



Department of Business Regulation

1511 Pontiac Avenue
Cranston, RI 02920

Insurance Bulletin Number 2005-9

Insurance Rating for Nonbusiness Policies - "Flex" Rating

The purpose of this bulletin is to provide guidance to insurers concerning the implementation of R.I.G.L. §§ 27-6-8.1 and 27-9-7.3. The law became effective on July 7, 2004 and provides in part for the following:

Rate filings made by an insurer under R.I.G.L. §§ 27-6-1 *et seq.* and 27-9-1 *et seq.* that provide for an overall statewide rate increase or decrease of no more than 5% in the aggregate for all coverages that are subject to the filing may take effect the date the filing is made. Flex rate filings may include changes in base rates or relativity factors provided they do not result in more or less than 5% in the aggregate. The Department does not consider changes to a company's rating plan (i.e., changes in class definitions or territory definitions or changes in rating rules) to fall under Flex rating statutes unless the company is adopting a rating plan that is currently approved for use by other licensed carriers and/or advisory/rating organizations. Revisions to rating plans may not be used the date the filing is made unless the insurer is adopting plans currently approved for use by other licensees.

- **Please note that the insurer must identify in its cover letter to the Department that the filing is being submitted under the Flex rating provisions and provide a statement that the filing meets the criteria established by law. The filing should also clearly delineate the proposed effective date.**
- No more than one rate filing may be made by an insurer pursuant to the expedited process provided for in this section during any twelve (12) month period, unless a rate filing, when combined with any other filing or filings made by an insurer within the preceding twelve (12) months, does not result in an overall statewide increase or decrease of more than five percent in the aggregate for all coverages that are subject to the filing. **Please note that the insurer must also identify in its cover letter to the Department all rate changes made during the twelve (12) month period that are relevant to the filing.**
- No rate increase within the limitation may be implemented with regard to an individual existing policy, unless the increase is applied at the time of renewal or conditional renewal of an existing policy and the insurer, at least thirty (30) days in advance of the end of the insured's policy, mails or delivers to the named

insured, at the address shown in the policy, a written notice that clearly and conspicuously discloses its intention to change the rate. A notice of renewal or conditional renewal that clearly and conspicuously discloses the renewal premium applicable to the policy shall be deemed in compliance. **Please note that the insurer must indicate in its cover letter to the Department that it will provide to the named insured the required written notice of increase in rates. Insurers must also comply with the provisions under 230-RICR-20-05-14 where applicable.**

FREQUENTLY ASKED QUESTIONS

1. What type of filings are subject to Flex rating provisions?

The law applies to all personal lines property, casualty and fire and marine insurance rate filings submitted in accordance with R.I.G.L. §§ 27-6-1 *et seq.* and 27-9-1 *et seq.*, other than those policies underwritten or assigned through residual market mechanisms.

2. How often can I submit a rate revision under the Flex rating provision?

A company may submit multiple rate revisions under the Flex rating provision during a 12-month period, provided the request falls within the guidelines included in the statute. Filings submitted under the Flex rating provision must adhere to the following:

- be within the band of -5% or +5%; and
- the overall multiplicative cumulative rate change must be within the - 5% and +5% Flex band, during the relevant 12-month period.

3. How often may I apply for a rate revision under the file and use provision?

Rate filings falling outside the band shall be subject to file and use provisions, subject to the 30-day deemer provisions, and therefore are not subject to the cumulative annual limitation and may be filed at any time, unless those filings are otherwise exempt from those provisions pursuant to another section of the insurance code.

4. If I submit a rate revision under the file and use provision, can I also submit a rate revision under the Flex rating provision during a 12-month period?

Yes. A company may file under both provisions during a 12-month period, provided the filing meets the requirements of the Flex rating guidelines. See Flex rating guidelines reply #2.

5. Will a filing be considered under the Flex rating provision if it includes changes to rating plans including changes in class definitions, territory definitions or changes in rating rules?

It depends. The Department does not consider changes to a company's rating plan (i.e., changes in class definitions or territory definitions or changes in rating rules) to fall under Flex rating statutes unless the company is adopting a rating plan that is currently approved for use by other licensed carriers and/or advisory/rating organizations. Flex filings may include changes in base rates and/or relativity factors. Changes in rating plans will be reviewed under file and use provisions subject to the 30-day deemer provision unless the insurer is adopting plans currently approved for use by other licensees.

6. Will initial filings received after July 7, 2004 be eligible for review under the Flex Rating provision?

No. The Flex rating provision is only for rate revisions. All initial filings will be reviewed under file and use provisions subject to the 30-day deemer provisions.

7. May we file the first revision within 12 months after an initial filing under the Flex rating provision?

Yes. Both provisions may be used provided the Flex revision falls within the band of
of
-5% or +5%.

8. Are the filing requirements the same for filings submitted under the Flex rating provision?

Yes. Filings submitted under the Flex rating provision must include all the required documents for a complete filing and must comply fully with all other requirements of Rhode Island Statutes and Regulations. The following forms may be downloaded from our website at:

<https://dbr.ri.gov/divisions/insurance/property.php>.

- Instructions for Property & Casualty Rate, Rule and Form Filings
- Property & Casualty Rate Filing General Information & Procedural Forms
- Rate Procedural Information Summary

9. Do the Flex rating provisions apply to the Rhode Island Automobile Insurance Plan Services and the Rhode Island Joint Reinsurance Association?

No. The residual markets mechanisms (markets of last resort for automobile and property insurance) do not qualify under the Flex rating provisions and must be filed under the file and use provisions.

10. For filings that are submitted in accordance with the Flex rating statute(s), will the Department continue to utilize consulting actuaries to conduct thorough reviews?

Yes. The Department will continue to use actuaries to determine compliance with applicable Rhode Island Laws, Regulations and Bulletins. The Flex rating law states that if the commissioner determines that the filing is inadequate or unfairly discriminatory, he/she shall issue a written order specifying in detail the provisions of the insurance code the insurer has violated and the reasons the filing is to be considered no longer effective. The following should be noted:

- An order by the commissioner that is issued more than thirty (30) days from which the date the commissioner received the rate filing is prospective only and does not affect any contract issued or made before the effective date of the order.
- Unfairly discriminatory means a rate for a risk that is classified in whole or in part on the basis of race, color, creed or national origin.
- A rate is not inadequate unless the rate is clearly insufficient to sustain projected losses and expenses in the class of business to which it applies and the use of the rate has or, if continued, will have the effect of substantially lessening competition or the tendency to create monopoly in any market.
- It is the opinion of the Department that rates to be charged in the state of Rhode Island should always be actuarially justified and not purposely designed to avoid full review and approval by remaining under the "Flex" band permitted by the statute. Should the Department's consulting actuary find any component of a filing to be in violation of applicable Rhode Island Law or Regulation, the Department will advise the insurer of such finding and will require a revision to the Flex filing to bring the component(s) into compliance as well as require a premium refund, if any, to any individual policyholder incorrectly rated.
- Should the Department's consulting actuary find that that the filing would result in excessive rates or is not actuarially justified, the Department will advise the insurer of such finding. Although the Flex rating provisions do not allow a finding of excessiveness, the Department will track this type of information for future legislative discussions.

11. Are there any specific notice requirements at renewal time?

Yes. The Act provides that no rate increase within the limitation may be implemented with regard to an individual existing policy, unless the increase is applied at the time of renewal or conditional renewal of an existing policy period and the insurer, at least thirty (30) days in advance of the end of the insured's policy period, mails or delivers to the named insured, at the address shown in the policy, a written notice clearly and conspicuously disclosing its intention to change the rate.

Joseph Torti, III
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