder of this chapter and the application of the provisions to other persons or circumstances shall not be affected.

FORMS (14VAC5-345-80)

Form 345-A Rate Stabilization Plan Certification

Rate Stabilization Plan Certification

Certification of

Name of Insurance Company/Organization

Filing being certified: _____

Proposed effective date: _____

I, being a qualified actuary, certify that appropriate consideration has been given in this filing to § 38.2-1906 F of the Code of Virginia and to 14 VAC 5-345, et seq. For the purpose of this certification, a qualified actuary is defined as (1) a member in good standing of the American Academy of Actuaries, (2) a fellow or associate of the Casualty Actuarial Society, or (3) an individual who has both the educational background necessary for the practice of actuarial science and at least four years of property and casualty actuarial experience.

I am a qualified actuary in accordance with (1) (2) or (3) above.

I certify that the filing includes information outlining the impact of the proposed capped rate changes over future renewal periods until the capping period ends. In addition, the filing must include information regarding projections of the effects of the caps on premiums, percentage changes, dollar changes, and the number of policies impacted for each future renewal period.

I certify that the proposed transition to the uncapped rates will occur within the time period stated in the rate stabilization rule.

It is understood that the State Corporation Commission will rely on this certification and, should it be determined that the information submitted in this filing does not comply with the provisions of § 38.2-1906 of the Code of Virginia or that this certification is materially false or incorrect, appropriate corrective or disciplinary action, as authorized by law, will be taken by the State Corporation Commission.

Name of qualified actuary: _____

Title of qualified actuary: _____

Signature of qualified actuary: _____

Date: _____

Telephone number: _____

E-mail address: _____